



INTERNATIONAL LABOUR OFFICE

Manual for drafting ILO instruments

Office of the Legal Adviser

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List of acronyms

C	Convention
CEACR	Committee of Experts on the Application of Conventions and Recommendations
ECOSOC	Economic and Social Council of the United Nations
ICJ	International Court of Justice
ILC	International Labour Conference
ILO	International Labour Office or International Labour Organization
ILOLEX	Database of international labour standards
ILS	international labour standards
OB	Official Bulletin
P	Protocol
PCIJ	Permanent Court of International Justice
PR	Provisional Record
R	Recommendation

Introductory note

1. At its 283rd Session (March 2002), the Governing Body examined measures taken to make certain improvements to standards-related activities, made necessary by the major changes occurring worldwide since the late 1980s. While considering that improvement is a continuous process which can never be regarded as finished, the Governing Body specified what remained to be done in the light of the issues raised over the past eight years, and drew up a timetable for examining the points raised. In this regard, in November 2003, the Governing Body, after considering the improvements that could be made to the development of standards, approved the proposal to produce a document on good drafting practices, on condition that the initiative be subject to an assessment of the costs involved, that the document be examined by a tripartite group of experts before being submitted to the Governing Body, and that it be non-binding. In view of the last of these conditions, the document is called a "Manual" (*manuel* in French) for drafting ILO instruments.¹
2. The development of international labour standards, Conventions and Recommendations is the result of the participation of many actors who are not necessarily jurists. This Manual for drafting ILO instruments should be a work reference for all those involved in the process of developing and drafting international labour standards: Government, Employer and Worker members of Conference technical committees, members of drafting committees, as well as officials working in technical units. It is intended to facilitate the preparatory and drafting work by indicating how a given question was resolved in the past. This does not mean that knowledge of past practice is an obstacle to innovation. On the contrary, a sound understanding of past practice can enable us, in full knowledge of the facts, to free ourselves from the burden of habit and to propose innovative solutions that will meet the needs of bodies responsible for developing and finalizing standards. A recent example is the Maritime Labour Convention, 2006.

Methodology followed

3. The Manual presents the drafting practices of the International Labour Organization (ILO) in its standard-setting activities from the very beginning of its work. It thus covers all the Conventions and Recommendations as they are reproduced in the compilation *International Labour Conventions and Recommendations 1919-1995*, ILO, Geneva, 1996, and its various updates and in the ILOLEX database available on the Internet at <http://www.ilo.org/ilolex/english/index.htm>.
4. The Manual is not binding and its content has no compulsory character. It is intended above all to reflect as accurately as possible the drafting practices of the Organization since its beginnings. By formulating observations and recommendations on all the questions examined, the Manual aims to encourage the follow-up and development of good drafting practices.

¹ See doc. GB.286/13/1 (Mar. 2003), para. 43, and doc. GB.288/LILS/2/1 (Nov. 2003).

The procedure for the adoption of international labour standards

5. This Manual addresses drafting practices concerning Conventions and Recommendations.² The development of international standards relies on techniques from both law and politics. Draft Conventions and Recommendations submitted to the International Labour Conference need to be not only satisfactory from a legal and editorial perspective; they must also respond to the needs of the Organization's Members. While it may have various forms, legal wording must faithfully reflect the content of the standard intended by the competent representative bodies, the Governing Body, the Conference's technical committees and the International Labour Conference.
6. During the period between the Governing Body's decision to include an item concerning the adoption of a Convention or Recommendation on the agenda of the International Labour Conference and the adoption of the instruments by the Conference, the procedure chosen, whether it involves a double or a single discussion, consists of two distinct stages:
 - the preparatory stage, in which the Office is responsible for holding consultations with the Organization's constituents on the form and content of the future instruments (articles 38 and 39 of the Standing Orders of the Conference). The Office sends governments a report on the subject, accompanied by a questionnaire intended to gather Members' views on the form and content of the future instruments. Governments are invited to reply and to communicate the views of the most representative organizations of employers and workers. On the basis of the replies received, the Office prepares proposed conclusions (double discussion) or a draft instrument (single discussion) for submission to the Conference;
 - the stage of consideration of the texts, at the end of which the Conference proceeds with the adoption, on a tripartite basis, of one or more instruments, a Convention or a Recommendation (article 40 of the Standing Orders of the Conference). Only a limited amount of time is spent on this stage; a maximum of 19 sittings are available at each session of the Conference (excluding night sittings) for committee work, in addition to around 12 hours for the drafting committees of the technical committees and of the Conference. During this second phase, written amendments are submitted by the Employers' or Workers' group of the technical committee, or by one or more Governments. These amendments are examined by the Committee in accordance with the Conference Standing Orders and are frequently sub-amended orally during the discussion.
7. The technical committee set up by the Conference to examine the subject with a view to the adoption of a Convention or a Recommendation considers the proposed texts prepared by the Office on the basis of the constituents' replies to the questionnaire, as well as amendments to the proposed texts presented by its members. The technical committee proposes a text to the Conference for adoption, after submitting it to the committee's drafting committee (article 59 of the Standing Orders). The drafting committee is responsible for preparing the English and French texts, both versions being equally authoritative, solving drafting problems specifically referred to it by the technical committee, and ensuring that both texts are legally and linguistically coherent, where necessary informing the technical committee of any legal and drafting problems encountered and the solutions proposed to overcome them.
8. Lastly, the Conference Drafting Committee (article 6 of the Standing Orders of the Conference) prepares the definitive texts to be submitted to the Conference for adoption.

² Certain of the practices covered in this Manual may also apply to ILO instruments other than Conventions and Recommendations. For a list and brief definitions of these instruments, see Appendix 1.

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9. The legitimate concern of the delegates is that the compromise solutions agreed during a technical committee's discussions remain substantially intact. These solutions have to be examined by the drafting committees in the wider context of the body of standards which has grown up over the years, in accordance with a certain number of drafting practices designed to preserve the consistency of the instruments as a whole. One difficulty lies in the fact that these drafting practices are not widely known to delegates. It is the responsibility of the drafting committee to retain the substance of the outcome of the work done by the technical committees, while scrutinizing it from the standpoint of clarity and form. If the wording of a provision is unclear, it ought to be possible for it to be sent back to the technical committee for further discussion. In fact, this is difficult or even impossible for practical reasons. The reduction in the duration of the Conference means that a technical committee is no longer able to reopen a substantive discussion after the meeting of the drafting committee without jeopardizing the adoption of its report in time for the Conference to be able to examine it. Moreover, as regards form, it would be useful for the technical committees and their members on the drafting committee to have some basic rules during their work in order as far as possible to prevent difficulties from arising. If they were provided with such information at the outset, they could save time and improve quality.
 10. The content of any standard is the result of a compromise that takes into account the different legitimate interests concerned. The fact that it is the result of a compromise should not affect its clarity in the two language versions which are equally authoritative, notably for the purposes of interpretation.

Parallel drafting/monolingual drafting

11. The quality of the text of a Convention or Recommendation largely depends on the care taken in drafting the questionnaire provided for in the Standing Orders of the Governing Body and the draft conclusions submitted to the International Labour Conference. It is within the technical units of the Office that both the questionnaire and the draft conclusions, based on Members' replies to the questionnaire, are drafted, normally in one language. At this stage, the Office of the Legal Adviser is responsible for ensuring the drafting quality of the questionnaire and the draft conclusions, in both English and French, and ensuring that the intentions of the technical units are faithfully translated into legal terms. The instrument must have the same meaning in both the authoritative languages and must be consistent with texts previously adopted by the Conference, in particular with regard to terminology. In this regard, this Manual should help in drafting in different languages. Lastly, the editorial quality of the texts must be maintained. In this regard, it should be noted that parallel drafting in both languages often helps to prevent ambiguities from arising and can even improve the text, as it tends to prevent the imposition of formulas that are appropriate to one language only or, more importantly, the inclusion of legal provisions that would not be compatible with a particular legal system.
12. In the Conference technical committees responsible for adopting the texts of instruments, amendments are presented by delegates in languages (English, French and Spanish) that are not necessarily their mother tongue. These amendments may also, during the committees meetings, be subject to subamendments that are not presented in written form and are translated "on the spot" by the committees' interpreters, who are not necessarily jurists. In order to ensure the concordance between the different versions and to correct any divergences, a drafting committee is established, comprising members designated by the technical committee, the committee's secretariat and the Legal Adviser to the Conference.
13. International labour standards use specialized terminology. Nonetheless, Conventions and Recommendations also need to be understood, in their original form or in translation, by the greatest possible number of people living in the ILO's 179 member States. Where specificity does not exclude clarity, every effort should be made, whenever possible, to replace rarely used technical terms with terms that are more commonly used.

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- 14.** This Manual was prepared by the Office of the Legal Adviser and submitted for examination to a tripartite group of experts. At its 290th Session (June 2004), the Governing Body approved the formula for the composition of the tripartite group, and the following experts were nominated by each group: for the Governments, Ms. Sandra Markman and Mr. Antoine Lyon-Caen; for the Employers, Mr. Edward Potter and Ms. Marie-Paule Roiland; and for the Workers, Mr. Lance Compa and Mr. Jacques Vigne.³ The meeting was held from 19 to 21 January 2005.

³ See doc. GB.290/8 (June 2004), paras. 10-12, and doc. GB.291/LILS/2 (Nov. 2004).

Part I: Formal structure of the instrument

1. Part I of this Manual examines the main formal components of the instruments of the ILO: title; preamble; operative part; final provisions; and annexes. Each time, international law and the Organization's drafting practice are examined. Observations and non-binding recommendations are then presented. They are based on drafting practices which have generally been followed in the development of international labour standards. Where the Manual's recommendations use "always" to qualify "should", those responsible for drafting standards should ensure that any intention to derogate from the practice set forth in the Manual reflects the specific requirements of the instrument.

1.1. Title of the Conventions and Recommendations of the International Labour Organization

1.1.1. Drafting practice

2. The title of a Convention has no normative value under international law but can serve for interpretative purposes. To that end, the title must be precise and reflect as far as possible the purpose and scope of the instrument.¹
3. Conventions and Recommendations are named by a long title, which appears at the top of the instrument, and by a short title, set forth in the last paragraph of the preamble, which specifies the title to be used for the purpose of citing the instrument.²

1.1.2. Observations and recommendations

4. *Conventions and Recommendations may be cited by a single title, thus allowing the instruments of the ILO to be referred to in as clear and concise a manner as possible.³ When the instrument is aimed at a specific category of persons or economic sector or a particular risk, the title of the instrument should include a reference in parentheses to that effect. Such references should be placed after the subject of the instrument set forth in the title and before the comma that precedes the year of the instrument. Wherever possible, it is preferable to refer to a sector of activity rather than to the workers covered by the instrument.⁴*
5. *The titles of instruments should include the number of the instrument once it has been adopted by the International Labour Conference. The number should also appear in references made in ILO instruments to other ILO Conventions and Recommendations. The inclusion of the number of the instrument in the title would make it easier to locate the*

¹ For example, the title of C104 which revises C65 on penal sanctions (indigenous workers) is more precise about the purpose of the Convention because it specifies that it concerns the abolition of such sanctions. The title of C110 on the other hand, would have been more precise if it had specified not only the sector it covered (plantations), but also the purpose of the Convention (improving conditions of employment).

² The declaration of the short title reads as follows: "The General Conference of the International Labour Organisation, [...] adopts [...] the following Convention, which may be cited as [...]".

³ Note that the title - either long or short - of an instrument is not required to follow the wording of the item on the agenda of the International Labour Conference by the Governing Body. See in particular ILO: *Maintenance of migrant workers' rights in social security (Revision of Convention No. 48)*, Report IV(1), ILC, 68th Session, Geneva, 1982, p. 7: reference by a representative of the Secretary-General to an opinion expressed by the Legal Adviser, who had said that "the Conference was not bound by that wording".

⁴ As is the case in the title of the Maritime Labour Convention, 2006, which refers to the sector.

*instruments referred to. This practice implies a minor adjustment at the level of the Conference Drafting Committee.*⁵

6. *Revised Conventions should always indicate the revision in the title by means of the word "revised" in parentheses at the end of the title, i.e. before the year of the instrument.*
7. *Revised Conventions should retain the same title as the instruments they are revising, except for the year and the number.*
8. *In the light of the above, the titles of instruments may be constructed using the following formula:*

[subject covered] + [optional: (economic sector or risk addressed by the instrument)] + [type of instrument] + [optional: (revised)] + [,] + [year] + [(No. of instrument)]

9. *It does not appear to be appropriate to include the term "revised" in Recommendations which amend the content of an earlier instrument. The inclusion in the Recommendation's preamble or in its operative part after the substantive provisions of the words "supplements" or "supersedes", as appropriate, seem to better reflect the actual practice.*

1.2. Preamble

1.2.1. Binding force and interpretative value

10. The degree to which the preamble is binding depends on the facts at stake. While some authors maintain that the preamble has no binding force,⁶ others are less categorical, basing themselves in particular on the supplemental character of preambular provisions which can fill gaps that might exist elsewhere in a treaty.⁷ However, it seems to be

⁵ It must be recalled that the numbers of instruments do not appear in the long or short titles. The number of the instrument is usually indicated separately above the long title of the instrument. Numbering of instruments was introduced by the Governing Body at its 60th Session, held in Madrid in October 1932 (ILO: *Minutes of the 60th Session of the Governing Body of the ILO*, Madrid, 1932, p. 79 and pp. 156-157). The first Convention to be numbered was the Night Work (Women) Convention (Revised), 1934 (No. 41). In so doing, the Governing Body was implementing a recommendation made by the Conference Committee on article 408 (now article 22 of the Constitution) at the 16th Session of the ILC, held in 1932, which was phrased as follows: "[The Committee] strongly recommend[s] that, for convenience of reference, the Conventions should be officially designated by a number followed by a short title in brackets". The Committee goes on to suggest that "These numbers and titles could be inserted as page headings in the official list of draft Conventions (the Recommendations receiving a separate numerotation) and in the *Summary of annual reports under article 408*. The numerotation might be inserted in the replies of the Governments and in the experts' report" (ILC, 16th Session, Geneva, 1932, *Record of proceedings*, pp. 671-672). Today, the number is inserted when copies are being prepared for sending out to each ILO Member. The number therefore does not appear on the instrument when it is signed by the President of the International Labour Conference and by the Director-General. When, in an instrument, reference is made to another instrument, it is usually made using the short title, without indicating the number of the Convention or Recommendation, although the Preambles of some Conventions and Recommendations are an exception to this rule. Moreover, instruments are usually referred to by their number in documents prepared by the ILO for other ILO bodies, as well as in States' ratification instruments. This practice is also followed in the article 22 reporting forms, as adopted by the Governing Body of the ILO.

⁶ N. Quoc Dinh, P. Daillier, A. Pellet: *Droit International Public*, 7th edition, L.G.D.J., Paris, 2002, p. 131.

⁷ See M. K. Yasseen: *L'interprétation des traités d'après la Convention de Vienne sur le droit des traités*, Académie de droit international (Excerpt from the *Recueil des cours*, Volume III-1976), A. W. Sijthoff, Leyden, 1976, p. 35. For example, in the *Case concerning rights of nationals of the United States of America in Morocco*, the ICJ noted that the guarantee of equality of treatment had been included in the preamble of the Algeiras Act of 7 April 1906, and concluded that "in the light of these circumstances, it seems clear that the principle was intended to be of a binding character and not merely an empty phrase" (*ICJ Reports* 1952, p. 184). It is also the case that a preamble or individual clauses thereof can, through the process of development of customary international law, become binding in character. The "Martens Clause"

generally recognized that the preamble of an instrument can never take precedence over an operative provision with which it would be incompatible.⁸

11. In the development of ILO standards, the issue of whether a preamble has binding effect has been raised frequently. The Legal Adviser has consistently recalled that the preamble is non-binding in nature and that its primary function is to set out the context of the instrument.
12. In contrast, the interpretative value of the preamble of an international convention is beyond question. Article 31 of the 1969 Vienna Convention on the Law of Treaties states that "[t]he context for the purpose of the interpretation of a treaty shall comprise", in particular, "the text, including its preamble and annexes". In other words, the determination of the meaning of a particular provision is based on an examination of the treaty text as a whole, including the preamble.⁹ Nonetheless, in the practice of the ILO, preambles have rarely been used for the purpose of interpreting the scope of a given provision of a Convention, neither in the opinions given by the Office upon the request of a member State nor in comments of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) in its examination of the application of a particular Convention. Thus, the fact that a preamble of a Recommendation states that it supplements a Convention has been taken to imply that it would hardly be possible for it to contain provisions that are not compatible with those of the Convention itself.¹⁰ In another case, the scope of the definition of "seafarers" was established with reference to the preamble of the Convention in question and to the previous ILO instruments to which it refers.¹¹

1.2.2. Drafting practice

1.2.2.1. Preamble of Conventions

(i) Form

13. Conventions include a formal preamble comprising five elements deriving from the procedure for adopting instruments. The formal preamble in general takes the following form:

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its [number of the session in words] Session on [date: day, month, year], and

Having decided upon the adoption of certain proposals with regard to [the subject as indicated on the agenda approved by the Governing Body], which is the [ordinal number of item in words] item on the agenda of the session, and

in, for example, the preamble (*in fine*) of the Fourth Hague Convention respecting the Laws and Customs of War on Land of 1899, is a probative example. See also C. Rousseau: *Droit international public*, Tome I, Introduction et sources, Editions Sirey, Paris, 1970, p. 87.

⁸ See Yasseen, *op. cit.*, p. 35.

⁹ *Op. cit.*, p. 34. See also *Competence of the International Labour Organisation in Questions relating to Agricultural Labour*, PCIJ Advisory Opinion No. 2, reproduced in OB, Vol. VI, No. 10, 1922, as published in PCIJ, Series B, Nos. 2 & 3, pp. 36-41; ILO: *Report of the Committee on Maternity Protection*, PR 20, ILC, 88th Session, 2000, para. 68: the ILO Legal Adviser considered that the preamble of a Convention could be considered as one contextual element for interpretation purposes.

¹⁰ Opinion given by the Office concerning the Maternity Protection Convention (Revised), 1952 (No. 103), Austria, OB, Vol. XLV, 1962, No. 3, p. 244, para. 10.

¹¹ Opinion given by the Office concerning the Prevention of Accidents (Seafarers) Convention, 1970 (No. 1970), Poland, OB, Vol. LVII, 1974, Nos. 2-4, p. 209, para. 6.

Having determined that these proposals shall take the form of an international [form of instrument: Convention or Recommendation],

adopts this [date in words] day of [month and year in words] the following [Convention or Recommendation], which may be cited as the [short title, year].

14. The references to the ILC and to the convening thereof are invariably placed at the beginning of the preamble in all the instruments. These five elements relating to the adoption procedure are always set out in this order, although not necessarily one directly after the other; other paragraphs are sometimes inserted at various points. These will be examined below.
15. These elements vary little in wording from one instrument to another. Any variations that do exist tend to concern form rather than substance.¹²
16. The preambular paragraph in a Convention giving the short title underwent a significant change with the adoption of the Night Work (Women) Convention (Revised), 1934 (No. 41). Until then, the wording had been as follows:

Adopts, this [ordinal number in words] day of [month and year], the following Draft Convention for ratification by the Members of the International Labour Organisation, in accordance with the provisions of Part XIII of the Treaty of Versailles and of the corresponding Parts of the other Treaties of Peace.¹³

17. From 1934 onwards, the short title was included in this paragraph. The references to ratification, the Treaty of Versailles and the other Treaties of Peace were dropped from both Conventions and Recommendations.¹⁴ The corresponding change to this paragraph for Conventions adopted before 1934 was effected by the Final Articles Revision Convention, 1946 (No. 80). The reference to the Treaty of Versailles and to the other treaties of peace was replaced with the phrase "in accordance with the provisions of the Constitution of the International Labour Organization".¹⁵ The Final Articles Revision Convention, 1946 (No. 80), also replaced the term "Draft Convention" with "Convention" in all the Conventions adopted in the course of the first 25 sessions of the ILC.¹⁶ Lastly, the short title preceded by the phrase "which may be cited as" was introduced in the preambles of Conventions Nos. 1 to 40.¹⁷

(ii) *Substance*

18. As regards Conventions, the trend towards including paragraphs setting out the broader framework in which an instrument is adopted has become more marked over the last 30 years.
19. The preamble of Conventions often recalls the normative framework relevant to the instrument adopted, either by a reference couched in general and non-specific terms,¹⁸ or

¹² See, for example, the preambular paragraph in C42 regarding the choice of the form of instrument. See also the paragraph in C144 referring to the agenda item. C51 and C61 on the other hand, do not contain a paragraph on the choice of the form of instrument.

¹³ The Conventions adopted during the 1st and 2nd Sessions referred to all the treaties of peace concerned, namely, the Treaty of Versailles of 28 June 1919, the Treaty of Saint Germain of 10 September 1919, the Treaty of Neuilly of 27 November 1919 (2nd Session) and the Treaty of Trianon of 4 June 1920 (2nd Session).

¹⁴ See the minute from C. W. Jenks of 25 May 1934 to J. Morellet (reproduced in Appendix 2).

¹⁵ See C80, Art. 2, para. 2.

¹⁶ See C80, Art. 2, para. 6.

¹⁷ See C80, Art. 2, para. 8, and above.

¹⁸ See C140, fourth preambular paragraph, and C177, third preambular paragraph.

by referring to specific instruments that are more or less directly related to the Convention.¹⁹ It is common practice for references to other instruments to be made non-exhaustive by the inclusion of the phrase "in particular" before the list of the instruments referred to.²⁰ Reference is also sometimes made to ILO texts other than Conventions or Recommendations, such as the Constitution, the Declaration of Philadelphia of 1944, the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, the ILO Declaration on Fundamental Principles and Rights at Work, and ILC resolutions.²¹ On occasions, reference is made to non-ILO texts, such as the United Nations Charter, the Universal Declaration of Human Rights and its Covenants, and instruments adopted by the International Maritime Organization (IMO) on matters within its remit.²²

20. References to ILO Conventions and Recommendations normally use the short title of the instruments.²³ Some instruments also include the number.²⁴

(iii) *Revision*

21. A significant number of revising Conventions state explicitly in their preambles that they revise a previous instrument.²⁵ The revision may be referred to in various ways. It may appear in the wording of the ILC agenda item²⁶ or in the paragraph stating the choice of the form of instrument.²⁷
22. A number of Conventions state in the preamble that their purpose is a "partial" revision of a previous Convention.²⁸ This is just a form of words²⁹ without any particular legal effect distinct from that of a "general"³⁰, or "complete"³¹ revision or one without any particular qualification. The effects of adopting a revised Convention are the same, irrespective of any qualification in respect of the revision that might be stated in the preamble,³² unless

¹⁹ See C31, third preambular paragraph, and C38, fourth preambular paragraph.

²⁰ See C152, third preambular paragraph, C156, fifth preambular paragraph, and C167, third preambular paragraph.

²¹ See, for example, C143, third, fourth and fifth preambular paragraphs, and C156, third and fourth preambular paragraphs.

²² See, for example, C134, fourth preambular paragraph, and C169, fourth preambular paragraph.

²³ C32 and C41 refer to previous Conventions by their long titles, a practice based on the fact that the short titles were not introduced until C41. The third preambular paragraph of C182 refers to C138 and R146 by their long titles, which is unusual in recent instruments.

²⁴ See, for example, C146, C152, C166 and C169. The latter practice is restricted to Conventions that revise a previous instrument, and appears to have arisen from the fact that the relevant Conference agenda item refers to the instrument to be revised by its number, this wording then being reproduced in the preamble.

²⁵ See, for example, C72, C109 and C181.

²⁶ See, for example, C117, C146 and C183.

²⁷ See, for example, C72, C165 and C185.

²⁸ See, for example, C42, C93 and C169.

²⁹ See Appendix 3, letter of J. Morellet, Legal Adviser of the ILO, to J.H. Nisot, of the League of Nations Legal Department.

³⁰ See C109.

³¹ See C76.

³² See Appendix 3.

an operative provision of the Convention qualifies the effect of revision in a specific way.³³

(iv) *Object and purpose of the Convention*

23. In addition to the elements referred to above, the preamble may also include other elements, such as the objectives of the instrument adopted or the reasons for which it has been adopted.³⁴ Such clauses are most frequently introduced by the present participles "considering", "noting", "recalling" or "recognizing", although others are also used, including "having regard (to)"³⁵, "reaffirming"³⁶ and "stressing"³⁷.
24. With regard to the objectives or reasons pursued, some preambles specify that they are designed to replace, revise in varying degrees, or supplement previous standards;³⁸ improve conditions for certain workers;³⁹ expedite the application of existing Conventions and extend their scope of application,⁴⁰ extend coverage to an area or to a category of workers who had been implicitly or explicitly excluded from the scope of previous instruments,⁴¹ or place ILO instruments in a wider framework.⁴²

(v) *Cooperation*

25. Cooperation with other international organizations is mentioned recurrently in the maritime sphere⁴³ and more incidentally in the areas of human rights, health and agriculture,⁴⁴ with regard to both the preparation and the application of a given instrument.

1.2.2.2. Preamble of Recommendations

(i) *Form*

26. The five elements relating to the adoption procedure of a Convention are also included in preambles of Recommendations and indeed, more frequently than is the case with Conventions, to the exclusion of anything else. The remarks made with regard to the Conventions thus also apply *mutatis mutandis* to the formal preambular paragraphs of the Recommendations.
27. Nevertheless, as regards the preambular paragraph stating the instrument's short title, the invariable practice in the Conventions of placing this paragraph at the end of the preamble did not become generalized in the Recommendations until the adoption of the Reduction

³³ See, for example, C117 Art. 19, C128, Art. 44 and C132, Art. 16.

³⁴ See, for example, C149, eighth preambular paragraph.

³⁵ See, for example, C174, fifth preambular paragraph.

³⁶ See, for example, C154, third preambular paragraph.

³⁷ See, for example, C173, third preambular paragraph.

³⁸ See, for example, C133, C135 and C138.

³⁹ See, for example, C107 and C131.

⁴⁰ See, for example, C110.

⁴¹ See, for example, C149, C156 and C166.

⁴² See, for example, C122.

⁴³ See, for example, C134, C164 and C185.

⁴⁴ See, for example, C107, C139, C141, C143, C164, C169, C170, C174 and C176.

of Hours of Work Recommendation in 1962 (No. 116). Before then, the paragraph in question in Recommendations had often been followed by others.⁴⁵

(ii) **Substance**

28. The comments made on the standards framework with regard to the preambles of Conventions also apply *mutatis mutandis* to the Recommendations.
29. However, references to non-binding instruments are more frequent and varied in the Recommendations than in the Conventions, especially in those adopted after 1979. In the particular context of the ILO standards system, the preambles of Recommendations sometimes refer to ILC resolutions,⁴⁶ proposals by permanent committees,⁴⁷ ILC conclusions,⁴⁸ ILO codes of practice,⁴⁹ action initiatives or programmes,⁵⁰ or even to matters which are rather of current interest.
30. Like Conventions, Recommendations cite texts adopted by other international forums, such as the United Nations Charter,⁵¹ the Universal Declaration of Human Rights,⁵² the International Covenant on Economic, Social and Cultural Rights,⁵³ the United Nations Convention on the Elimination of All Forms of Discrimination against Women,⁵⁴ the Atlantic Charter in the specific context of the world immediately after the Second World War,⁵⁵ and various other international instruments including resolutions relating to the maritime sphere,⁵⁶ or to education which also comes within the remit of UNESCO.⁵⁷

(iii) **Impact of the adoption of a Recommendation on existing Conventions and Recommendations**

31. The adoption of a Recommendation has been found to have varying consequences for existing Conventions and Recommendations. While certain Recommendations stand alone, the great majority of Recommendations, especially since 1976, supplement one or many Conventions adopted concurrently or on a previous occasion. The link is either stated explicitly or implicit in the fact that the instruments are adopted under the same item on the agenda of a given session of the ILC.⁵⁸ Some Recommendations also state that their provisions are to be applied in conjunction with those of the Convention which they accompany.⁵⁹

⁴⁵ Before the adoption of R115, the paragraphs relating to the adoption procedure always made up the first five paragraphs of the preamble, any others coming after the paragraph stating the short title.

⁴⁶ See, for example, R165.

⁴⁷ See, for example, R101 which refers to the ILO Permanent Agriculture Committee.

⁴⁸ See, for example, R195.

⁴⁹ See, for example, R172.

⁵⁰ See, for example, R189.

⁵¹ See, for example, R74.

⁵² See, for example, R115, R122 and R148.

⁵³ See, for example, R169.

⁵⁴ See, for example, R169.

⁵⁵ See, for example, R67, R69 and R70.

⁵⁶ See, for example, R33, R108 and R187.

⁵⁷ See, for example, R104, R117 and R150.

⁵⁸ R82, R83 and R86 state that they supplement a Convention and revise a previous Recommendation.

⁵⁹ See R177, R181, R182, R183 and R188.

32. Recommendations can supplement Conventions in different ways:

- they may deal with a particular aspect of the subject matter that is not covered by the Convention, for example by extending the latter's scope of application (in respect of either the persons or subject matter covered);
- they may offer a higher level of protection;
- they may contain proposals to guide ILO constituents in applying the Convention they accompany.

33. In some cases, the impact on previous Recommendations is stated explicitly. The preamble or operative provisions of some Recommendations state that they supplement⁶⁰ or supersede⁶¹ previous Recommendations. In other cases, the Recommendation states that it revises one or more previous Recommendations,⁶² revises and replaces it or them (in order to remove any doubt as to the intended effect)⁶³ or it may expressly provide that it does not have this effect.⁶⁴ The reference to revision then appears in the instrument title,⁶⁵ in the preamble⁶⁶ or in one of the operative paragraphs.⁶⁷ Revision is indicated by the term "revises"⁶⁸ or "supersedes"⁶⁹. These terms do not appear to have different legal effects, and in any case the consequences of revision of Conventions are not directly transposable to Recommendations.⁷⁰

(iv) Object and purpose of a Recommendation

34. The observations already made on this point with regard to Conventions are fully applicable to the Recommendations, subject to the following provisos. By contrast with the Conventions, the practice of including preambular clauses relating to the factual context of Recommendations was established right from the start. Since Recommendations are by their very nature non-binding, the following considerations are taken into account when preparing them: the formulation of guiding or fundamental principles, general principles derived from practice and based on experience acquired, or guidelines;⁷¹ promotion of principles that can guide government policy or define more clearly certain aspects of that policy;⁷² promotion of methods which have produced satisfactory results in particular countries and which might provide guidance;⁷³

⁶⁰ See, for example, R129 and R130.

⁶¹ The fact that a given Recommendation is intended to replace another is always indicated in its operative part. See, for example, R117, R165, R166, R171, R175 and R187.

⁶² See, for example, R185.

⁶³ See, for example, R193 and R195.

⁶⁴ See, for example, R164.

⁶⁵ See R86.

⁶⁶ See, for example, R86 and R117.

⁶⁷ See, for example, R165 and R175.

⁶⁸ See R86.

⁶⁹ See, for example, R175 and R187.

⁷⁰ Since Recommendations are not ratified, revision of a Recommendation cannot entail closure to further ratification or automatic denunciation. A Recommendation cannot revise a Convention.

⁷¹ See, for example, R20, R28, R29, R30, R43, R44, R53 (also accompanied by a model code), R57, R58, R60, R64, R67, R69, R70, R71, R72, R73, R115 and R169.

⁷² See R35 and R146.

⁷³ See, for example, R41.

encouragement to extend the instrument's scope or speed up application;⁷⁴ seeking the most uniform application possible;⁷⁵ achieving national and international coordination;⁷⁶ implementation of a programme of action;⁷⁷ encouragement of certain forms of behaviour;⁷⁸ setting out objectives, methods and safeguards in accordance with international labour standards;⁷⁹ or proposing new standards to promote change in a certain direction.⁸⁰ This practice of including contextual information, which was standard practice at the beginning of the ILO's standards-related activities, is now becoming the exception, and many recent Recommendations, unlike the Conventions, do not include any such preambular paragraph.

35. Lastly, some preambles of Recommendations state that member States are required to report "to the International Labour Office as requested by the Governing Body concerning the measures taken to give effect to the Recommendation", without specifying how this information should be communicated.⁸¹

1.2.3. Observations and recommendations

36. *In light of the above, the following observations and proposals might be made with a view to ensuring the most uniform possible practice in regard to the preambles of ILO Conventions and Recommendations which makes full use of their potential:*

(a) *Preambles of Conventions or Recommendations may clarify the context and the circumstances in which these instruments have been negotiated and adopted. They should remain concise and give the following information: a clause formally recalling the context of the instrument's adoption; the reasons for which it was adopted; the relationship with existing ILO standards or those of other international organizations; and any relationship with other international organizations during drafting and implementation.*

(b) *In order to achieve the instrument's objectives, the formal paragraphs relating to the adoption procedure should be retained. These paragraphs should, however, be standardized along the following lines:*

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 [number in words] Session on [opening date: day, month, year], and

Having decided upon the adoption of certain proposals with regard to [subject as indicated in the agenda item], which is the [number of item] item on the agenda of the session, and

Having determined that these proposals shall take the form of a [choice of instrument: Convention or Recommendation],

adopts this [date in words] day of [month and year in words] the following [Convention or Recommendation], which may be cited as the [title, year].

⁷⁴ See, for example, R38, R39, R40, R49 and R52.

⁷⁵ See, for example, R41, R79 and R80.

⁷⁶ See, for example, R48.

⁷⁷ See, for example, R139 and R142.

⁷⁸ See, for example, R109.

⁷⁹ See, for example, R136.

⁸⁰ See, for example, R59, R68, R151, R162 and R165.

⁸¹ See, for example, R45, R96 and R102. This obligation applies to all member States under the terms of article 19, para. 6(d) of the ILO Constitution.

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- (c) *In the case of revision of Conventions, the preamble of the revising Convention should state the effect it has on a previous Convention. The following wording might be adopted:*

Having determined that these proposals shall take the form of an international Convention revising the [short title of the Convention being revised],

- (d) *Although a reference to partial or complete revision might appear on the agenda of the ILC, such a reference should always be avoided in the instrument. Adding such a qualifying term can lead to confusion, and experience has shown that in practice these terms have no legal consequences for the scope of the instrument. If a revising Convention has specific effects on the application of a previous Convention, those effects are spelled out in a specific provision within the operative part of the Convention.*
- (e) *Revision should be reserved for Conventions, and therefore should not be used in respect of Recommendations or Conventions superseding Recommendations. Given the non-binding character of a Recommendation, one should state clearly the place assigned to it in the body of ILO standards at the time of its adoption by specifying in the preamble whether it supersedes or supplements one or more previous Recommendations. If a Recommendation is adopted at the same time as a Convention on the same subject, its preamble should always indicate that it supplements the Convention in question. These references should be included in the preambular paragraph stating the choice of the form of instrument and could be supplemented by a provision in the body of the Recommendation which states that "[t]he provisions of this Recommendation should be considered in conjunction with" those of the Conventions supplemented by it.⁸²*
- (f) *References to other ILO instruments should be retained. International labour Conventions and Recommendations are intended to form a coherent framework of basic standards within the ILO's area of competence. One should ensure that there is no duplication or discrepancy between the provisions of the various Conventions and Recommendations. One common way of doing this is to include in the preamble of the Convention or Recommendation a reference to relevant existing texts. This approach gives a better idea of the overall framework of standards of which the new instrument forms a part, and is based on the notion that standards should form a coherent whole.⁸³ Such references should be introduced by the word "Recalling", before the preambular paragraph stating the choice of the form of instrument. The following order of reference should be adhered to: references to relevant provisions of the ILO Constitution; references to the Declaration of Philadelphia; references to other instruments in reverse chronological order.*
- (g) *Nevertheless, references to other ILO standard-setting instruments should be limited to instruments with which the Convention or Recommendation has a direct and tangible relationship as for example, where a new Convention or Recommendation revises, supersedes or supplements a previous Convention or Recommendation, or if the initiative to adopt the new instrument arises from a principle or an obligation laid down in another instrument, including one of a constitutional nature.⁸⁴*
- (h) *References to instruments and texts whose legal character is not clear or not adequately defined, such as conclusions of Conference technical committees, or references to concepts that lack clear definition, should be avoided.*

⁸² See R183, Para. 1 and R190, Para. 1.

⁸³ See opinion given by the Office concerning the Labour Relations (Public Service) Convention, 1978 (No. 151), *OB*, Vol. LXIII, 1980, Series A, No. 3, p. 124, para. 3.

⁸⁴ See, for example, C87, the preamble of which refers to the adoption by the ILC of the principles which should form the basis for international regulation in the area of freedom of association and which the United Nations General Assembly has endorsed.

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- (i) *The same observations apply in cases where the Convention or Recommendation is closely related to instruments adopted by other international organizations. In these cases, references should be limited to specific provisions of universal instruments or other international instruments of obvious relevance to the subject concerned. They should be introduced by the term "Noting" after the paragraph recalling ILO standards, and should mention the relevant provision of the universal instruments followed by the others in reverse chronological order.*
- (j) *The practice of indicating the reason for adopting the instrument should be kept. Where there are already standards on the same subject, it would be appropriate to take into account any gaps in the existing standards which the new instrument is intended to fill. This could also be introduced in the preamble with the word "Considering" before the paragraph concerning the choice of form of instrument. In any event, such indications should be set out as succinctly as possible.*
- (k) *Where Conventions and Recommendations are adopted and applied in collaboration with other international organizations, the collaboration could be mentioned in the preamble to indicate the instrument's place within the wider context of the international system. Such references appear obvious in the area of human rights, health, agriculture, or in the maritime sector. They could be introduced before the preambular paragraph on the choice of the form of instrument and begin with "Noting".*
- (l) *Given that ILO instruments are the result of unique tripartite action on the international plane, one could include a paragraph in the preamble, where it is appropriate, recalling the importance of tripartite consultations.*
- (m) *The practice developed in recent years of reproducing, in extenso, in the preamble of the Recommendation, the preamble of the Convention which is being supplemented, should be discontinued. It would be preferable in such cases to include only the formal paragraphs referred to in (b) above, together with a statement to the effect that the Recommendation supplements the Convention. The question of follow-up of Recommendations should also be left to the operative part of the instrument, rather than the preamble.*
- (n) *Preambles of ILO Conventions might take the following form:*

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 [number of session in words] Session on [opening date: day, month year], and

Having decided to adopt certain proposals concerning [subject as indicated in the agenda], which is the [number of agenda item] on the agenda of the session,

[Recalling [provisions and short titles of ILO instruments]],

[Noting [provisions and titles of other international instruments]],

[Considering [objective and purpose of the Convention]],

[Noting that the following provisions have been drawn up in collaboration with [name of the organization(s) concerned] and that this collaboration will be continued with a view to promoting and ensuring their application],

Having determined that these proposals shall take the form of an international Convention [in the case of a revising Convention: Having determined that these proposals shall take the form of an international Convention revising the [title, year and number of revised Convention]],

adopts this [date in words] day of [month and year in words] the following Convention, which may be cited as the [title, year]

(o) *Preambles of autonomous ILO Recommendations could take the following form:*

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 [number of session in words] Session on [opening date: day, month, year], and

Having decided upon the adoption of certain proposals with regard to [subject as indicated in the agenda item], which is the [number of item in words] item on the agenda of the session, and

[Recalling [provisions and short titles of ILO instruments]],

[Noting [provisions and titles of other international instruments]],

[Considering [statement of the objective and purpose of the Recommendation]],

[Noting that this Recommendation was drawn up in collaboration with [name of organization(s) concerned] and that this collaboration will be continued with a view to promoting and ensuring its application],

Having determined that these proposals shall take the form of a Recommendation [[superseding] [supplementing]] [short title(s) of previous instrument(s)],

adopts this [date in words] day of [month and year in words] the following Recommendation, which may be cited as the [title, year].

(p) *In the case of a Recommendation that supplements a Convention on the same subject, the preamble should take the following simplified form:*

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 [number of session in words] Session on [opening date: day, month, year], and

Having decided upon the adoption of certain proposals with regard to [subject as indicated in the agenda item], which is the [number of agenda item in words] item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the [short title of the Convention being supplemented],

adopts this [date in words] day of [month and year in words] the following Recommendation, which may be cited as the [title, year].

1.3. Operative provisions

1.3.1. Drafting practice

37. A limited number of Conventions are divided into major subdivisions called "Parts". All the others are without any such division and the Maritime Labour Convention, 2006, features a unique structure.
38. Conventions in which the operative provisions are divided into Parts have certain features in common:
 - For example, about 30 of them include a Part specifying the material scope of the instrument and containing relevant definitions. These may also be contained in a Part entitled "General principles" or "General provisions". All Conventions in addition have final provisions.⁸⁵

⁸⁵ In two Conventions (C161 and C107), these are referred to as "General provisions"; one Convention (C157) also contains transitional provisions in the final part; and two Conventions, while containing final provisions, do not place them all together in a separate Part.

- Other Parts commonly included in Conventions concern means and methods of application, including appropriate penalties,⁸⁶ preventive and protective measures,⁸⁷ obligations of employers, including shipowners,⁸⁸ and the rights and obligations of workers.⁸⁹
- In three Conventions, the operative provisions include schedules containing technical information.⁹⁰

39. At least ninety-five Recommendations are divided into Parts, which may be considerable in number.⁹¹ Some Recommendations deal with the instrument's material scope and relevant definitions in a separate Part.⁹² Other Recommendations are divided into two major Parts, one of which sets out general principles, while the other suggests certain methods of application.⁹³

1.3.2. Observations and recommendations

40. *In light of the above, the following observations and proposals could be made:*

- (a) *The formal arrangement of the operative provisions of Conventions and Recommendations should follow certain rules in order to harmonize their content and ensure that every aspect of the question is covered.*
- (b) *The instruments should be divided into parts, to the extent possible. A Part specifying the instrument's material scope and relevant definitions should be included immediately after the preamble. This first Part should also contain provisions allowing member States to modify the extent of their obligations in respect of the instrument they have ratified.⁹⁴*
- (c) *Recommendations should use the same substantive scope of application definitions as those in the Conventions they accompany [or refer to the Convention using the formula "The provisions of this Recommendation supplement those of the [name of Convention], and should be applied in conjunction with them"].*
- (d) *Moreover, in the case of Conventions, a separate Part containing all the final provisions and any transitional provisions should be systematically included at the end of the operative provisions.*
- (e) *Furthermore, instruments should be structured in such a way that the procedural provisions regarding implementation in the broader sense are grouped together and placed immediately before the final provisions. This would mean placing in one separate Part all general provisions relating to national measures for*

⁸⁶ See, for example, C119, C125, C148, C152, C154, C167 and C181.

⁸⁷ See in particular C115, C148, C162, C167 and C184.

⁸⁸ See C165, C170, C176 and C181.

⁸⁹ See in particular C170 and C176.

⁹⁰ These Conventions being C18, C42 and C102. C42 revised only the schedule of C18.

⁹¹ For example, R120 has 24 Parts.

⁹² For example, R29, R43, R57, R79, R87, R88, R99, R100, R111, R112, R115, R116, R120, R125, R126, R127, R128, R132, R137, R143, R145, R148, R153, R156, R160, R161, R164, R165, R166, R168, R172, R175, R180, R184, R187, R189, R193 and R195.

⁹³ See, for example, R115 and R116.

⁹⁴ For more detail, see the section on mechanisms for modifying the extent and the enforcement of obligations.

*implementation and supervision, including penalties, and the obligation to conduct prior tripartite consultation.*⁹⁵

- (f) *These proposals regarding the instrument's formal structure are based on the assumption that all the provisions regarding rights and obligations are placed after the first Part concerning the substantive scope and definitions but before the Part containing provisions concerning implementation. As for the organization of the Parts concerning rights and obligations, such Parts can be arranged in different ways, largely depending on the particular circumstances.*
- (g) *For example, these Parts can include provisions setting out obligations (of member States, employers or workers) or rights (of employers or workers), or both.⁹⁶ They can also specify the obligatory or suggested content of policy⁹⁷ or legislation to be developed, enacted and implemented by the competent authorities of member States in consultation with organizations of employers and workers. In the area of occupational safety and health, including the management of hazardous products, consideration should be given in all cases to the possibility of including a Part containing detailed information on the preventive and protective measures required or recommended.⁹⁸*
- (h) *In addition, the schedules or lists should always be placed together at the end of the instrument in annexes.*
- (i) *To summarize, the formal structure of Conventions could be the following:*
- *Part I - Scope and definitions;*
 - *Part II - Rights and obligations;*
 - *Part III - Means and methods of implementation and supervision;*
 - *Part IV - Final provisions*
- (j) *As a general rule, Recommendations should be arranged in the same way, except for the Parts dealing with means and methods of implementation and final provisions. It might also be possible to include in a separate Part (or annexes) any proposals regarding practical means of meeting the obligations specified in the Conventions they accompany.*

⁹⁵ See the relevant sections in this regard.

⁹⁶ See, in particular, C148, C162 and C167 in which the Parts entitled "General provisions" or "General principles" set out the obligations of employers and workers. See also the following Conventions, which also contain separate Parts of this kind: C62 and C82 (obligations of the Parties to the Convention); C120 (obligations of the Parties); C165 (obligations of shipowners); C170 (responsibilities of employers, duties of workers, rights of workers and their representatives, and responsibilities of exporting States); C174 (responsibilities of employers, responsibilities of competent authorities, rights and obligations of workers and their representatives, responsibilities of exporting States); C180 (responsibilities of the shipowner and ship's captain).

⁹⁷ See, in particular, C82, C117, C155, C161, C170 and C174.

⁹⁸ See, in particular, C115, C148, C176 and C184. In its Part on preventive and protective measures at the mine, C176 includes a number of sub-headings on the responsibilities of employers and the rights and obligations of workers and their delegates.

1.4. Final provisions

1.4.1. *International law and practice*

41. The final provisions are an integral part of the operative provisions of any international convention or treaty and have binding force in law. Nevertheless, the final provisions have a different purpose from the other provisions.⁹⁹ They are usually technical in nature and are intended as guidance for the implementation of the instrument, relating specifically to its entry into force, its expiry and ratification formalities. For this reason, they are sometimes referred to as "formal clauses"¹⁰⁰ or "standard clauses"¹⁰¹.
42. Final provisions in multilateral treaties vary in nature. Most contain articles on: the settlement of disputes; amendment and revision of the instrument; the status of any annexes; signature; ratification; accession; entry into force; duration; denunciation; reservations; designation of the depositary and the associated functions; registration; and authoritative language versions. Depending on the nature and substance of the instrument, there may also be other provisions referring to a transitional period; suspension of the instrument's provisions; or its relationship with previous instruments.

1.4.2. *Drafting practice*

1.4.2.1. Background

43. The Constitution of the ILO contains no provisions regarding the conditions of ratification of Conventions, their entry into force, revision or denunciation, or notification of ratifications to Members. These matters are determined by the provisions contained in the Final Articles of Conventions.¹⁰² The ILO has generally used standard provisions reproduced without any major modifications in the Final Articles of each new Convention. These standard provisions have been adopted as such by the ILC.
44. The first standard final provisions were proposed in 1919 by the Conference Drafting Committee to supplement the Hours of Work (Industry) Convention, 1919 (No. 1), and it was decided that these should also be included in subsequent Conventions.¹⁰³ Most standard final provisions in their present form date from the 11th Session (1928) of the ILC.¹⁰⁴ At that session, six proposed Final Articles were adopted based on the previous practice of the Standing Orders Committee. They concerned the following questions: (a) ratification; (b) entry into force; (c) notification of ratifications to Members; (d) denunciation; (e) report and consideration for revision by the Governing Body; and (f) authentic texts. A seventh article concerning the effects of a possible revision of Conventions was introduced in 1929¹⁰⁵ before taking its present form in 1933.¹⁰⁶ In its 29th Session in 1946,¹⁰⁷ the Conference made certain adjustments to the standard Final

⁹⁹ For the purpose of this section, the terms "final clauses" and "final provisions" are synonymous, although the term "final provisions" is more established in ILO terminology since it is used in a number of ILO Conventions as the title of the part containing the provisions concerned.

¹⁰⁰ ILO: *Record of proceedings*, ILC, First Session, Washington, 1919, p. 178.

¹⁰¹ ILO: *Record of proceedings*, ILC, 11th Session, Geneva, 1928, Vol. I, p. 300.

¹⁰² The term is used in C80 and C116. An Article can contain a number of provisions or clauses relating to various issues.

¹⁰³ ILO: *Record of proceedings*, ILC, First Session, Washington, 1919, p. 178.

¹⁰⁴ ILO: *Record of proceedings*, ILC, 11th Session, Geneva, 1928, Vol. I, pp. 300 and 591-612.

¹⁰⁵ ILO: *Record of proceedings*, ILC, 12th Session, Geneva, 1929, Vol. I, pp. 770-771.

¹⁰⁶ ILO: *Record of proceedings*, ILC, 17th Session, Geneva, 1933, pp. 312 and 500-501.

¹⁰⁷ ILO: *Record of proceedings*, ILC, 29th Session, Montreal, 1946, pp. 216 and 385-386.

Articles on the ratification and denunciation procedures. These modifications had become necessary following the dissolution of the League of Nations (whose functions with regard to the deposit of treaties and international agreements were assumed by the United Nations) and the constitutional amendments that resulted from this. On that occasion, an eighth article concerning notification of ratifications to the Secretary-General of the United Nations was added. Finally, in 1951, the article concerning the examination of the issue of revision was changed to its current form.¹⁰⁸ Several standard provisions have been adopted using wording that leaves a certain number of parameters open, such as the number of ratifications necessary for Conventions to come into force and the length of the various intervals relating to entry into force and denunciation.

1.4.2.2. Adoption and modification of final provisions

45. In accordance with well-established practice, Articles containing the final provisions are added by the ILC Drafting Committee¹⁰⁹ to the text of the proposed Convention attached to the report of the technical committee responsible to draw up a proposed text. This draft of the Convention is then submitted to a final vote in the plenary session of the Conference. The Drafting Committee uses the standard final provisions, although changes to them are made as required by the technical committees of the Conference. The parameters left open in the standard final clauses adopted by the Conference are usually, in the absence of any instructions from the technical committees, left unchanged by the Drafting Committee, which resorts to the default parameters indicated in brackets in the final provisions. These default parameters are discussed below.
46. The standard final provisions adopted by the Conference have comprised two types of significant developments. The first concerns entry into force, which was significantly modified in some of the maritime labour Conventions adopted since 1936. The second concerns the practice that has developed with regard to the final provisions of the five Protocols adopted since 1982, which differ in certain respects from the standard Final Articles by virtue of their special legal nature characterized by their attachment to another Convention.¹¹⁰ Other less significant developments have been introduced for reasons that do not always appear clearly today. Some of those changes have been reproduced from one Convention to the next and have thus been perpetuated.
47. Once included in a Convention, the final provisions, like any other provisions in a Convention, cannot be amended except by revision of the Convention of which they are an integral part. In order to get around that difficulty, the Organization adopted the Final Articles Revision Conventions, Nos. 80 and 116, in 1946 and 1961 respectively, with a view to harmonizing the system applied to Conventions following the adoption of new standard final clauses.¹¹¹

¹⁰⁸ ILO: *Record of proceedings*, ILC, 34th Session, Geneva, 1951, pp. 243-244 and 517-518.

¹⁰⁹ In accordance with article 6 of the Standing Orders, the Drafting Committee is made up of at least three persons who need not be delegates or advisers at the ILC.

¹¹⁰ P89 and P110 concern only subjective entry into force, notification of member States and the United Nations Secretary-General, and the languages of the authoritative versions P81 and P155 also provide for an objective entry into force and the possibility of denunciation in accordance with the rules applicable to Conventions. P155 stipulates that denunciation of C155 involves automatic denunciation of the Protocol. Lastly, P147 also stipulates the qualities of the five Members whose ratification is required for it to enter into force, provides for the Governing Body to present a report to the ILC and examine the question of revision, and finally, specifies the conditions under which it is closed to ratification.

¹¹¹ In March 2003, the ILO Governing Body had before it an Office document concerning final provisions of Conventions. It examined a number of possible changes to the standard final provisions currently used (see Committee on Labour Issues and International Labour Standards: The preparation of international labour Conventions: Questionnaire and code of good drafting practices, GB.286/LILS/1/2 (March 2003)). On that occasion, as there was no consensus and no clear indications as to how to proceed, it was decided to continue discussion of the matter (Reports of the Committee on Legal Issues and International Labour Standards: First report: Legal issues, GB.286/13/1 (March 2003), para. 63).

1.4.3. Content of final provisions

48. The standard final provisions in their present form comprise normally eight Articles on the following subjects: (a) entry into force of the Convention; (b) denunciation; (c) revision of the Convention; (d) depositary functions of the Director-General and United Nations Secretary-General; (e) authoritative language versions. In the following paragraphs, those provisions are reproduced as they appear in the final articles of the Safety and Health in Agriculture Convention, 2001 (No. 184).

1.4.3.1. Entry into force of the Convention (Standard provision B)

49. Article B in the final provisions governing entry into force now has the following form:

Article B

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.
 2. It shall come into force [twelve] months after the date on which the ratifications of [two] Members have been registered with the Director-General.
 3. Thereafter, this Convention shall come into force for any Member [twelve] months after the date on which its ratification has been registered.
50. Since the adoption of the Minimum Age (Agriculture) Convention, 1921 (No. 10), this article has been divided into three paragraphs, the content of which was the same as it is now but arranged in a different order.¹¹² The first paragraph is simply a reminder of what is already established under article 19, paragraph 5(d) and (e), of the Constitution of the ILO, namely, that a Member of the ILO is only obliged to give effect to the provisions of a Convention which it has ratified, in accordance with a well-established principle of customary law.
51. Paragraph 1 of Article B nevertheless goes somewhat beyond the final sentence of article 20 of the Constitution, in stipulating that for a Convention to be binding on Members, ratification must be registered by the Director-General. Such a condition is unusual in international treaties, and would appear to be a special feature of ILO Conventions. If a ratification communicated to the Director-General is for any reason not registered, the Member would not be bound by the Convention that had been ratified. The effect of ratification thus depends on a positive act - namely, registration - by the depositary. By contrast with the usual role of the depositary under international law,¹¹³ the Director General of the ILO can refuse to register a ratification for reasons that go beyond questions of form. For example, a ratification which involved lack of conformity on a matter of substance, or which would effectively constitute a reservation, can be refused by the ILO Director-General himself.¹¹⁴ Paragraph 1 of Article B above thus imposes a procedural condition, in addition to that of article 20 of the Constitution and general international law according to which normally the mere fact of ratification gives rise to obligations. In practice, this additional condition has been useful as a means of ensuring that ratifications accompanied by declarations having the effect of reservations (which are not admissible) are revised and amended by the States concerned.

¹¹² The order of paragraphs 1 and 2 was inverted. The current order dates from the adoption of C26 in 1928.

¹¹³ See P. Reuter, *Introduction to the law of treaties*, Pinter Publishers, 1989, para. 114.

¹¹⁴ One particularly clear example of this is the simultaneous ratification by Malta of C101 and C132. Although C132 did not have the effect of closing C101 to ratification, the ratification of the former did entail *ipso jure* denunciation of the latter. Consequently, ratification of C101 ceased to have any purpose, which the Director-General cited as a reason for non-registration.

52. Paragraphs 2 and 3 of Article B set the date of entry into force of the Convention, which is essential for the Convention to give rise to obligations on member States. The paragraphs draw a distinction between two phases of entry into force. The first is the initial or "objective" entry into force with regard to the ILO, which is the starting point for the purpose of reckoning time limits for denunciation (see denunciation) and brings into effect the obligations and rights under articles 22, 24 and 26 of the Constitution. It also marks the entry into force of the Convention for member States which ratified it 12 months or more before this date (paragraph 2). The second phase of entry into force is the individual or "subjective" entry into force for each Member that ratifies the Convention after its initial entry into force (paragraph 3). These time limits are not set by the Constitution of the ILO or by any provision of public international law.

53. As regards the objective entry into force (paragraph 2), three specific parameters need to be considered: (i) the number of ratifications necessary for entry into force; (ii) the stipulation of the Members whose ratifications are necessary for entry into force; and (iii) the interval before the Convention comes into force.

(i) Number of ratifications necessary for entry into force

54. The standard number of ratifications needed for a Convention to enter into force was set by default in the final provisions at two. All ILO Conventions, except for the Unemployment Convention, 1919 (No. 2), which specifies three ratifications, and many maritime Conventions, for which the number of ratifications required varies from 2 to 30,¹¹⁵ have adhered to this standard number of ratifications.

(ii) Stipulation of Members whose ratifications are necessary for entry into force

55. A certain number of ILO Conventions require not only a specified number of ratifications to be registered, but also stipulate that a certain number of those ratifications be registered by specific named Members. The relevant provisions of the Hours of Work (Coal Mines) Conventions of 1931 and 1935 (Nos. 31 and 46), of the Plantation Convention, 1958 (No. 110), as well as of 13 of the maritime Conventions mentioned above, specify that the ratifications that are counted for the purpose of entry into force must come from Members on a list.¹¹⁶ Furthermore, in the case of maritime labour Conventions, a certain number of ratifications must come from countries with a merchant fleet of a certain size as measured by gross tonnage. In some cases, there is a provision indicating that these conditions are included for the purpose of facilitating and encouraging early ratification of the Convention by member States.¹¹⁷

56. A list of specified countries can only be established for the purposes of a particular Convention if the aim is to ensure ratification by a minimum number of those countries that are most directly concerned by its provisions. Provisions setting out this condition can therefore be adopted only on a case-by-case basis in the light of the subject matter of the Convention, and cannot be included in standard Final Articles. Clearly, they must also be discussed by the competent technical committees.

¹¹⁵ C133 (12 ratifications); C47 (10 ratifications); C68, C69, C72, C76, C91, C93 and C109 (nine ratifications); C70, C73, C75 and C92 (seven ratifications); C54, C57, C71, C180 and P147 (five ratifications); Maritime Labour Convention, 2006 (30 ratifications from countries meeting gross tonnage requirements).

¹¹⁶ For example, C31 requires the ratifications of two Members from a list of seven countries; C109 the ratifications of nine countries from a list of 27; and C110 those of two countries from a list of 40.

¹¹⁷ See, for example, Art. 27, para. 3, of C109.

(iii) *Interval before the Convention comes into force*

57. The period between registration of the last ratification needed and the objective or subjective entry into force is set at 12 months in the standard final provisions. Where no specific time limits are stipulated in the instrument, entry into force would be immediate, that is, takes effect as soon as the requisite number of ratifications is reached.¹¹⁸ The time limits must therefore be fixed in each Convention, at least as default provisions. They were not specified in the first 23 Conventions, which entered into force therefore as soon as they were ratified. The Sickness Insurance (Industry) Convention, 1927 (No. 24), and the Sickness Insurance (Agriculture) Convention, 1927 (No. 25), provide for a period of 90 days after ratification before entry into force. From the adoption of the Minimum Wage-Fixing Machinery, 1928 (No. 26), onwards, the period for the entry into force was set at one year to allow ratifying States to bring their legislation into line with the ratified instrument.¹¹⁹ The period of 12 months under Article B adopted in 1928 could not be amended, and it was only the adoption of new standard final provisions in 1946 that made amendment possible.¹²⁰ Although Article B as adopted in 1946 indicated no time limit for entry into force, the practice of setting that period at 12 months has been maintained. There have nevertheless been some exceptions¹²¹ for which a six-month period has been set. These derogations concern above all the maritime Conventions.¹²²

1.4.3.2. Denunciation (Standard provision C)

58. Denunciation is the act whereby a Member may terminate its obligations under a Convention it has ratified, as well as its constitutional obligations with respect to that Convention. In the absence of a provision in the Constitution of the ILO on the possibility of denouncing a ratified Convention, any provision allowing for denunciation must therefore be included in each Convention along with any time limit within which denunciation can take place.¹²³ There are broadly two types of denunciation: those that follow automatically from the ratification of a Convention revising an earlier Convention (see revision); and "pure" denunciations effected by an act of denunciation communicated to the Director-General of the International Labour Office. The relevant provision is as follows:

Article C

1. A Member which has ratified this Convention may denounce it after the expiration of [ten] years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until [one year] after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of [ten] years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of [ten] years and, thereafter, may denounce this Convention at the expiration of each period of [ten] years under the terms provided for in this Article.

¹¹⁸ Art. 24, paras. 1 and 2 of the Vienna Convention on the Law of Treaties.

¹¹⁹ ILO: *Record of proceedings*, ILC, 11th Session, Geneva, 1928, Vol. I, 1928, pp. 300-301.

¹²⁰ However, C31, adopted in 1931, and C57, adopted in 1936, set periods for entry into force of six months.

¹²¹ These concern C31, C57, C68, C69, C70, C71, C72, C73, C75, C76, C91, C92, C93, C109, C110, C180 and C185. C133 has the unusual feature of having one time limit for objective entry into force and a different time limit for subjective entry into force, the former being 12 months and the latter six months.

¹²² The only non-maritime Conventions among these exceptions are C31 and C110.

¹²³ Under the terms of Art. 56 of the Vienna Convention on the Law of Treaties, a Convention which does not provide for denunciation is not in principle subject to denunciation.

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- 59.** This provision, adopted in its present wording with the Underground Work (Women) Convention, 1935 (No. 45), provides for a number of different time limits: (i) an initial period of validity of the Convention, reckoned from the date of its initial entry into force; (ii) the period during which denunciation is permissible; (iii) a third period during which the Convention remains in force if it has not been denounced, at the end of which period the denunciation-validity cycle is repeated, resulting in a system of "windows" for denunciation; and lastly (iv) a period of notice between registration of denunciation and the denunciation taking effect.
- 60.** In the ILO's practice, the first period of validity has normally been ten years, or five years in exceptional cases,¹²⁴ reckoned from the date of the Convention's initial entry into force. After that period, Conventions adopted between 1919 and 1927 can be denounced at any time. In 1928, considering that offering States this possibility introduced an element of precariousness in the system of mutual obligations established by Conventions, the Conference established the principle of the denunciation-validity cycle, leaving open the question of the duration of the initial and subsequent periods of validity. Barring exceptions, the duration of the period during which denunciation is possible has been one year, while the subsequent period during which the Convention remains in force was fixed at ten years in most cases from 1933 onwards. Before that date, some Conventions fixed it at five years. A study of practice in the area of denunciations has shown, however, that the period within which denunciation is admissible coincides with the first year of the new period of validity which starts from the end of the previous period of validity. Lastly, the period of notice is invariably one year, and has been since 1919.
- 61.** Between 1938, the year of the first denunciation, and December 2004, there were 118 "pure" denunciations (for 7,245 registered ratifications as of 13 December 2004). Of these, 21 were for the Night Work (Women) Convention (Revised), 1948 (No. 89), making it the Convention with the most denunciations.

1.4.3.3. Revision (Standard provisions F and G)

- 62.** The standard final provisions include two articles concerning the revision of Conventions. The first one reads as follows:

Article F

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

- 63.** Unlike the provisions contained in Conventions adopted before 1951 and amended subsequently,¹²⁵ which require the Governing Body to present a report at least once every ten years, this provision leaves it to the Governing Body to choose the best time to report. The procedure followed in these cases is referred to in article 11 of the Standing Orders of the Governing Body and article 44 of the Standing Orders of the Conference. It was last used in 1952, for the purpose of revising the Maternity Protection Convention, 1919 (No. 3). In practice, because it is rather cumbersome, it was abandoned in favour of a simpler procedure by which the revision of a Convention is simply placed as a normal item on the agenda of the ILC.¹²⁶
- 64.** Article G concerns the consequences of revision of a Convention, as follows:

¹²⁴ See, for example, C42, C48 and C115.

¹²⁵ By C116.

¹²⁶ See doc. GB.276/LILS/WP/PRS/2 (Nov. 1999), para. 8.

Article G

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article [C] above, if and when the new revising Convention shall have come into force;
 - b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

65. This article was first included in the Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27), and has undergone very few changes since then.¹²⁷ It determines the consequences of revision as provided for in principle in Article F. It states that ratification by a Member of the new revising Convention entails *ipso jure* (that is, automatically and without the need for a declaration to that effect) the immediate denunciation by that State of the Convention being revised. This also closes the old Convention to ratification, unless there is a specific provision to the contrary.

1.4.3.4. Depository functions of the Director-General and United Nations Secretary-General (Standard provisions A, D and E)

66. Following the dissolution of the League of Nations and, in particular, the decision to transfer to the ILO Director-General and the United Nations Secretary-General the depository functions formerly assumed by the Secretary-General of the League of Nations, the standard Final Articles A, D and E, which took their present form in 1946,¹²⁸ set out the functions of these officials in the following terms:¹²⁹

Article A

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

Article D

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the [second] ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which this Convention will come into force.

Article E

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the

¹²⁷ It is interesting to note that neither C80 nor C116 include Article G in Conventions adopted before 1929, as was the case for Article F. This means that the mechanism for closure to ratification and automatic denunciation is absent from C1 to C26. Despite the adoption of a revising Convention, these Conventions remain open to ratification and explicit denunciation is required for them to cease to be enforceable with regard to a State ratifying the revised Convention. For example, Serbia and Montenegro ratified C3 and C103 on maternity protection on the same date (24 November 2000). However, once the Constitution of the International Labour Organisation Instrument of Amendment, 1997, will have come into force, it will be possible for the Conference to abrogate any Convention that has lost its purpose or that no longer makes a useful contribution to attaining the objectives of the Organization.

¹²⁸ ILO: *Record of proceedings*, ILC, 29th Session, Montreal, 1946, Annex VI, pp. 385-386.

¹²⁹ In the case of Conventions adopted since that date, these amendments were effected by C80.

United Nations full particulars of all ratifications, acts of denunciation and declarations registered by him in accordance with the provisions of the preceding Articles.

67. The provisions of Articles A and D supplement article 19, paragraph 4, of the Constitution, according to which the Director-General as depositary is required to communicate a certified copy of the Convention to each Member. Under the terms of Article A, the depositary functions include registration of ratifications and, under Article C concerning denunciation (see denunciation), also include dealing with denunciations. Article D adds the obligation to notify all Members of any registrations and denunciations. Lastly, when notifying Members of registration of the second ratification (the standard number, discussed under Number of ratifications necessary for entry into force), the Director-General is required to draw Members' attention to the date of entry into force of the Convention.
68. The Director-General fulfils the obligation to notify Members principally by publishing the relevant information in the ILO's *Official Bulletin* (Series A). In practice, this information does not include separate notice of automatic denunciations arising from ratification of a revising Convention. This can be explained by the fact that such denunciations do not come about through "acts of denunciation" within the strict meaning of Article D, paragraph 1. Detailed information, including the mention of any automatic denunciations, is also presented annually to the Conference in a special section of the report of the CEACR. Lastly, the Governing Body in its March and November sessions is also informed, through the report of the Director-General, of any ratifications and denunciations, including any reasons given by governments for denunciation, as it had requested at its 184th Session.¹³⁰
69. Article 20 of the Constitution, according to which any ratified Convention must be communicated by the Director-General of the ILO to the Secretary-General of the United Nations for registration, in accordance with Article 102 of the United Nations Charter, was included in the 1946 Constitution in recognition of the importance of including Conventions in the general register of treaties maintained by the United Nations. It was felt, however, that registration of a Convention would be incomplete unless any subsequent act affecting its application - such as ratifications, denunciations and declarations - was also registered by the Secretary-General. Article E of the final provisions thus provides for the Director-General to communicate to the Secretary-General, for the purpose of registration, full particulars concerning ratifications and denunciations that have been registered. The procedure for depositing and registering ILO Conventions with the United Nations was confirmed in a Memorandum of Agreement signed by the two organizations in 1949.¹³¹
70. In practice, the Director-General in the communications to the United Nations indicates the cases in which ratification entails automatic denunciation of another Convention, although such a denunciation does not result, in the wording of Article E, from an "act of denunciation" or "in accordance with the provisions of the preceding Articles". Given that communication of that information is nevertheless required,¹³² it might be possible to adapt the wording of Article E to reflect that practice.

¹³⁰ Doc. GB.184/11/18 (1971), paras. 27-34, and doc. GB.184/205 (1971), para. 56.

¹³¹ *Memorandum of Agreement concerning the procedure to be followed for the deposit and registration with the United Nations of international labour Conventions and certain other instruments adopted by the International Labour Conference*, signed on 17 Feb. 1949, *OB*, Vol. XXXII, 1949, No. 1, pp. 414-415. The Memorandum refers to the regulations to give effect to Art. 102 of the Charter of the United Nations adopted by the United Nations General Assembly (resolution 97(I) of 14 Dec. 1946, as modified by resolutions 364 B(IV) of 1 Dec. 1949, 482 (V) of 12 Dec. 1950 and 33/141A of 18 Dec. 1978).

¹³² Article 2 of the regulations mentioned in the previous note provides that "when a treaty or international agreement has been registered with the secretariat [of the United Nations], a certified statement regarding any subsequent action which effects a change in the parties thereto, or the terms, scope or application thereof, shall also be registered with the secretariat".

1.4.3.5. Authoritative language versions (Standard provision H)

71. Article H stipulates that the French and English language versions are both equally authoritative. This Article has remained fundamentally unchanged since its inclusion in the first Convention in 1919. It was amended in 1946, with the adoption of Convention No. 68 and has not been changed ever since. Article H in its current form reads as follows:

Article H

The English and French versions of the text of this Convention are equally authoritative.¹³³

72. The authoritative languages are the official languages of the Conference in accordance with article 6, paragraph 3, and article 24, paragraph 1, of the Standing Orders of the Conference. The French and English language versions of the Convention are authenticated by the signature of the President of the Conference and the Director-General.

1.4.4. Observations and recommendations

73. *In light of the foregoing considerations, the following observations and recommendations may be made:*
- (a) *The recommendations which follow are addressed to the Conference Drafting Committee which will apply by default the figures in brackets unless a contrary indication is provided by the technical committees.*
 - (b) *It would be appropriate to review generally the formal wording of the Final Articles in order to better reflect the proposals in this Manual (for example, with regard to the use of tenses and gender-inclusive wording. See the section on drafting rules and methods).*
 - (c) *More specifically, the final provision on denunciation (Article C) should be modified to state clearly that the period of one year during which the Convention may be denounced runs concurrently with the subsequent period of validity.*
 - (d) *The terms "in whole or in part" applied to the revision of a Convention once adopted by the Conference should be eliminated (even if a reference to the same has appeared on the ILC agenda). In all cases, the revision of a Convention, whether in whole or in part, leads to the adoption of a new Convention that replaces the previous one.¹³⁴*
 - (e) *A table comparing the present wording of the standard Final Articles as adopted by the Conference¹³⁵ with the proposed wording follows (proposed changes in French may differ):*

¹³³ It should be noted that this provision predates, by more than 20 years, Art. 33, para. 1, of the Vienna Convention on the Law of Treaties, which has the same effect.

¹³⁴ See section on the Preamble.

¹³⁵ It is appropriate to refer to the standard final provisions adopted as such by the ILC (see paras. 43-44 above) since the variations introduced subsequently have not been adopted as amendments to the *standard* final provisions.

Current standard final provisions	With proposed amendments
<p style="text-align: center;">Article A</p> <p>The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.</p>	<p style="text-align: center;">Article A</p> <p>The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.</p>
<p style="text-align: center;">Article B</p> <ol style="list-style-type: none"> 1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General. 2. It shall come into force [twelve months] after the date on which the ratifications of [two] Members have been registered with the Director-General. 3. Thereafter, this Convention shall come into force for any Member [twelve] months after the date on which its ratification has been registered. 	<p style="text-align: center;">Article B</p> <ol style="list-style-type: none"> 1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office. 2. It shall come into force [twelve months] after the date on which the ratifications of [two] Members have been registered with the Director-General. 3. Thereafter, this Convention shall come into force for any Member [twelve] months after the date on which its ratification has been <u>is</u> registered.
<p style="text-align: center;">Article C</p> <ol style="list-style-type: none"> 1. A Member which has ratified this Convention may denounce it after the expiration of [ten] years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until [one year] after the date on which it is registered. 2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of [ten] years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of [ten] years and, thereafter, may denounce this Convention at the expiration of each period of [ten] years under the terms provided for in this Article. 	<p style="text-align: center;">Article C</p> <ol style="list-style-type: none"> 1. A Member which has ratified this Convention may denounce it after the expiration of [ten] years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until [one year] after the date on which it is registered. 2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of [ten] years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of [ten] years and, thereafter, may denounce this Convention <u>within the first year at the expiration of each new</u> period of [ten] years under the terms provided for in this Article.
<p style="text-align: center;">Article D</p> <ol style="list-style-type: none"> 1. The Director-General of the International Labour Office shall notify all the Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation. 2. When notifying the Members of the Organisation of the registration of the [second] ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which this Convention will come into force. 	<p style="text-align: center;">Article D</p> <ol style="list-style-type: none"> 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, <u>declarations</u> and denunciations <u>that have been</u> communicated to him by the Members of the Organization. 2. When notifying the Members of the Organization of the registration of the [second] ratification <u>ratification communicated to him last of the ratifications required to bring the Convention into force</u>, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.
<p style="text-align: center;">Article E</p> <p>The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, acts of denunciation and declarations registered by him in accordance with the provisions of the preceding Articles.</p>	<p style="text-align: center;">Article E</p> <p>The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, <u>declarations</u> and acts of denunciations registered by him <u>in accordance with the provisions of the preceding Articles</u> the Director-General.</p>

Article F

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of the Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article G

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article [C] above, if and when the new revising Convention shall have come into force;
 - (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article H

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

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 - (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article H

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

1.5. Annexes to Conventions and Recommendations

1.5.1. *International law and practice*

74. An annex is an integral part of a treaty and as such has binding force in the absence of express provisions to the contrary.¹³⁶ It is nonetheless commonplace for international treaties to include a provision stating explicitly that the annexes are an integral part of the instrument.¹³⁷ The annex is sometimes called an "appendix" or "schedule".¹³⁸ Annexes form part of the context of an international treaty for interpretation purposes.
75. The annex is normally used to handle the technical details of a treaty. It often contains information which it would be difficult to include in the main body of the instrument, such as long lists,¹³⁹ schedules¹⁴⁰ or diagrams¹⁴¹. Other international conventions include in

¹³⁶ N. Quoc Dinh, P. Daillier, A. Pellet: *Droit International Public*, 7th edition, Paris, L.G.D.J., 2002, p. 133.

¹³⁷ See, for example, the WHO Framework Convention on Tobacco Control, Art. 29(2); the Protocol on Pollutant Release and Transfer Registers, Art. 19; the United Nations Framework Convention on Climate Change (with annexes), Art. 16; and the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Art. 13.

¹³⁸ A. Aust: *Modern Treaty Law and Practice*, Cambridge, Cambridge University Press, 2000, p. 354.

¹³⁹ See, for example, the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Annex I.

¹⁴⁰ See, for example, the Protocol on Pollutant Release and Transfer Registers, Annex I.

their annexes guiding principles¹⁴² or provisions concerning the applicable dispute settlement procedure.¹⁴³ Conventions that provide for the adoption of supplementary annexes sometimes specify their form and content.¹⁴⁴

1.5.2. Drafting practice

1.5.2.1. ILO Conventions

- 76.** Nine ILO Conventions and one Protocol contain annexes.¹⁴⁵ The annexes are normally placed at the end of the Convention, except in the case of the Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), which contain schedules in the main part of the text.¹⁴⁶ Apart from these instruments, the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), and the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42), also include a schedule at the end of the substantive provisions of the instrument which is not identified as an annex.
- 77.** Annexes are normally identified by the term "Annex", followed by a Roman numeral if there are more than one. The Employment Injury Benefits Convention, 1964 (No. 121), is an exception to this rule and includes annexes under the headings "Schedule".¹⁴⁷ Schedule II of this Convention is of the same type as those contained in the Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), which in both cases are identified as annexes.
- 78.** The annexes vary in form and content according to the subject matter dealt with by the instrument. Some annexes comprise lists of Conventions¹⁴⁸ or diseases¹⁴⁹, specify periodical payments to standard beneficiaries¹⁵⁰ or reproduce the international standard classification of all economic activities (adopted by the Economic and Social Council of the United Nations (ECOSOC) at its Seventh Session on 27 August 1947).¹⁵¹ Others extend the scope of the instruments to areas which States may, by a declaration appended to the ratification, exclude from their ratification,¹⁵² propose a model for a seafarer's

¹⁴¹ See, for example, the Agreement on International Railways in the Arab Mashreq, (New York, doc. E/ESCWA/TRANS/2002/1/Rev.2), Annex 2.

¹⁴² For example, the annex of the United Nations Convention on the Assignment of Receivables in International Trade.

¹⁴³ See, for example, the Protocol on Pollutant Release and Transfer Registers, Annex IV.

¹⁴⁴ See, for example, the United Nations Framework Convention on Climate Change, Art. 16(1); and the WHO Framework Convention on Tobacco Control, Art. 29(3).

¹⁴⁵ C83, C97, C102, C121, C128, C130, C147, C185, the Maritime Labour Convention, 2006, and P147.

¹⁴⁶ The annexes in the main parts of C102 and C128 relate to specific Parts of those instruments.

¹⁴⁷ C121 includes two schedules at the end of the operative part, in addition to an annex identified as such. These schedules are: "Schedule I. List of occupational diseases"; and "Schedule II. Periodical payments to standard beneficiaries".

¹⁴⁸ See, for example, C83, C147 and P147.

¹⁴⁹ See, for example, C121, Schedule I.

¹⁵⁰ See, for example, C102, annex to Part XI; C121, Schedule II; and C128, annex to Part V.

¹⁵¹ See C102, C121, C128 and C130.

¹⁵² See C97, Annexes I, II and III.

identity document and procedures and practices for issuing such a document,¹⁵³ or specify the elements that should be included in an electronic database.¹⁵⁴

- 79.** In ILO practice, the annexes of Conventions are normally binding, as this is reflected by the wording of references to the annexes in the relevant provisions of each Convention.¹⁵⁵ The Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83), requires ratifying member States to communicate a declaration stating the extent to which they undertake that the provisions of the Conventions set forth in the Schedule shall be applied.¹⁵⁶ The Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), requires States to ensure that their legislation is substantially equivalent to the provisions of the Conventions listed in the annex.¹⁵⁷ On the other hand, the annexes of the Migration for Employment Convention (Revised), 1949 (No. 97), are binding¹⁵⁸ in the absence of a declaration to the contrary by member States.¹⁵⁹
- 80.** Lastly, the three annexes of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), are also binding, except for Part B of Annex III, which sets out recommended procedures and practices for achieving the mandatory results listed in Part A; those procedures and practices must thus be given full consideration by member States but are not mandatory.

1.5.2.2. ILO Recommendations

- 81.** Fourteen ILO Recommendations contain annexes.¹⁶⁰ As with the Conventions, these annexes are placed at the end of the instrument. In all the Recommendations, the annexes are identified as such by the title "Annex", sometimes followed by a title indicating the content.¹⁶¹
- 82.** Overall, the content of annexes in Recommendations differs somewhat from that of annexes found in Conventions, in that the former contain a greater number of substantive provisions. This is undoubtedly due to their non-binding nature and their potential to influence government policy by proposing means of applying the Recommendation or the Convention which it supplements in the form of suggestions for application¹⁶² and model codes or agreements. In some cases, the operative provisions of Recommendations concern only formal requirements, the substantive content being confined to the annexes.¹⁶³

¹⁵³ See C185, Annexes I and III.

¹⁵⁴ See C185, Annex II.

¹⁵⁵ C102, C121, C128 and C130 refer to the annex by wording along the lines of "the International Standard Industrial Classification [...] reproduced in the Annex to this Convention [...] shall be used". This wording clearly indicates that the annexes are binding.

¹⁵⁶ See C83, Art. 1(1).

¹⁵⁷ See C147, Art. 2(a); and C185, Art. 6(6).

¹⁵⁸ See C97, Art. 14(2).

¹⁵⁹ See C97, Art. 14(1).

¹⁶⁰ R53, R67, R70, R74, R86, R105, R122, R127, R155, R157, R164, R167, R193 and R197.

¹⁶¹ The annexes of R70, R74, R127 and R155 have no title other than "Annex".

¹⁶² See, for example, R67, R122 and R157. In this regard, R67 is drafted in a particular way. The Annex contains general guiding principles printed in bold type, with subparagraphs printed in normal type containing suggestions for application.

¹⁶³ See, for example, R70 and R74.

83. Thus, some Recommendations give a list of drugs¹⁶⁴ or ILO instruments¹⁶⁵ which must be taken into consideration in implementing or formulating policy in the area concerned.¹⁶⁶ Others propose basic principles and minimum standards to be applied,¹⁶⁷ or model codes or agreements,¹⁶⁸ or make suggestions regarding application of the Recommendation in practice.¹⁶⁹ Lastly, the two cooperatives Recommendations make unusual use of annexes: the Co-operatives (Developing Countries) Recommendation, 1966 (No. 127), contains suggestions illustrating the potential contribution of various kinds of cooperatives to success in areas such as agrarian reform, while the Promotion of Cooperatives Recommendation, 2002 (No. 193), includes in its annex an excerpt from the Statement on the Cooperative Identity adopted by the general assembly of the International Co-operative Alliance, a non-governmental organization, in 1995.

1.5.2.3. Amendments to annexes

(i) *Conventions*

84. Three Conventions set out similar procedures for amending their annexes.¹⁷⁰ These require that the proposed amendment be placed on the agenda of the Conference and be adopted by a two-thirds majority. The amendment takes effect with regard to Members that are already Parties to the Convention and notify their acceptance. In practice, the amending instrument can take different forms. For example, the amendment to the annex of the Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83), takes the form of an amending instrument similar to a Convention, the first Article of which stipulates that the provisions of the amending instrument replace certain provisions in the annex of the original Convention. On the other hand, for no obvious reason, the amendment to the annex of the Employment Injury Benefits Convention, 1964 (No. 121), comprised only a schedule (Schedule I) whose title indicated "amended in 1980". The title of the Convention, together with its number and the original date, was indicated above the schedule title.

85. For its part, the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), provides for a hitherto unused amendment procedure which differs from that of other Conventions. Any decision to amend the annexes must be based on the advice of a duly constituted tripartite maritime body of the ILO.¹⁷¹ On the basis of such advice, the Conference may adopt amendments by a majority of two-thirds of the votes of delegates present at the Conference, which must include at least half of the Members that have ratified the Convention. As regards entry into force of the amendment, Convention No. 185 differs from the three Conventions referred to above in that acceptance of entry into force is implicit in the absence of a written notice to the contrary.¹⁷² The Maritime Labour Convention, 2006, also reflects an innovative approach to amendment.

¹⁶⁴ See R105.

¹⁶⁵ Para. 3 of R155 exhorts States to take steps with a view to such laws or regulations containing provisions at least equivalent to the provisions of the instruments referred to in the Appendix. Some Conventions are referred to in the annexes of the Recommendation and of the Convention. However, when Conventions are referred to in both annexes, the Convention annex refers only to particular provisions, while the Recommendation annex refers to the Conventions in their entirety.

¹⁶⁶ See R155 and R164.

¹⁶⁷ See R70 and R74.

¹⁶⁸ See R53, R86 and R167.

¹⁶⁹ See R67, R122 and R157.

¹⁷⁰ See C83, Art. 5(1); C97, Art. 22; and C121, Art. 31.

¹⁷¹ See C185, Art. 8(1).

¹⁷² See C185, Art. 8(2).

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86. Adoption of a revising Convention or of a Protocol may also be used where there is no specific procedure for amending annexes. For example, the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), was adopted with a view to extending the list of Conventions included in the annex of that Convention.
87. Lastly, certain Conventions concerning social security, which include the international standard classification of all economic activities adopted by the Economic and Social Council of the United Nations (ECOSOC) in their annexes, do not provide for amendments to the annex but make use of an open reference allowing any changes made by ECOSOC to that classification to be taken into account. For example, the provision in each Convention referring to the annex states that any further amendments to the ECOSOC schedule must be taken into account when it is used for the purpose of applying the Convention.¹⁷³

(ii) *Recommendations*

88. Two Recommendations provide a procedure for amending their annexes. The Occupational Safety and Health Recommendation, 1981 (No. 164), provides that the amendment can be made by future adoption or revision of any Convention or Recommendation in the field of safety and health and the working environment. Any such amendment requires a two-thirds majority decision of the ILC.¹⁷⁴ The List of Occupational Diseases Recommendation, 2002, for its part, provides that the list of occupational diseases annexed thereto may be updated by a tripartite meeting of experts convened by the Governing Body of the ILO.¹⁷⁵ The amended list is then submitted to the Governing Body which has to approve it before it is communicated to Members of the ILO.

1.5.3. Observations and recommendations

89. *In the light of the foregoing considerations, the following observations and recommendations can be made:*
- (a) *Annexes should always be placed at the end of the instrument.*
 - (b) *Annexes should be identified with the heading "Annex". Where there are several annexes, the term "Annex" should be followed by a Roman numeral, thus: "Annex [number of annex]." Annexes identified solely by the term "Schedule" should be avoided.¹⁷⁶*
 - (c) *The title identifying the content of the annex should always appear below the title "Annex" as part of the heading.*
 - (d) *The legal force of the annex should be made clear, either by means of a specific provision to that effect or by the wording of the provision referring to the annex.*
 - (e) *Technical provisions such as lists, including lists of ILO instruments, classifications or provisions concerning periodic payments to standard categories of beneficiaries, should be included in the annexes.*

¹⁷³ See C102, Arts. 65(7) and 66(5); C121, Arts. 19(7) and 20(5); C128, Arts. 26(7) and 27(5); C130, Arts. 22(7) and 23(5).

¹⁷⁴ See R164, Para. 19(2).

¹⁷⁵ See R194, Para. 3.

¹⁷⁶ See, for example, C121.

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- (f) *As regards Conventions, a procedure for amending annexes should be established, where appropriate, to allow them to be brought up to date without the need for a new Convention or Protocol. A simplified amendment procedure could be envisaged that would make any amendment binding in the absence of a specific declaration to the contrary.*
- (g) *The format for identifying amended annexes should be standardized. The original title of the annex as described under (b) above should be retained, followed by "(amended on [date])".*
- (h) *Lastly, as regards Recommendations, the annexes should be used where possible to propose means of application and model codes or agreements to facilitate compliance with the Conventions which the Recommendations supplement.*

Part II: Substantive content of the instrument

90. Part II of this Manual examines the substantive content of the instruments in terms of: terminology and definitions; clauses frequently used with a commonly understood; changes to scope and application of obligations; and drafting rules and methods, including the use of gender-inclusive language.

2.1. Terminology and definitions

2.1.1. Drafting practice

91. Many ILO instruments contain provisions whose purpose is to define terms or expressions used in them. These are usually included in the first few articles of the instrument, although they are sometimes placed at the end. A list of terms defined in ILO instruments is included in Appendix 4.
92. In most cases, it is stated that the definition in question is intended to apply only within the context of the instrument, in terms such as "for the purpose of this Convention" or "in this Convention".
93. The definitions given in ILO instruments serve a number of purposes. In some cases, they indicate the specific meaning attributed to a term or expression as used in the instrument, where this differs from the usual meaning or where it is important to clarify the precise scope of the term. In other cases, definitions obviate the need to make repeated use of long and cumbersome phrases and thereby "lighten" the text.

2.1.2. Observations and recommendations

94. *In light of the above, the following observations and recommendations may be made:*
- (a) *Whether definitions are included in an instrument depends on the circumstances of each case. The following guidelines should make the choice easier.*
 - (b) *Recourse to newly coined terms, when they can be replaced by terms currently in use, should be avoided. In the case where the use of newly coined terms is justified, those terms should be defined in the instrument.¹⁷⁷*
 - (c) *If definitions are felt to be necessary, they should be included at the beginning of the instrument in the section concerning its scope.¹⁷⁸ If, however, the definition concerns only one article, it should be given within the article and expressly state that it applies only to that article.*
 - (d) *Recommendations should refer to the Conventions with the words "The provisions of this Recommendation supplement those of the [name of the Convention], and should be applied in conjunction with them." Furthermore, a Recommendation should not define the term "Convention" by referring to the Convention it supplements.¹⁷⁹*
 - (e) *The definition of terms should be avoided in cases where they:*

¹⁷⁷ See the expression "semi-tribal" in C107, Art. 1(2).

¹⁷⁸ See, for example, the section on operative provisions.

¹⁷⁹ See, for example, R176 which states that the term "Convention" means the Employment Promotion and Protection against Unemployment Convention, 1988.

- *add nothing to the usually accepted meaning;*¹⁸⁰
 - *are tautological;*¹⁸¹
 - *obscure the usual meaning;*¹⁸²
 - *refer to national law for the definition of a term, unless the provision requires prior consultations concerning the definition with organizations of workers and employers.*¹⁸³
- (f) *In addition, it would be preferable to avoid using expressions such as "branches of economic activity", "competent authority" and "national laws and regulations", which are frequently used in ILO instruments and already have a well-established meaning acquired through practice. In those cases, unless it is necessary to attribute to them a different scope or meaning within a particular Convention, it would be better not to define them at all.*
- (g) *The expression "branches of economic activity" means branches in which workers are employed, including the public service. Its inclusion in certain instruments might imply that instruments in which it is not included do not apply to the public service.*
- (h) *It should be noted that a considerable number of instruments leave it to the "competent authority" (or "competent authorities") to determine the methods and means of implementation of their often detailed provisions. These expressions, which are used in many international instruments, should as far as possible be left undefined, given the fact that the intention is precisely to allow States - whose constitutional, legislative and administrative arrangements vary considerably - to determine which of their authorities is "competent" for the purposes of implementation and compliance.*¹⁸⁴
- (i) *In order to avoid a reference only to legislation in the strict sense of the term, the expression "national laws and regulations" (in French "législation nationale") is used to cover other forms of legal prescriptions, such as regulations, decrees, and ordinances, as well as any customary law when it has legal force in accordance with national practice. If other forms of implementation measures are to be covered, such as collective agreements or judicial and arbitral decisions, they should be the subject of a separate provision. The expression "in accordance with national law/s and practice/s", or similar expressions, confirm that ILO instruments take into*

¹⁸⁰ See, for example, the definitions of such terms as the following: "access" (R160, Para. 2); "approved" (C75 and C92, Art. 2(i)); "regulations" or "legal provisions" (C64, Art. 1(c); C86, Art. 1(c)); "scaffold" (C167, Art. 2(g), and R175, Para. 2(h)); "employability" (R195, Para. 2(d)); "technical and vocational education" (R57, Para. 1(b)); "woman" (C3, Art. 2; C103, Art. 2); "legislation" (C118, Art. 1; C121, Art. 1; C157, Art. 1(b); C165, Art. 1(b); C168, Art. 1(a); R131, Para. 1(a); R134, Para. 1(a); R167, Para. 1(b); R176, Para. 1(a)); "regulations" (C155, Art. 3(d); R164, Para. 2(d)); "prescribed" (C75 and C92, Art. 2(h); C102, Art. 1(1)(a); C118, Art. 1(f); C121, Art. 1(b); C128, Art. 1(b); C130, Art. 1(b); C133, Art. 2(i); C168, Art. 1(b); R131, Para. 1(b)); R176, Para. 1(b)); "safety report" (C174, Art. 3(e)); and "the workers concerned" (C172, Art. 2; R179, Para. 3).

¹⁸¹ The definition of construction site given in Art. 2 of C167 is a good example of this: it defines construction site as "any site at which any of the [aforementioned construction] processes or operations are carried on".

¹⁸² The definitions of "article" (C170, Art. 2(e)) and "vocational" (R150, Para. 2(1)) are examples.

¹⁸³ See, for example, the terms "building or civil engineering", "financed" and "subsidized" (C51, Art. 1(2)); "dockworker" (C137, Art. 1; R145, Para. 2); "members of the family" (C157, Art. 1(g); R167, Para. 1(e)); "officers" (C57, Art. 2(b); C75, C92 and C133, Art. 2(d); C76, C93 and C109, Art. 4(a)).

¹⁸⁴ The term is defined in C179 and C180, as well as in R187. The issue here is the extent to which these definitions actually restrict the discretion of States in this area. The same comments might well apply also to the definition of the term "institution" (C157, Art. 1(d)).

account the discretion that the member States have in relation to their internal organization. These expressions become especially meaningful when it comes to the choice of means and methods of implementation (see the part concerning national implementation measures). However, they have also been used as flexibility measures affecting substantive provisions. In these cases, attention should be given not to devoid the substantive provisions of the instrument of their scope by referring, without a minimum guarantee, to national laws and practices to determine the scope, the nature, or even the definition of the protection (see section "Changes to scope and application of obligations").

- (j) *Lastly, a glossary of terms currently defined in ILO instruments appears in Appendix 5. In addition to the definitions themselves, it includes references to the instruments in which they are found and their French equivalents.*

2.2. Clauses frequently used with a commonly understood meaning

95. A number of clauses are frequently used in ILO instruments and have gained over time a commonly understood meaning which is specified below.

2.2.1. Implementation measures

2.2.1.1. Drafting practice

(i) Adoption of binding measures

96. The various measures that can be taken by States to respect, or ensure respect for, the provisions of Conventions and Recommendations are often specified in the instruments themselves, although this is not a uniform practice.¹⁸⁵ Lists of measures that can be taken may be limitative or not. Non-limitative lists are generally worded to include a reference to any other method consistent with national conditions and practice in the State ratifying the Convention.¹⁸⁶ Conventions use the verb “shall” to indicate binding obligations.
97. Although there is no formal standard clause as regards measures for the implementation or application of Conventions, the relevant provisions show certain recurring features. Generally speaking, reference is almost invariably made to the law as the main or a subsidiary means of implementation. The legislative method is provided for by the expressions “laws or regulations”, or “national laws or regulations”.¹⁸⁷ However, there is greater variation in references to other implementation measures. Collective agreements¹⁸⁸ and arbitration awards¹⁸⁹ are frequently mentioned; court decisions¹⁹⁰ less so. Some measures appear only occasionally, such as the adoption of codes of practice,¹⁹¹

¹⁸⁵ More than one-quarter of Conventions contain a provision for this purpose.

¹⁸⁶ The final Paragraph of the preamble of all Recommendations adopted between 1919 and 1933 states that the text of Recommendations will be submitted to Members “with a view to effect being given to [them] by national legislation or otherwise”.

¹⁸⁷ See, for example, C153, Art. 12; C155, Art. 8; C171, Art. 11(1); C173, Art. 2, and C181, Art. 14(1) (laws or regulations); C132, Art. 1; C145, Art. 7; and C154, Art. 4 (national laws or regulations).

¹⁸⁸ See, for example, C68, Art. 2; C70, Art. 10(1); C82, Arts. 14(1) and 18(1)(a) (which uses the term “labour legislation and agreements”); C99, Art. 2(1); C130, Art. 23(7); C137, Art. 7; C140, Art. 11; C149, Art. 8; C164, Art. 2; C172, Art. 8(1).

¹⁸⁹ See, for example, C106, Art. 1; C129 Art. 2 (which specifies that the term “legal provisions” includes arbitration awards); C137, Art. 7; C140, Art. 5; and C153, Art. 12.

¹⁹⁰ See, for example, C132, Art. 1; C149, Art. 8; C156, Art. 9; C164, Art. 2.

¹⁹¹ See, for example, C115, Art. 1 and R114, Para. 1. This kind of measure is often ambiguous in its effect, particularly where it is intended as a measure for the application of a Convention. It is generally recognized

ratification of another ILO Convention, the adoption of a bilateral or multilateral agreement,¹⁹² the work of a statutory body¹⁹³ or the adoption of works rules.¹⁹⁴ These implementation measures are often accompanied by the expression "or in such other manner consistent with national practice" or an equivalent. This is sometimes supplemented by an obligation to consult with organizations of employers and workers before determining the method or means of application consistent with national practice. In the absence of any clause authorizing an extension of the range of permissible implementation measures beyond those enumerated, the measures are limited to those listed in the provisions of the Convention.

98. Some instruments give laws and regulations the function of a safeguard guarantee.¹⁹⁵ They provide - in terms that do not differ substantially from each other - that the provisions of a Convention, in so far as they are not otherwise made effective by collective agreements, arbitration awards, court decisions or in any other manner consistent with national practice, shall be given effect by national laws or regulations. In such cases, some Conventions also require prior consultation with organizations of employers and workers.¹⁹⁶
99. Finally, the measures that may be adopted for the implementation of the provisions of a Convention or a Recommendation are often the subject of a general provision applicable to the whole of the instrument. Frequently, however, the provisions that lay down specific obligations also lay down the measures by which those obligations may be met.¹⁹⁷ Where there is incompatibility, the methods of application expressly indicated for specific obligations have primacy over any other measures covered by a general provision in the same Convention.¹⁹⁸

(ii) *Adoption of promotional and educational measures*

100. In addition to the traditional application measures, some instruments provide for measures intended to promote and disseminate their contents and, as a result, to ensure that the intended beneficiaries are better informed of their rights and obligations. There is in fact no standard form for such clauses to take: each provision is worded in accordance with the specific needs of the instrument. The purpose of these provisions is generally to prevent

that this type of document is not binding – although it is difficult to see how that can be the case in the context in which it is used in C115, where it seems to be placed on an equal footing with laws and regulations. What is more, the CEACR considers that, where a code of practice is not given binding status, this is not sufficient to meet a State's obligation to apply a particular Convention. In this respect, cf. *Individual observation concerning Convention No. 115, Radiation Protection, 1960, Ghana (ratification 1961)*, Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1A), 2003, p. 537, in which the CEACR notes that "non-binding guides do not suffice for the application of the Convention".

¹⁹² See C118, Art. 8; R86, Para. 21.

¹⁹³ See C146, Art. 1.

¹⁹⁴ See C156, Art. 9. See also R119, Para. 1; R130, Para. 1; and R153, Para. 1. There are significantly more references to works rules in Recommendations than in Conventions. The terms "règlements d'entreprise" and "règlements intérieurs" in French both correspond to the English term "works rules" (see C164, Art. 2).

¹⁹⁵ See in particular C106, Art. 1; C132, Art. 1; C137, Art. 7; C145, Art. 7; C153, Art. 12; C154, Art. 4; C158, Art. 1; C171, Art. 11(1).

¹⁹⁶ See in particular C171, Art. 11(2).

¹⁹⁷ See, for example, C178, Art. 1(2): "*National laws or regulations* shall determine which ships are to be regarded as seagoing ships for the purposes of this Convention." (italics added).

¹⁹⁸ In accordance with the principles of interpretation of international public law, the specific provisions control the general expressions. See *Case concerning the payment of various Serbian loans issued in France*, PCIJ Judgment No. 14, Series A, Nos. 20/21, p. 30.

some risk,¹⁹⁹ to promote certain values or principles mentioned in the instrument,²⁰⁰ or to promote the application of the provisions of an instrument through information measures of various types.

101. There is little uniformity in the wording of these measures. They are generally worded according to specific needs, and are therefore seldom similar to one another. The obligation to take measures of an educational, informative or promotional nature is usually laid on the competent national authority or body designated in the instrument,²⁰¹ in consultation with organizations of employers and workers in certain cases,²⁰² or on the employers.²⁰³ The intended beneficiaries of the provisions are, as appropriate, the workers²⁰⁴, the general public²⁰⁵ or the employers²⁰⁶. The provisions differ greatly from one another as to the nature of the measures that may be taken. They may involve the development of training programmes²⁰⁷ or setting up awareness-raising campaigns²⁰⁸ but the party responsible for providing the information, education or promotion is generally allowed significant freedom in determining the particular means to be used in achieving the desired result.²⁰⁹

2.2.1.2. Observations and recommendations

102. *In light of the above, the following observations and recommendations may be made:*

- (a) *One might make provision, within Conventions, for a Part grouping all application and implementation measures together (see the section on operative provisions). This could be inserted immediately before the Part containing the final clauses and would also include appropriate provisions on national-level consultation and supervision of the application of the Convention in question.*
- (b) *The inclusion of general provisions would not preclude the use, where necessary, of specific implementation and application measures in response to specific needs. In such a context, the clauses establishing the measures for the application of an instrument in general terms should state that they were supplementary to the specific provisions in the instrument with the phrase "subject to the preceding provisions" or an equivalent.*
- (c) *After specifying that States may apply the provisions of a Convention by laws and regulations, it would be appropriate to mention other methods of implementation that could be consistent with national practice, such as collective agreements, arbitration awards or court decisions. In this regard, the following formula could serve as a model:*

¹⁹⁹ See, for example, C134, Art. 9(1); C139, Art. 4; and C164, Art. 4(e).

²⁰⁰ See, for example, C156, Art. 6; R165, Para. 10, and R189, Para. 10(1).

²⁰¹ See, for example, C129, Art. 6(1)(b).

²⁰² See, for example, C162, Art. 22(1); R189, Para. 10.

²⁰³ See, for example, C170, Art. 15.

²⁰⁴ See, for example, C139, Art. 4.

²⁰⁵ See, for example, C156, Art. 6; R90, Para. 7, and R127, Para. 14.

²⁰⁶ See, for example, C110, Art. 74(1)(b), and R164, Para. 4(d).

²⁰⁷ See, for example, R100, Para. 17(a).

²⁰⁸ See, for example, R189, Para. 10(4).

²⁰⁹ To this end, the expressions "appropriate steps" or "appropriate measures", or equivalent expressions, are used. See for example C127, Art. 5; C156, Art. 6, and R162, Para. 32.

Subject to the preceding provisions, the provisions of this Convention shall be applied by means of laws or regulations, collective agreements, arbitration awards, court decisions, a combination of these means or in such other manner appropriate to national conditions and practice.

(d) *Particular attention should be paid to prior consultation with organizations of employers and workers in determining methods and means of application consistent with national practice.*

(e) *In all cases, it would be useful to provide that laws and regulations should remain the method of application when the provisions of the Convention have not been applied in an appropriate and timely way. The following clause could be proposed:*

The provisions of the Convention shall be applied by laws and regulations to the extent they have not been applied in an appropriate and timely way by other means in accordance with national practice.

(f) *Where the provisions of the Convention are applied by laws and regulations, employers' and worker's organizations should also be granted prior consultation.*

(g) *It would be desirable to refrain, when listing methods and means of application, from referring to both means and forms of implementation where the provisions or outcomes are binding on the parties (laws or regulations, collective agreements arbitration awards, court decisions) and other methods not normally binding under national practice (codes of practice), which are insufficient to ensure the application of a Convention.*

(h) *It would be useful to include in Conventions, wherever possible, provisions regarding obligations to disseminate, promote and provide information about those Conventions in consultation with organizations of employers and workers. In such cases, those responsible for doing so and the recipients should be defined. However, the nature and details of the educational or promotional measures mentioned could be defined in a Recommendation accompanying the Convention, where applicable.*

2.2.2. Consultation measures (including consultations with (the most) representative organizations of employers and workers)

2.2.2.1. Drafting practice

103. Many ILO instruments contain clauses requiring States to consult employers' and workers' organizations when implementing their provisions. Although, given the range of wording used, there is no such thing as a standard consultation clause, the various clauses used nevertheless have significant similarities which need to be identified.

(i) General considerations

104. The vast majority of consultation clauses relate to specific obligations, but there are a few consultation clauses of a general nature covering the implementation of an instrument as a whole.²¹⁰ In some instruments, the requirement for consultation is qualified - it must be "full"²¹¹, "appropriate"²¹², "tripartite"²¹³, "at the earliest possible stage"²¹⁴, "mutual"²¹⁵, or

²¹⁰ See, for example, C115, Art. 1; C171, Art. 11(2); and R147, Para. 23.

²¹¹ See, for example, C99, Art. 3(2); C101, Art. 2(3)(a); and C110, Art. 37(3)(a).

²¹² See, for example, C143, Art. 14(b); and R151, Para. 6(b).

²¹³ See, for example, C147, Art. 2(d)(i).

²¹⁴ See, for example, C155, Art. 1(2).

be carried out "fully"²¹⁶, "in a timely fashion"²¹⁷ or "on a basis of complete equality"²¹⁸. Some provisions require more than mere consultation, in that they require the agreement of the parties consulted²¹⁹ or stipulate that employers, workers and their organizations must be enabled to cooperate in the appropriate measures taken to apply the Convention.²²⁰ On the other hand, some other provisions allow a certain flexibility in the obligation to consult employers and workers by stipulating that they must be consulted "so far as is reasonable and practicable" or where "such consultation is in accordance with national law or practice".²²¹ Consultation clauses frequently include a reservation to the effect that consultations must be held only where appropriate organizations exist. This reservation is usually indicated by the expression "where such [organizations] exist"²²² or the equivalent.

(ii) *Time of consultation*

105. The time at which consultation must take place is normally indicated in the relevant provision. Such provisions take a variety of forms, but it is nevertheless possible to identify two expressions used more frequently, i.e. "after consultation" or "in consultation". The expression "after consultation" implies that consultation must take place before the implementation of the provisions envisaged by the clause, but that there is no obligation to continue this consultation into the later stages of implementation unless the text of the instrument gives some indication to the contrary. The expression "in consultation", on the other hand, implies continuity of consultation, a "continuing dialogue"²²³, which supposes the continued involvement of both employers and workers in the implementation of the instrument. In some provisions, the terms "after" and "in" are replaced by other expressions indicating the unique or continuing character of the consultation, as appropriate. Notably, the use of the expressions "from time to time"²²⁴ or "at regular intervals"²²⁵ indicate continuity, and the use of "preliminary"²²⁶, "prior"²²⁷ or "before"²²⁸ indicate that consultations take place before implementation only.

(iii) *Organizations or entities concerned*

106. In principle, consultation must be conducted with employers' and workers' organizations.²²⁹ However, certain provisions stipulate that consultation must take place

²¹⁵ See, for example, R129, Para. 5.

²¹⁶ See, for example, C143, Art. 2(2).

²¹⁷ See, for example, C176, Art. 13(2)(d).

²¹⁸ See, for example, C99, Art. 3(3); and C101, Art. 2(3)(b).

²¹⁹ See, for example, C133, Art. 12.

²²⁰ See C20, Art. 5.

²²¹ See, for example, C76, Art. 22(2); C131, Art. 4(3)(b); and R70, Para. 43(2) (using the terms "all practicable measures").

²²² See, for example, C117, Art. 10(2); C120, Art. 2; and C149, Art. 1(3).

²²³ ILO: *Provisional Record No. 35*, International Labour Conference, 66th Session, Geneva, 1980, p. 6, para. 33.

²²⁴ See R20, Para. 20.

²²⁵ See R185, Para. 2.

²²⁶ See, for example, C99, Art. 3(2); C101, Art. 2(3)(a); and C110, Art. 37(3)(a).

²²⁷ See, for example, P147, Art. 4(1); C171, Art. 11(2).

²²⁸ See C175, Art. 11.

²²⁹ See in particular C13, Art. 1(1); C41, Art. 2(2); R16, Para. 1. These terms were not used in instruments after C79 and R110. In English, the expressions "employers' organizations" and "workers' organizations"

with representatives of employers and workers,²³⁰ with representatives of employers' and workers' organizations,²³¹ or else with employers and workers themselves.²³² Paragraph 18(2) of the Employment Policy Recommendation, 1964 (No. 122), however, is unusual in not mentioning employers and workers explicitly, referring instead to "all concerned". In addition, two Conventions use the terms "responsible associations" instead of "organizations".²³³ In maritime instruments, employers and workers are respectively designated by the terms "shipowners" and "seamen" or "seafarers".²³⁴

- 107.** The obligation of consultation varies considerably concerning the employers' and workers' organizations required to participate. At one end of the scale are Conventions which refer simply to an obligation to consult employers' and workers' organizations, without any further qualification. In such cases, all truly independent organizations are covered. Others restrict the range of organizations covered by the provision to those that are "concerned",²³⁵ that is, those with a direct interest or role in the issue or area with which the Convention deals.²³⁶ Conventions referring to "representative organizations"²³⁷ or the "representative organizations... concerned"²³⁸ apply yet another degree of restriction. In such cases, the representativeness of an organization has to be assessed at the national level in accordance with specific and predetermined objective criteria, in which the independence of the organization concerned is a crucial consideration. These criteria should make it possible to identify organizations of real importance by the size of their membership or by the influence they wield; these organizations do not necessarily have to be of an interoccupational nature or of national stature.
- 108.** Lastly, at the other end of the scale are Conventions that stipulate the obligation to consult in its most restricted form - those that refer to only "the most representative" organizations.²³⁹ The scope of this expression - which is used in paragraph 5 of article 3 of the ILO Constitution²⁴⁰ - was the subject of an advisory opinion of the PCIJ, and has been clarified by the practice of the Credentials Committee of the International Labour

are systematically used contrary to French which uses in some of the older instruments the term "organisations patronales et ouvrières" for "employers' and workers' organizations".

²³⁰ See C117, Art. 10(2); and R104, Para. 12(2).

²³¹ See C110, Arts. 85, 89 and 91; and R185, Para. 2.

²³² See, for example, R1, Para. 2.

²³³ See C14, Art. 4(1); and C110, Art. 44(1). In French, the term "organismes" is also used in Art. 47(2) of C110. The English text of the Convention uses the term "organizations".

²³⁴ Instruments relating more specifically to fishing tend to use the terms "fishing vessel owners" and "fishermen" or "fishers". See, for example, C163, Art. 1(3) and C164, Art. 1(2). A few instruments, however, retain the terms "employers" and "workers" in their provisions concerning consultation, even though these instruments relate to the maritime industry. See, for example, C145, Art. 1(4) and C146, Art. 2(4). The expression "the bona fide trade unions of seafarers" appears several times in maritime instruments but does not seem to add anything: See, for example, C75, Art. 18(2) and C133, Art. 4(2)(e).

²³⁵ See, for example, C152, Art. 36(1); C161, Art. 6(c); and C181, Art. 2(4).

²³⁶ In French, "intéressé" is similar in meaning to "concerné" used in Para. 18(d) of R193.

²³⁷ See, for example, C178, Art. 1(5).

²³⁸ See, for example, C127, Art. 8; C175, Art. 3(1), C183, Art. 2(2), and R120, Para. 3. Overall, this expression appears in 68 provisions of 31 Conventions – including 2 Protocols – and in 56 provisions of 26 Recommendations.

²³⁹ See, for example, C170, Art. 1(2), C173, Art. 3(3); and C181, Art. 3(1). Overall, this expression is included in 79 provisions of 34 Conventions – including four Protocols – and 51 provisions of 25 Recommendations.

²⁴⁰ The Constitution provides that Members undertake "to nominate non-Government delegates and advisers chosen in agreement with the industrial organizations, if such organizations exist, which are *most representative* of employers or workpeople, as the case may be, in their respective countries" (italics added).

Conference,²⁴¹ according to which the most representative organizations are those that would best represent the employers and workers of a Member. The PCIJ noted that "what these organizations are, is a question to be decided in the particular case, having regard to the circumstances in each particular country". It also added that "numbers are not the only test of the representative character of the organisations" involved in making this decision, but they are "an important factor".²⁴² In practice, where there is only one interoccupational organization, then that organization is *ipso facto* the most representative. However, where several coexist, more than one might be regarded as the most representative. In short, it seems that the expression "the most representative organizations" has in practice been limited to those cases where it was desired to restrict the duty of consultation to consultation with national interoccupational organizations. In other words, representative organizations active in only one branch could not be considered the most representative except in particular circumstances, such as cases where there is no interoccupational federation or, during maritime conferences, the case of seafarers who are not affiliated to federations.

2.2.2.2. Observations and recommendations

109. *In light of the above, the following observations and recommendations may be made:*

- (a) *It might be desirable, where appropriate, to include, within the section of the Convention grouping together all implementation measures, a clause providing for a form of consultation suitable to the instrument concerned (see the section on "Operative provisions").*
- (b) *In order to strengthen consultation mechanisms when they are of particular importance in the application of a given provision, a consultation clause should be expressly included.*
- (c) *Unless the context of a particular provision makes it inappropriate to do so, the term "organization" should always be the preferred term for the body participating in consultations. Furthermore, it would be appropriate to define clearly which organizations are to be consulted, bearing in mind that a greater or smaller range can be achieved by use of qualifiers such as "concerned", "representative" or "the most representative".*
- (d) *Particular attention should be paid, in the wording of a consultation clause, to the timing of consultation, given that, in some cases, the obligation can be met by a one-time prior consultation ("after consultation") while, in others, consultation may be a continuing process ("in consultation").*

2.2.3. Supervision measures

2.2.3.1. Drafting practice

110. According to article 19, paragraph 5(d) of the Constitution of the ILO, States are required, once a Convention is ratified, to take "such action as may be necessary to make effective the provisions of such Convention". This should make it unnecessary to include any clauses relating to national supervision. Despite this, ILO instruments contain many provisions on supervision measures at the national level aimed at ensuring compliance

²⁴¹ ILC Credentials Committee, see: http://www.ilo.org/dyn/creds/credsbrowse.home?p_lang=en. The jurisprudence of the Committee on Freedom of Association is also of relevance to determining which organizations are representative or most representative; see, for example, ILO: *Digest of decisions and principles of the Freedom of Association Committee*, fourth (revised) edition, Geneva, 1996, paras. 819-843.

²⁴² See Interpretation of Article 389 of the Treaty of Versailles, PCIJ Advisory Opinion, reproduced in *OB*, Vol. VI, No. 7, 1922, as published in PCIJ, Series B, No. 1, p. 18.

with obligations arising from Conventions and Recommendations.²⁴³ These supervision measures, which accompany implementation measures, can take various forms. In order to ensure observance of an instrument's provisions, they may call for, as appropriate, labour inspection, disciplinary or criminal penalties, the right of recourse to judicial or administrative procedures, the maintenance of registers and records, the requirement to obtain permits, licences or certificates, or a combination of these measures. The supervision measures may be the subject of a general provision covering the instrument in its entirety,²⁴⁴ or may involve more specific obligations.²⁴⁵

- 111.** As with implementation measures, there is no standard clause for supervision measures, although certain formulas occur more frequently than others. More specifically, certain Conventions require a system of supervision to be established but give no other details.²⁴⁶ Other Conventions provide for the establishment of a system of supervision or inspection without specifying more than that the system must be "adequate"²⁴⁷, "appropriate"²⁴⁸, or "adequate and appropriate"²⁴⁹. Lastly, a number of Conventions stipulate that supervision must be carried out through a system of inspection, without specifying the functions of the latter.²⁵⁰ Under these Conventions, the system of inspection is often accompanied by a system of penalties, including penal sanctions.²⁵¹
- 112.** Certain other Conventions, particularly in the field of social security, emphasize the importance of the right of appeal through an inexpensive and expeditious procedure.²⁵² This right of appeal is expressed in different ways, such as "right of appeal"²⁵³, "remedies for recovering [payments]"²⁵⁴, "efficient machinery for the investigation and settlement of any complaint or dispute"²⁵⁵, [measures enabling any person] "to recover, by an inexpensive and expeditious judicial or other procedure"²⁵⁶, "entitled to appeal"²⁵⁷, or "procedures to investigate complaints"²⁵⁸.

²⁴³ Almost three-quarters of the Conventions contain at least one such provision.

²⁴⁴ See, for example, C79, Art. 6(1); C101, Art. 10; and C119, Art. 15.

²⁴⁵ See, for example, C76, Art. 9; C94, Art. 5; and C110, Art. 35(c).

²⁴⁶ See, for example, C17, Art. 8; C76, Art. 9; C96, Art. 4(1)(a), Art. 5(2)(a) and Art. 10(a); C109, Art. 10(a). Similarly, C26, while not specifying the nature of the supervision required, specifies its objectives, in Art. 4(1). On the contrary, see C110, Arts. 35 and 71. Only C181 in Art. 14(2) refers to labour inspection, without giving any further detail.

²⁴⁷ See, for example, C106, Art. 10; C132, Art. 14; and C153, Art. 11(a).

²⁴⁸ See, for example, C124, Art. 4(2); C152, Art. 41(c); and C176, Art. 16(b).

²⁴⁹ See, for example, C155, Art. 9(1); C162, Art. 5(1); and C184, Art. 5(1).

²⁵⁰ See, for example, C30, Art. 11; C32, Art. 17(2); C33, Art. 7; C53, Art. 5; C60, Art. 7(a); C62, Art. 4; C67, Art. 18(1); C90, Art. 6; C106, Art. 10; C115, Art. 15; C120, Art. 6; C123, Art. 4(2); C124, Art. 4(2); C131, Art. 5; C132, Art. 14; C134, Art. 6(1); C136, Art. 14(c); C146, Art. 13; C148, Art. 16(b); C152, Art. 41(c); C153, Art. 11(a); C155, Art. 9(1); C167, Art. 35(b); C169, Art. 20(4); C174, Art. 18(1); C176, Art. 16(b); C181, Art. 14(2); C184, Art. 5.

²⁵¹ References to penalties in general: see in particular C30, Art. 12; C32, Art. 17(2); C33, Art. 7; C52, Art. 8; C54, Art. 9; C60, Art. 7(d); C68, Art. 9(2); C76, Art. 9(a); C94, Art. 5(1); C110, Art. 35(c) and Art. 83; C119, Art. 15; C123, Art. 4(1); C124, Art. 4(1); C129, Art. 24; C148, Art. 16(a); C152, Art. 41(b); C153, Art. 11(b); C155, Art. 9(2); C167, Art. 35(a); C169, Art. 18; C177, Art. 9(2). Specific references to penal sanctions: C29, Art. 25; C34, Art. 6; C53, Art. 6; C93, Art. 9; C96, Art. 8 and Art. 13; C125, Art. 15.

²⁵² See, for example, C35 and C36, Art. 11 and Art. 20; C37, Art. 12 and Art. 21; C40, Art. 14 and Art. 23; C44, Art. 14; C56, Art. 10; C71 Art. 4(2); C102, Art. 70. See also, in the maritime sphere, C93, Art. 9(b); and C109, Art. 10(b). In the field of termination of employment, see C158, Art. 8.

²⁵³ See, for example, C35, Art. 11(1); and C71, Art. 4(2).

²⁵⁴ See, for example, C76, Art. 22(1)(e); and C93, Art. 22(1)(e).

²⁵⁵ See, for example, C76, Art. 20(2).

²⁵⁶ See, for example, C93, Art. 9(b); and C109, Art. 10(b).

113. Conventions concerning hours of work, annual holidays, and workers' age, qualifications and placement, as well as those concerning supervision in the maritime sector, generally provide for supervision based on records and registers²⁵⁹ or based on the conditions for the issuance of certificates.²⁶⁰

114. Lastly, certain maritime Conventions require States to establish a genuinely integrated system of supervision through laws and regulations (unless there are applicable collective agreements), generally comprising the following elements: respective responsibilities of the parties concerned; definition of appropriate penalties; establishment of a system of supervision based on inspection; maintenance of records and registers; and mechanisms of appeal and recovery (e.g. of arrears).²⁶¹ At least one Convention requires consultation of the social partners with regard to the design and administration of such a system.²⁶²

2.2.3.2. Observations and recommendations

115. *In the light of the foregoing considerations, the following observations and recommendations can be made:*

(a) *Consideration should be given to the possibility of including in instruments provisions concerning the supervision that must be carried out at the national level; these would accompany the provisions concerning implementation. Like those on consultation measures, provisions on supervision could be grouped together in the Part of the Convention preceding the final clauses and could concern, in particular, means and methods of implementation (see the section on "Operative provisions"). These provisions could refer, depending on the case, to labour inspection, issuance of permits, licenses or certificates, legal remedies at national level or, as appropriate, penalties.*

(b) *When supervision is carried out by the competent authority through the issuance of permits, certificates or licences, instruments should specify the minimum conditions to be applied, while still leaving a degree of discretion to the authorities concerned. The instruments should also stipulate the minimum mandatory content of registers and reports.*

(c) *When legal remedies at national level are provided in an instrument, it would be appropriate to recall that such mechanisms should be expeditious, accessible and inexpensive.*

(d) *In all cases, the instrument should recall the importance of consulting the organization of employers and workers with regard to the framing and administration of an effective system of national supervision.*

²⁵⁷ See, for example, C158, Art. 8(1).

²⁵⁸ See, for example, C180, Art. 15(c).

²⁵⁹ Monitoring of working hours and annual holidays: C49, Art. 4(c); C51 and C52, Art. 7; C67, Art. 18(2). Minimum age: C58 and C59, Art. 4; C60, Art. 7(b). In the maritime sector: C179, Art. 5(1).

²⁶⁰ Licence for job placement and recruitment: C34, Art. 3(4)(b); C50, Art. 11 and Art. 13. Certificates regarding age of workers: C58, Art. 2(2). Certificates of qualification: C69, Art. 4(1) and (2).

²⁶¹ See in particular C76, Art. 22(1); C79, Art. 6(1); C92, Art. 3; C93, Art. 22(1); C109, Art. 23(1); C133, Art. 4; C180, Art. 15.

²⁶² C92, Art. 3(2)(e). See also C187.

2.2.4. Reasonably practicable measures

116. Expressions such as "so far as is practicable", "reasonably practicable", or "reasonable and practicable" are used in a number of instruments.²⁶³ They introduce a degree of flexibility into the process of implementation of a given provision, and all the more so given that these expressions are based on a concept that is difficult to measure - the notion of what is "reasonable". There are two aspects to this flexibility. On the one hand, this flexibility allows the measures taken to be made commensurate with the means available. On the other hand it emphasizes the nature of the obligation to which it applies, that is, an obligation to deploy the necessary resources and adopt the sort of conduct expected. The extent of that obligation depends on what is regarded as reasonable in a given context, and can therefore vary according to circumstances. It is thus a matter for each State which ratifies the Convention to apply and evaluate the measures to take and the means to implement the objective of the Convention.²⁶⁴
117. The legal consequences of these expressions may vary according to the particular national legal system involved. They should be avoided, to the extent possible, in international instruments. In some legal systems, an obligation is absolute if a clause does not contain any qualifying expression of the type referred to above. In others, on the contrary, it is assumed that an obligation, even when expressed in absolute terms, must be met only to the extent that available means allow, and thus implies the notions of reasonableness and practicability. In such cases, even if those terms are not explicitly included, there is an obligation to take all reasonable measures to achieve a given objective, but not to guarantee that the objective will be met in all cases. The inclusion of such a clause can thus water down the protection to a level below the level desired.
118. Consequently, and in order to circumvent the problem posed by the different approaches in different national legal systems, the ILC technical committees should indicate in their reports their own ideas as to how provisions framed in absolute terms in proposed texts must be interpreted. Such a paragraph would undoubtedly be part of the context within which the instrument would have to be interpreted, and would obviate any need to include such indications within the text of the instrument itself.²⁶⁵
119. Lastly, it must be emphasized that the phrase "so far as is practicable" has a somewhat different meaning from the expressions considered above. It gives no indication as to technical or financial criteria, appropriateness or other factors (for example, what would be regarded as reasonable) which might be applied to determine whether a given measure is practicable; it therefore considerably extends the element of flexibility and should also be avoided.
120. In any case, expressions such as "reasonably practicable" should be used with caution. Rather than using general formulas similar to those mentioned above, it would be appropriate, wherever possible, to identify concrete solutions to the situations presented (instead of adopting an over-broad exception). For example, in the Safety and Health in Agriculture Convention, 2001 (No. 184), when provision is made for employers to ensure appropriate training for workers in agriculture, said provision likewise states that account must be taken of the level of education and differences in language.²⁶⁶

²⁶³ See, for example, C28, Art. 9(6); C32, Art. 16; C152, Art. 17(2); C155, Art. 4(2); C162, Art. 11(2); R160, Para. 7(1)(b); R164, Para. 10(a); and R172, Para. 16. See also the section on changes to scope and application of obligations.

²⁶⁴ See ILO: *Safety and health in agriculture*, Report of the Committee on Safety and Health in Agriculture, Report IV(1), ILC, 89th Session, Geneva, 2001, p. 3.

²⁶⁵ The Committee on Safety and Health in Agriculture during the 89th Session of the ILC provided a convincing example of this.

²⁶⁶ C184, Art. 7.

2.2.5. *Member*

121. The expression "each Member" is used in all instruments, usually more than once. It is often accompanied by various other expressions, such as "concerned", "which ratifies this Convention", "which has ratified this Convention", "for which this Convention is in force", "of the International Labour Organization which ratifies this Convention", "of the International Labour Organization for which this Convention is in force", "bound by this Convention", or "ratifying this Convention".
122. There is no rule as regards the order in which the shorter expression "each Member" and the longer ones are used in the instruments. However, it is normal drafting practice to refer to "each Member which ratifies this Convention" when the expression first appears in the text, and subsequently to use the shorter expression "each Member".
123. The expression "each Member" in ILO instruments is intended to individualize every member State responsible for applying a given instrument, and is accordingly understood, in the case of a Convention, to mean each ratifying Member. Where other Members are covered, this needs to be clearly spelt out in the instrument. This is the case, for example, in final clauses, where information concerning ratification has to be communicated to "all Members", meaning all ILO member States, whether or not they have ratified the instrument in question.

2.2.6. *Worker*

124. It is difficult to define the word "worker" in ILO instruments in terms of one single meaning. Some Conventions propose a definition that is intended to meet their specific requirements.²⁶⁷ The word "worker(s)" is sometimes qualified by terms such as "part-time worker"²⁶⁸, "full-time workers affected by partial unemployment"²⁶⁹, "comparable full-time worker"²⁷⁰, "night worker"²⁷¹, "the workers concerned"²⁷², "migrant worker"²⁷³, or "rural workers"²⁷⁴.
125. The practice of the ILC has been to give the broadest possible meaning to the term "workers". On many occasions, it has been emphasized that, if the subject matter of a given instrument is not limited only to employed workers, or the instrument does not provide for any specific exclusion in respect of one or more categories of workers, then "worker" is understood to cover all workers.²⁷⁵

²⁶⁷ See, for example, the definition of workers in dock work or protection of port workers: C28, Art. 1(2); C32, Art. 1(2); and C152, Art. 3(a); definition of indigenous workers: C64, Art. 1(a), C86, Art. 1(a); definition of workers in the context of employment agencies: C181, Art. 1; in the area of occupational safety and health: C155, Art. 3(b); in the area of construction: C167, Art. 2(d); and in the area of protection from asbestos: C162, Art. 2(f).

²⁶⁸ C175, Art. 1(a); and R182, Para. 2(a).

²⁶⁹ R182, Para. 2(d).

²⁷⁰ C175, Art. 1(c); and R182, Para. 2(c).

²⁷¹ R178, Para. 1(b).

²⁷² C172, Art. 2(1); and R179, Para. 3.

²⁷³ R86, Para. 1(a); and R100, Para. 2.

²⁷⁴ C141, Art. 2(1); and R149, Para. 2(1).

²⁷⁵ See the particular examples in the ILO Memorandum addressed to the German Ministry of Labour and Social Affairs concerning C96, reproduced in *OB*, Vol. XLIX, No. 3, 1966, pp. 389-390. See also the following cases: Case No. 1975 (Canada), 316th Report, *OB*, Vol. LXXXII, 1999, Series B, No. 2, para. 270, as published in GB.275/4/1 (workers in community participation schemes); Case No. 2013 (Mexico), 326th Report, *OB*, Vol. LXXXIV, 2001, Series B, No. 3, para. 416, as published in GB.282/6 (instructors governed by contracts for the provision of services); Case No. 2022 (New Zealand), 324th Report, *OB*,

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126. *Employment, employee, employed person.* On the other hand, where instruments refer to "employment" and "employee" or "employed person", the intention is generally to indicate a more restricted meaning. For example, the Social Security (Minimum Standards) Convention, 1952 (No. 102), and subsequent supplementary instruments stipulate that protection must be provided for prescribed classes of "employees", the "[economically] active population", or "residents". It emerged from the discussions that preceded the adoption of the instrument that the term "employee" should not cover self-employed workers, although they are in fact covered by virtue of being part of the "active population". Similarly, the Holidays with Pay Convention (Revised), 1970 (No. 132), refers to "employed persons" in order to make it clear that only dependent workers are covered. On the other hand, the minimum age instruments tend to make use of the dual terminology "employed or work" to ensure that all forms of economic activity are covered.²⁷⁶ The Employment Relationship Recommendation, 2006 (No. 198), provides recent guidance.
127. *Agricultural worker.* Again, unless there are provisions stating explicitly the category of agricultural workers covered, it should be assumed that all workers who live from or depend directly on agricultural activities are covered, irrespective of the nature of their economic relationship with the land.²⁷⁷

2.2.7. *Workers' representative*

128. A number of Conventions require consultation with workers' representatives in the undertaking on specified areas and issues. Some stipulate that these representatives must be recognized as such in national law or practice, in accordance with the Workers' Representatives Convention, 1971 (No. 135).²⁷⁸
129. Under the terms of that Convention, the expression "workers' representatives" means persons who are recognized as such under national law or practice, whether they are: (a) trade union representatives namely, representatives designated or elected by trade unions or by members of such unions; or (b) elected representatives namely, representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognized as the exclusive prerogative of trade unions in the country concerned.²⁷⁹

Vol. LXXXIV, 2001, Series B, No. 1, paras. 763-768, as published in GB.280/9 (community wage recipients). The question of workers in managerial capacity was decided upon by the PCIJ in Interpretation of the Convention of 1919 concerning employment of women during the night, PCIJ Advisory Opinion, reproduced in *OB*, Vol. XVII, No. 5, 1932, as published in PCIJ, Series A/B, No. 50, p. 365. Other categories covered by the notion of workers in the ILO instruments are civil servants, self-employed workers, agricultural workers, workers in the liberal professions, domestic staff and workers in the informal economy.

²⁷⁶ C5, Art. 2; C10, Art. 1; C59, Art. 2(1); C138, Art. 3.

²⁷⁷ For example, R132 covers tenants, share croppers and similar categories of agricultural workers. Similar terminology is used in C129 and C141.

²⁷⁸ For example, C162, Art. 2(g), and C170, Art. 2(f) refer to the definition of workers' representatives given in C135.

²⁷⁹ C135 specifies further that "[w]here there exist in the same undertaking both trade union representatives and elected representatives, appropriate measures shall be taken, wherever necessary, to ensure that the existence of elected representatives is not used to undermine the position of the trade unions concerned or their representatives and to encourage cooperation on all relevant matters between the elected representatives and the trade unions concerned and their representatives" (Art. 5).

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130. It appears that practice is sufficiently established in this regard that there is no need for explicit mention in the instruments that the term "workers' representatives" is to be understood in the above sense.²⁸⁰

2.2.8. Employer

131. The term "employer" appears to be less problematic than "worker" and is generally used in ILO instruments in its ordinary meaning. It is only in the two Contracts of Employment (Indigenous Workers) Conventions,²⁸¹ and in connection with home work²⁸² and safety and health in mines²⁸³ and construction,²⁸⁴ that it was felt necessary to further explain the reference. In those cases, it appeared necessary to specify the persons or bodies required to assume the obligations of the employer under those instruments.
132. According to the Guarding of Machinery Convention, 1963 (No. 119), the term "employer" includes, where appropriate under national laws or regulations, a prescribed agent of the employer;²⁸⁵ this seems obvious, and should not require a specific clause to that effect within the instrument.

2.3. Changes to scope and application of obligations

2.3.1. Drafting practice

133. A range of flexibility measures has been developed to give effect to article 19(3) of the Constitution of the ILO, according to which the Conference, in framing any Convention or Recommendation, must take into account different conditions and levels of development among member States. These flexibility measures concern: ratification and influence the scope of application of the instrument; the substantive provisions, and allow, in particular, the possibility of modifying the level of protection afforded by the instrument; as well as means of its application.
134. These various mechanisms make it possible to take into account differences in national conditions while at the same time ensuring the universality of the standards developed. They also facilitate the greatest possible number of ratifications. Nonetheless, these measures provide exceptions to the established rule and, each time they are used, it is necessary to keep in mind why they are needed and for what purpose they are used. In this regard, the scope of application of flexibility measures, in particular if they affect the instrument's substantive provisions, must be appreciated. When they are used they should be accompanied by mechanisms that encourage the full application of the instruments

²⁸⁰ See C161, Art. 1(b); R171, Para. 47 and R175, Para. 2(e) which do not refer to the definition contained in C135.

²⁸¹ C64, Art. 1(b), and C86, Art. 1(b), both of which state that the term "employer" includes, unless the contrary intention appears, any public authority, individual, company or association, whether non-indigenous or indigenous.

²⁸² C177 states that 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 (Art. 1(c)). Similarly R184, Para. 1(c).

²⁸³ According to C176 "employer" means any physical or legal person who employs one or more workers in a mine and, as the context requires, the operator, the principal contractor, contractor or subcontractor (Art. 1(2)).

²⁸⁴ C167 defines "employer" as: (i) any physical or legal person who employs one or more workers on a construction site; and (ii) as the context requires, the principal contractor, the contractor or the subcontractor (Art. 2(e)). Similarly R175, Para. 2(f).

²⁸⁵ C119, Art. 14.

provisions with a view to ensuring better social protection. These safeguard measures will be detailed below.

2.3.1.1. Flexibility measures to facilitate ratification

- 135.** Flexibility measures linked to ratification make it possible to adjust the scope of an instrument with regard to a number of parameters: persons, branches of activity, enterprises or occupational categories covered. The Conventions adopt a number of approaches to exclude one or more categories of persons or branches of activities.
- 136.** Appendix 6 shows the Conventions in which provision is made for flexibility mechanisms discussed below and linked to ratification or reports that need to be produced afterwards.

(i) *Initial exclusion*

- 137.** Some Conventions exclude particular categories of persons or branches of activity at the outset. For example, workers employed in agriculture and the maritime sector may be subject to such exclusions as well as, within these sectors, small undertakings²⁸⁶ or small vessels.²⁸⁷ No intervention of the ratifying Member is required. The ratified Convention simply does not apply to the categories of persons or undertakings excluded. In that case, the exclusion negotiated at the time of creation of the instrument should facilitate the greatest number of ratifications and, from this perspective, an initial exclusion could be considered as a flexibility measure.

(ii) *Declaration of exclusion*

- 138.** Other Conventions which do not exclude at the outset particular categories of workers or branches of activity allow Members to determine in their legislation the object of the Convention and thereby define the instrument's scope.²⁸⁸ Members are also permitted to exclude certain categories by a declaration to that effect made at the time of ratification, after consulting workers' and employers' organizations. Exclusion is in some cases subject to certain conditions. For example, some Conventions provide that particular categories of workers, branches of activity, employment or work may be excluded when their application would otherwise raise special problems of a substantial nature.²⁸⁹ Others provide for exclusion based on a range of criteria.²⁹⁰ Still others allow only temporary exclusions.²⁹¹ Lastly, some Conventions allow Members to exclude

²⁸⁶ See C110 and P110, Art. 1.

²⁸⁷ See C133, Art. 1(4).

²⁸⁸ See in particular C133, according to which national laws or regulations must determine when ships are to be regarded as seagoing ships for the purpose of the Convention (Art. 1(2)). Similarly, Art. 1(2) of C129 provides that the competent authority shall, after consultation with the most representative organizations of employers and workers concerned, define the line which separates agriculture from industry and commerce. See also Art. 1(7)(d) of C178, according to which in the event of any doubt as to whether any categories of persons are to be regarded as seafarers, the question must be determined by the competent authority after consulting the organizations of shipowners and seafarers concerned *in accordance with the provisions of the Convention* (italics added).

²⁸⁹ See in particular C183, Art. 2(2) (workers); C132, Art. 2(2); and C158, Art. 2(5) (restriction as to categories of persons employed); C148, Art. 1(2); and C155, Art. 1(2) (branches of activity).

²⁹⁰ For example, C95 provides that the competent authority may “exclude from the application of all or any of the provisions of the Convention categories of persons [1] whose circumstances and conditions of employment are such that the application to them of all or any of the said provisions would be inappropriate and [2] who are not employed in manual labour or are employed in domestic service or work similar thereto.” (Art. 2(2)).

²⁹¹ See in particular C128, Art. 38, and C130, Art. 3, which allow the temporary exclusion from the application of the Convention of employees in the sector comprising agricultural occupations who are not yet protected by appropriate legislation at the time of the ratification.

particular branches of economic activity or particular undertakings from the application of certain provisions of a given Convention, when they are satisfied, on the basis of an assessment of the health hazards involved and the safety measures applied, that their application to those branches or undertakings is unnecessary.²⁹²

139. Exclusions allowed by Conventions in some cases concern specific Parts of the instruments²⁹³ or their annexes.²⁹⁴ For example, several Conventions allow Members, at the time of ratification, to exclude certain Parts of the instruments or certain provisions of their annexes. In certain cases, compulsory and optional sections are combined in the same Convention.

(iii) Provisions allowing exclusion after ratification

140. When the Convention provides expressly for the introduction of exclusions or modifications after an instrument has been ratified, a Member may also avail itself of such a possibility, either through legislation²⁹⁵ or by a decision of the competent authorities following consultations with organizations of employers and workers concerned. In such case, as will be explained below, the Member is required to specify its intent in its first report produced under article 22 of the ILO Constitution (see "Information to Members and supervision of application").

(iv) Declaration of inclusion

141. Under another procedure provided in Conventions, Members indicate the precise scope of their commitment in their declaration made at the time of ratification, rather than excluding one or another of those parameters at that time. For example, in the case of social security Conventions, a Member is allowed to ratify if it undertakes to comply with its obligations under the Conventions in a certain minimum number of branches of social security.²⁹⁶ This procedure also applies in the case of acceptance of:

- a specified number of Parts of the instrument;²⁹⁷
- a specified number of provisions;²⁹⁸
- obligations arising from a given number of Conventions.²⁹⁹

²⁹² See C162 which allows such exclusion of particular branches of economic activity or particular undertakings (Art. 1(2)).

²⁹³ See, for example, C63, Art. 2; C81, Art. 25(1); C109, Art. 5; C110, Art. 3; C168, Art. 4.

²⁹⁴ See C97, Art. 14(1) and P147, Art. 3.

²⁹⁵ See in particular C24, Art. 2; and C25, Art. 2.

²⁹⁶ For example, C102 may be ratified by a Member that accepts the obligations in respect of at least three of the nine branches of social security referred to in it. See also C118, C128 and C165.

²⁹⁷ The following examples may be noted: C143 (Art. 16) allows acceptance of only one of the two Parts containing substantive provisions, which concern respectively migrations in abusive conditions and equality of opportunity and treatment; C148 (Art. 2) allows acceptance of obligations separately in respect of the three hazards air pollution, noise, and vibration; C160 (Art. 16) allows Members to determine the areas in which they accept specific obligations regarding the compilation of statistics; and lastly, C173 (Art. 3) allows ratification subject to acceptance of the obligations either under Part II concerning protection of workers' claims by means of a privilege, or under Part III, which provides for protection of workers' claims by a guarantee institution, or both. See also C96, Art. 2.

²⁹⁸ See in particular C160, (Art. 16 (2)), which requires member States to specify the Articles in respect of which it accepts the obligations of the Convention.

²⁹⁹ See C147 and P147.

(v) *The right to specify inclusions after ratification*

142. In some cases, it is left to the competent authority, once the instrument has been ratified, to determine the categories or workers covered by the Convention, after consultation with the representative organizations of employers and workers concerned.³⁰⁰ Here again, the Member is required to provide this information in its first report under article 22.

(vi) *Modification of the level of protection established in the Convention*

143. Lastly, certain Conventions allow Members, at the time of ratification, to vary the standard set in the Convention, in some cases linking this possibility to a Member's level of national development. In these cases, Conventions nevertheless provide for a certain minimum threshold which cannot be infringed, in particular, in the case of determination of minimum age.³⁰¹ Thus, with regard to the Minimum Age Convention, 1973 (No. 138), a Member whose economy and educational facilities are insufficiently developed may specify a minimum age lower than the age established by the Convention (15 years), but not below 14 years. Another similar flexibility mechanism allows divergence from the standard established in the instrument when national conditions do not lend themselves to the strict observance of the Convention, in particular, road transport.³⁰² Similarly, some Conventions allow Members to apply, during a transitional period, less stringent standards than those stipulated in the Convention if, at the time of ratification, they have no domestic law in the area covered by the instrument.³⁰³

(vii) *Information to Members and supervision of application*

144. Two methods with different purposes are used when a Member has recourse to any derogations, exclusions and modifications provided for in the Convention. According to the first, the ratifying Member shall communicate with its ratification a declaration specifying the extent of the derogation or exclusion, or the scope of its commitment, for purposes of informing other Members. This information is then communicated to all ILO member States by the Director-General and is therefore fully publicized.

145. Pursuant to the second method, the Member is required to indicate after ratification, in its first report under article 22 of the ILO Constitution, any derogations, exclusions and modifications it has authorized, as well as any progress it has made in bringing about full application of the Convention. In such case, publicity is not automatically ensured and depends largely on the references made by the CEACR in its supervision of application of the instrument.

2.3.1.2. Flexibility measures concerning substantive provisions

146. Flexibility in the Conventions can provide Members with a varying margin of appreciation in determining in practice the scope of application, or can avoid setting in absolute terms the requisite qualitative or quantitative measures. Before examining the various examples from practice set out below, it should be noted that they have been used in a limited number of cases.

³⁰⁰ See in particular C131, Art. 1(2) and (3).

³⁰¹ See in particular C138, Art. 2(4). See also C77, Art. 9(1); C78, Art. 9(1); and C79, Art. 7(1).

³⁰² See C153, Art. 9(2) and C160, Art. 17.

³⁰³ Art. 9 of C89 for example, states that “In those countries where no government regulation as yet applies to the employment of women in industrial undertakings during the night, the term night may provisionally, and for a maximum period of three years, be declared by the government to signify a period of only ten hours [...]”. See also C4, Art. 2(2); C41, Art. 2(3); C77, Art. 9(1); C78, Art. 9(1); and C79, Art. 7(1).

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- 147.** This room to manoeuvre is sometimes linked to local, national or climatic conditions, so that the Member is then obliged, for example, to take adequate measures "to the maximum extent possible under local conditions"³⁰⁴, "unless there is an established local custom to the contrary"³⁰⁵, or "as required by climatic conditions"³⁰⁶. Other Conventions emphasize the importance of methods appropriate to national conditions and customs.³⁰⁷
- 148.** In other cases, flexibility is linked to the methods allowed for calculating the minimum percentage of workers covered for Members to be deemed to be in compliance. This mechanism, which is associated above all with social security, was first instituted in the Social Security (Minimum Standards) Convention, 1952 (No. 102) (Art. 9), and has been incorporated into subsequent Conventions.³⁰⁸
- 149.** Only a few Conventions explicitly leave considerable discretion to Members in determining the scope of application in practice. For example, the Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172), stipulates that compliance with the instrument's provisions must be treated as effective if they are applied "to the great majority of the workers concerned" (Art. 8(2)). Similarly, the Part-Time Work Convention, 1994 (No. 175), prohibits the exclusion of "an unduly large percentage of part-time workers" (Art. 8).
- 150.** Terms used in other Conventions give Members a certain discretion in determining the requisite measures, by qualifying them as (for example) "adequate", "convenient", "appropriate", "compatible" or "satisfactory". This is standard practice, and, in order to give a better idea of the circumstances in which such qualifying terms are used, Appendix 7 shows the provisions of Conventions where they occur.
- 151.** In some cases, reference is made to the notion of practicability as reflected in terms such as "practicable", "reasonable" or, even more frequently, "possible". Some of these terms are combined and expressions such as "where reasonable and practicable", or "so far as reasonable and practicable" are used.³⁰⁹ Appendix 8 gives an overview of the uses of these terms.
- 152.** Other Conventions, in particular in the maritime sector, make use of flexibility mechanisms based on the notion of equivalence, in that they do not require Members to take precisely defined measures but instead recognize that Members can meet their obligations by adopting and implementing measures that are broadly similar and commensurate. These Conventions require that any national laws and regulations be "substantially equivalent", "at least equivalent", or that any protection or benefits be "not less favourable" than those provided for under the Convention.³¹⁰
- 153.** In other cases, flexibility is provided to a Member by wording to the effect that obligations under the Convention should be met "in any other manner which is consistent

³⁰⁴ See C117, Art. 15(1).

³⁰⁵ C117, Art. 11(6).

³⁰⁶ See C126, Art. 8(1).

³⁰⁷ C140, for example, stipulates that "Each Member shall formulate and apply a policy designed to promote, by methods appropriate to national conditions and practice and by stages as necessary, the granting of paid educational leave" (Art. 2). See also C156, Art. 7; and C166, Art. 9.

³⁰⁸ See in particular C121, Art. 19; C128, Arts. 9, 16, 22, 26, 28, 41 and 42; C130, Arts. 10, 11, 19, 20, 22 and 33; C168, Arts. 11 and 15.

³⁰⁹ See the section on clauses frequently used with a commonly understood meaning, above.

³¹⁰ See in particular the following Conventions: C17, Art. 3; C24, Art. 2(3); C25, Art. 2(3); C54, Art. 2(4)(b); C72, Art. 3(7); C92, Art. 1(5); C106, Art. 7(2); C121, Art. 3(1) and Art. 7(2); C126, Art. 1(7); C128, Art. 33(1); C133, Art. 1(6); C146, Art. 9; C147, Art. 2; C158, Art. 2(4); C165, Art. 7; C185, Art. 6(6).

with national law and practice", "as appropriate under national law and practice", or "subject to national law and practice".³¹¹ In those cases, rather than indicating the mechanism or institution by which the Convention is to be applied at the national level (see the section on implementation measures at the national level), the expressions in question concern the actual content of national law and practice to which the Member must refer in applying the Convention, as already explained (see the section on terminology and definition). The expression "in accordance with national law or practice", or similar expressions, have generally been used in Conventions only recently; more precisely, they were used in nine Conventions between 1957 and 1979,³¹² but have been used in almost all Conventions since 1981. Given the degree of discretion which Members are allowed in these cases, certain minimum guarantees, which are discussed in the section on safeguard measures), must be secured in order to safeguard the universality of standards while respecting the diversity of national conditions. These include prior consultation with organizations of employers and workers, and respect for applicable international standards in national law and practice.

- 154.** Lastly, flexibility is also ensured in Conventions by calling on Members to accept and pursue certain specific objectives while allowing them considerable discretion to determine the nature and the time frame of the measures taken to achieve them.³¹³ In one recent instrument, the obligation incumbent on the Member is to establish itself the time frame within which it will take the necessary measures (time-bound measures).³¹⁴ These Conventions combine the prescriptive and promotional approaches. For example, the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), not only requires Members to pursue a policy designed to promote equality of opportunity and treatment in respect of employment and occupation but also provides a precise definition of what constitutes discrimination and specifies a range of measures needed to implement the policy in question. Similarly, the Rural Workers' Organisations Convention, 1975 (No. 141), begins by enumerating a series of guarantees that must be provided for rural workers' organizations and then stipulates the measures that governments must take to encourage and facilitate the establishment and development of these organizations.³¹⁵

2.3.1.3. Flexibility measures concerning choice of means and methods of application

- 155.** Some flexibility measures permit consideration of the legal practices and procedures of different Members, thereby promoting more effective application.
- 156.** The margin of freedom allowed in determining the means of application of a Convention is reflected first in the wide range of instruments or institutions already examined,³¹⁶ which the Member may use in order to meet its commitments under the Convention. As mentioned, national laws and regulations are in some cases the primary means of ensuring

³¹¹ See C106, Art. 4(2); C120, Art. 3; C152, Art. 6(2); C155, Art. 12; C158, Art. 8(2), Art. 12(1), Art. 13(1)(b), Art. 14(1); C161, Art. 9(1), Art. 9(3) and Art. 11; C162, Art. 19(1), Art. 21(1); C164, Art. 4(d); C167, Art. 9; C168, Art. 8(1) ("subject to national law and practice"), Art. 27(2); C170, Art. 14; C172, Art. 4(2), Art. 4(3), Art. 5; C173, Art. 1(1); C175, Art. 6 and Art. 10; C181, Art. 3(1); C183, Art. 5.

³¹² This expression, or similar ones, is found in C106 (Arts. 4(2) and 8(1)) and C120 (Art. 3) (in any other manner consistent with national law and practice); C142 (Art. 3(3)) (in accordance with national law and practice); C152 (Art. 6(2)) (appropriate under national law and practice); C131 (Art. 4(3)(b)) (in accordance with national law or practice); C145 (Art. 4(1)(3)) (in a manner determined by national law or practice); C110 (Art. 1(2)(b)) (which by national law or practice are classified as); C135 (Art. 3) (recognized as such by national law or practice); C137 and C145 (Art. 1(2)) (defined as such by national law or practice) and C137 (Arts. 3(1) and 3(3)) (in a manner to be determined by national law or practice).

³¹³ These Conventions are sometime referred to as "promotional" or "programmatic".

³¹⁴ See C182, Art. 7(2).

³¹⁵ See also C122, C140, C142, C154, C156 and C159.

³¹⁶ See the section on the implementation measures.

compliance, while in others, they are just one available option in ensuring compliance with the Convention.³¹⁷ Certain Conventions broaden the range of means available to Members on condition that they are not contrary to national practice.³¹⁸ In short, this allows for any means which, by being consistent with national practice, while not necessarily common to the general practice of different Members, can in specific cases ensure effective application of the Conventions in question.

- 157.** Some Conventions relax the conditions of implementation by having provisions allowing obligations to be met progressively or in stages,³¹⁹ in some cases in accordance with a predetermined timetable.³²⁰ Appendix 9 contains a table of this practice in Conventions.
- 158.** In some cases, Conventions leave it entirely to Members to choose the means of application, requiring only that Members take all necessary measures to ensure the effective application of their provisions.³²¹ In some cases, the provision states that it is the competent authorities that are responsible for choosing the methods and means of application.³²²

2.3.1.4. Safeguard measures

- 159.** Conventions may contain provisions giving effect to article 19, paragraph 8, of the ILO Constitution, according to which the adoption or ratification of the Convention will “not be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned.” In some instruments, this guarantee is reproduced word for word.³²³
- 160.** Safeguard measures ensure that flexibility not only encourages the greatest possible number of Members to ratify, but also promotes a momentum towards better social protection. In this regard, certain mechanisms have been envisaged to provide certain minimum safeguards against any retrogressive steps, and to allow Members which initially limit their obligations under a given Convention to extend those obligations. These mechanisms fall into three categories.
- 161.** The first category concerns Members which at the time of ratification make a declaration excluding certain categories or parties from the Convention's scope. In those cases, Members are required to deposit a new declaration if they wish to extend or cancel the initial exclusion.³²⁴ The second category includes Members which have excluded categories in their first report under article 22. They are then required in their reports to

³¹⁷ For example, Members may implement Conventions through collective agreements, arbitration awards, court rulings, custom, or any other manner consistent with national practice.

³¹⁸ These other means include decisions by certain independent administrative institutions, as well as codes of conduct, economic and financial measures, programmes of action, technical standards, guiding principles, or codes of practice.

³¹⁹ See in particular Art. 10(1) of C156 which allows the application of the Convention "by stages" "account being taken of national conditions". See also C161, Art. 3(1).

³²⁰ See C174, Art. 2.

³²¹ See C167, Art. 35, which states that each Member must take all necessary measures, including the provision of appropriate penalties and corrective measures, to ensure the effective enforcement of the provisions of the Convention; provide appropriate inspection services to supervise the application of the measures to be taken in pursuance of the Convention and provide these services with the resources necessary for the accomplishment of their task, or satisfy itself that appropriate inspection is carried out.

³²² See C162, Art. 13.

³²³ See, for example, C109, Art. 1.

³²⁴ See the following Conventions: C63, Art. 2(2); C97, Art. 14; C102, Art. 4; C109, Art. 5; C121, Art. 3; C123, Art. 3; C128, Art. 3; C130, Art. 4; C132, Art. 15; P147, Art. 3(2).

describe the measures they have taken to progressively extend protection to those excluded categories.³²⁵ The third category draws on both of the other two: certain Conventions make it a requirement to make an initial declaration accompanying the act of ratification and to indicate in subsequent reports the measures that have been taken to extend the instrument's provisions to excluded categories. Members can also make a new declaration modifying or cancelling the initial declaration of exclusion made at the time of ratification.³²⁶

162. Lastly, in cases in which Conventions refer to national practice to determine the institutions or mechanisms by which they can be applied, provision should be made to ensure that, where the institutions on which national practice normally relies are absent, the Members are required to enact the legislation needed to ensure full observance of ratified Conventions. Some Conventions make express provision for legislative safeguards of this kind.³²⁷ In concrete terms, this may mean that Conventions envisage implementation through legislation, collective agreements, arbitration awards, court rulings, or through a combination of such means, or in any other manner consistent with national conditions and practice. Nevertheless, they should be made effective by legislation in so far as they are not given effect in an appropriate and timely manner by other means in accordance with national practice.³²⁸

2.3.2. Observations and recommendations

163. *In light of the above, the following observations and recommendations may be made:*

- (a) *Flexibility measures provide exceptions to the obligations established in a Convention and it is advisable, each time one intends to use them, to examine the desired objective, consequence and justification for their use.*
- (b) *In cases where Conventions provide for the possibility to exclude (or include only) certain categories at the time of ratification, this provision should be accompanied, to the extent possible, by conditions relating to informing the other Members as provided in the instrument.*
- (c) *In all cases, when the Convention allows a member State to modify the scope of its obligations, prior consultation of organizations of employers and workers should be considered.*
- (d) *Preference should be given, as much as possible, to the declaration of a member State excluding certain categories at the time of ratification rather than the subsequent exclusion taking place in the context of the reports produced pursuant to article 22 of the Constitution, because of the systematic notification inherent in the former.*
- (e) *In cases where flexibility measures affect substantive provisions, their formulation should highlight the fact that they constitute exceptional measures and that it is for the member State seeking to rely on them to show their necessity. In this vein, one should use the expression "unless" for introducing a flexibility measure as it emphasizes its exceptional character.*

³²⁵ See C94, Art. 7; C95, Art. 17; C96, Art. 15; C132, Art. 2; C138, Arts. 2(5) and 5(4); C157, Art. 17(3); C172, Art. 1(4); C183, Art. 2(3).

³²⁶ C81, Art. 25; C83, Art. 4; C84, Art. 10; C85, Art. 8; C90, Art. 7; C103, Art. 7; C110, Art. 3; C119, Art. 17; C129, Art. 5; C143, Art. 16; C153, Art. 9; C173, Art. 3; P81, Arts. 2(3) and 2(4).

³²⁷ See C106, Art. 1; C132, Art. 1; C137, Art. 7; C145, Art. 7; C153, Art. 12; C154, Art. 4; C158, Art. 1; C171, Art. 11(1).

³²⁸ See the section on implementation measures.

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- (f) *When dealing with the application of flexibility measures, one should avoid using, as far as possible, wording that leaves open an overly broad margin of appreciation, such as "a great majority" or "an unduly high percentage."*
- (g) *Use of the expression "according to national legislation" or any similar expression should be limited as much as possible when they refer to the substance of a provision rather than to its implementation. If it is nevertheless desired to include them in a Convention, certain precautions should accompany them, such as references to prior consultation with organizations of employers and workers, and respect for applicable international standards in national laws and regulations.*
- (h) *In cases where Conventions lay down objectives which are to be achieved over time, the obligation of a member State to establish a time frame for their realization should be provided wherever possible.*
- (i) *Similarly, in cases where the Conventions provide for an application in stages, it would be advisable to stipulate that the member State will establish a time frame in this regard.*
- (j) *Lastly, as for safeguard measures, preference should be given as much as possible to the dual obligation of making a declaration at the time of ratification which specifies the scope of the derogation desired, and indicating in subsequent reports under article 22 of the Constitution the measures taken in view of extending the instrument's provisions to the excluded categories. The obligation of Members to make a new declaration each time the initial declaration accompanying the ratification is modified or annulled should also be provided.*

2.4. Drafting rules and methods

- 164.** The drafting rules and methods covered in this part refer to: the general presentation of Conventions and Recommendations; various issues regarding the drafting of instruments; punctuation; and gender-inclusive language. Some of the issues raised require specific responses depending on which language version of the instrument is being considered; this is why the proposed drafting rules and methods are not identical for each of the ILO's official and working languages.
- 165.** At all times, drafters should avoid expressions or turns of phrase in one language which require adjustments to one or more of the other languages in an attempt to adapt them to the characteristics of one language. Variations that are necessary in the linguistic versions of one instrument should respect the rules and requirements of each working language. In such cases, the aim must be to produce texts that are equivalent in substance, but that may contain certain differences, particularly regarding syntax, the number of words needed to express the same idea or even the need to place a definition in only one language version of an instrument.

2.4.1. General presentation of Conventions and Recommendations

- 166.** In the hierarchy of internal divisions and subdivisions and for the names given to them, Conventions and Recommendations follow precise rules. These rules are laid down in the *ILO house style manual*, published in 1992, and they are recalled here.
- 167.** In Conventions, internal divisions and subdivisions are represented in the following hierarchy:
- the *Part*, with the word "PART" in the middle of the page in capital letters, followed by a figure in roman script and the title of the Part also in capitals;

- the *Article*, with the word "Article" centred and followed by a number in Arabic figures and normal paragraph indenting on a new line to start the sentence;
- the *paragraph*, indented on a new line, placed and numbered within an Article, such as "1.", "2.", "3." etc.;
- the *subparagraph*, laid out as a hanging indent within a paragraph (or an Article where this is not divided into paragraphs) and introduced by lower case letters, like (a), (b), (c), etc.;
- the *clause*, also laid out as a hanging indent within a subparagraph, and numbered in lower case roman script, such as (i), (ii), (iii), etc.

For example:

Note the layout of this extract of the Social Security (Minimum Standards) Convention, 1952 (No. 102):

"PART II. MEDICAL CARE

Article 10

1. The benefit shall include at least
 - a) in case of a morbid condition -
 - i. general practitioner care, including domiciliary visiting;
 - ii. specialist care at hospitals for in-patients and out-patients, and such specialist care as may be available outside hospitals;
 - iii. the essential pharmaceutical supplies as prescribed by medical or other qualified practitioners; and
 - iv. hospitalisation where necessary; and
 - b) in case of pregnancy and confinement and their consequences
 - i. pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives; and
 - ii. hospitalisation where necessary.
2. The beneficiary or his [sic] breadwinner may be required to share in the cost of the medical care the beneficiary receives in respect of a morbid condition; the rules concerning such cost-sharing shall be so designed as to avoid hardship."

168. In Recommendations, internal divisions and subdivisions are represented in the following way:

- the *Part*, indicated by a number in roman figures, which is placed in the middle of the page, followed by the full title in roman script in capital letters;
- the *Paragraph*, indented on a new line, and simply numbered, in Arabic script, as "1.", "2.", "3.", etc.;
- the *subparagraph*, flush on a new line as a division of the Paragraph and numbered with bracketed Arabic numbers, such as (1), (2), (3) (the figure immediately follows the paragraph number e.g. "27(1)");
- the *clause*, a hanging indent division of the subparagraph (or the paragraph where this is not divided into subparagraphs) and introduced by lower case letters, like "(a)", "(b)", "(c)", etc.;
- the *sub-clause*, a hanging indent division of the clause, numbered with lower case roman script, such as "(i)", "(ii)", "(iii)", etc.

For example:

Note the layout of this extract of the Older Workers Recommendation, 1980 (No. 162)

“III. PROTECTION

16. (1) With the participation of the representative organisations of employers and workers, measures should be taken with a view to applying to older workers, wherever possible, systems of remuneration adapted to their needs.

(2) These measures might include:

- a) use of systems of remuneration that take account not only of speed of performance but also of know-how and experience;
- b) the transfer of older workers from work paid by results to work paid by time.”

2.4.2. Various issues regarding the drafting of instruments

2.4.2.1. Internal cross-references

(i) *Drafting practice*³²⁹

169. Practice regarding internal cross-references - meaning references within an instrument to another of its provisions - has not been entirely consistent. Cross-referencing can be done in several ways. On the one hand, sometimes no mention is made to the fact that the provision under reference is in the same Convention. On the other hand, when such a mention is made, it can be expressed in various ways, such as "above mentioned" or "mentioned below" or "in this Convention".³³⁰

170. In the same vein, when reference is made to a subdivision of an Article, the reference often includes the full word "paragraph" together with the number.

(ii) *Proposals*

171. *Internal references should be used sparingly. However, when a reference has to be made in a Convention or Recommendation to one or other of its provisions, that reference should then be as concise and simple to follow as possible. For example, the following styles could be used:*

- *"Article 12(2) of this Convention ...";*
- *"Paragraph 17(1)(a) of this Recommendation ...".*

The use of heavy and complicated cross-references, such as those including the full word "paragraph" should be abandoned in favour of putting the paragraph number in brackets after that of the provision in question.

172. *The words "above mentioned" and "mentioned below" should be retained where it is necessary to remove any ambiguity about the cross-reference. In such cases the words "in the Convention" or "in this Convention" should not be used.*

³²⁹ The ILO's drafting practice for English texts is explained in the compilation entitled *International Labour Conventions and Recommendations 1919-95*, ILO, Geneva, 1996, and its various updates.

³³⁰ See for example: C4, Art. 5 uses "Article 3 of this Convention" and its Art. 7 uses "in the above Articles"; C29, Art. 1(3) uses "provided for in Article 31 below"; C62, Art. 3 uses "in Parts II to IV of this Convention". Occasionally no cross-reference is needed since the use of an adjectival clause refers the reader to the earlier reference: C140, Art. 3 "That policy shall be designed ..." rather than "The policy referred to in Article 2 above shall be designed ...".

2.4.2.2. References to other Conventions and Recommendations

(i) *Drafting practice*

173. The style of drafting such references has changed significantly over time.³³¹ In the earlier Conventions references used the full title of the other instrument, since short titles were not introduced until the Night Work for Women Convention, 1934 (No. 41), as mentioned above. After 1946, the drafting style for references in Conventions was unified: the reference uses the short title as it appears in the preamble of the instrument to which reference is being made, including cases of a reference to a pre-1934 instrument.³³² The number of the Convention or Recommendation being referred to in another instrument does not appear in the reference itself.

(ii) *Proposals*

174. *References to other Conventions or Recommendations in the text of ILO instruments should use their short titles as they appear in their own preambles, including their number.*

2.4.2.3. Use of capital letters

(i) *Drafting practice*

175. In instruments, the general rule is that capital letters are used for words and expressions such as "State", "Member"³³³ but "member State"³³⁴. Capitals are also used in the following examples: International Labour Office, Governing Body, General Conference, Director-General; for the titles of official texts and programmes, like "Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy"³³⁵,

³³¹ Here are some examples: (1) C14, Art. 1(2) uses "...subject to the special national exemptions contained in the Washington Convention limiting the hours of work in industrial undertakings to eight in the day and forty-eight in the week, ..."; (2) Another style, for ILO texts, is used in C17, Art. 4: "This Convention shall not apply to agriculture, in respect of which the Convention concerning workmen's [sic] compensation in agriculture adopted by the International Labour Conference ... remains in force."; (3) C33, Art. 1 uses "This Convention shall apply to any employment not dealt with in the following Conventions adopted by the International Labour Conference at its First, Second and Third Sessions respectively: Convention fixing the minimum age for admission of children to industrial employment (Washington, 1919); Convention fixing the minimum age for admission of children to employment at sea (Genoa, 1920); Convention concerning the age for admission of children to employment in agriculture (Geneva, 1921)"; (4) yet the Washington treaty is referred to in a slightly different way in C46, Art. 14: "Nevertheless, Members which ratify this Convention undertake to apply ... the Washington Convention of 1919 limiting the hours of work in industrial undertakings to eight in the day and forty-eight in the week, ..."; (5) C58, Art. 5 uses "This Convention shall not come into force until after the adoption by the International Labour Conference of a Convention revising the Convention fixing the minimum age for admission of children to industrial employment, 1919, and a Convention revising the Convention concerning the age for admission of children to non-industrial employment, 1932"; (6) C147, Art. 2(e) uses a cross-reference with the short title and year but no number: "... due regard being had to the Vocational Training (Seafarers) Recommendation, 1970". See also: (7) C162, Art. 2(g): "in conformity with the Workers' Representatives Convention, 1971"; (8) C168, Art. 9: "The measures envisaged in this Part shall be taken in the light of the Human Resources Development Convention and Recommendation, 1975, and the Employment Policy (Supplementary Provisions) Recommendation, 1984"; (9) C182, Art. 4: "taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999"; and finally, (10) C183, Art. 13: "This Convention revises the Maternity Protection Convention (Revised), 1952".

³³² C80 introduced uniform short titles into the preambles of Conventions adopted before 1934.

³³³ See, for example, R151, Para. 6.

³³⁴ See, for example, R150, Para. 3.

³³⁵ See, for example, R181, Para. 6.

"International Programme on Chemical Safety"³³⁶, and the Constitution of the ILO; and for the proper names of countries and cities and the names of organizations,³³⁷ like "the International Monetary Fund"³³⁸ and "World Health Organization"³³⁹. Initial capitals are the rule when making a cross-reference to another "Part" in an instrument.³⁴⁰ Lastly, the first letter of words in the short title, set out in the preamble of ILO instruments, is capitalized.

(ii) *Proposals*

176. *The general rule for capitalization in Conventions and Recommendations should be to follow the rules of English grammar, and to avoid over-use of capital letters. In short, this means capital letters for what is a defined and specific, and small letters for what is generic. The ILO house style manual recommends the use of capital letters in English in the following examples:*

- *for proper nouns and the names of state territories and organs, as well as for political, administrative and legal institutions;*
- *for cardinal points (compass references) where they form part of the official name of a territory;*
- *the definite article where it forms part of the official name of a territory, city or person (e.g. The Hague. This is however more common in French usage);*
- *for the names of companies and firms;*
- *for adjectives where they form part of the official title of oceans, seas, lakes etc.;*
- *for the initial letter of titles of periodicals, publications and books and for major subdivisions of a book or publication; and;*
- *initial capitals for short titles of legislative texts and international instruments, as well as for commissions, committees and working groups.*

2.4.2.4. Figures, numerals and units of measurement

(i) *Drafting practice*

177. *Units of measurement.* A number of instruments contain technical provisions expressed in units of measurement relating to length, weight or duration. For length, metric system references are the norm, but usually with their imperial equivalents expressed alongside, in brackets or vice versa.³⁴¹ Units of measurement can vary, and may be expressed in full or by an abbreviation, such as "mm" for millimetre, "cm" for centimetre and "m" for metre;³⁴² practice in this respect, however, is not consistent.³⁴³ The same abbreviation is

³³⁶ See, for example, the preamble to C174.

³³⁷ French contains a major exception here, for the "Organisation internationale du Travail" and the "Organisation des Nations Unies".

³³⁸ See, for example, C109, Art. 9(3).

³³⁹ See, for example, C164, Art. 5(3).

³⁴⁰ See, for example, C102, Art. 2.

³⁴¹ See, for example, C75, Art. 10; C92, Art. 10 (in the French version, the length is given in the metric system with its imperial equivalents in brackets).

³⁴² See, for example, C32, Art. 5(2)(a); and R53, Annex.

³⁴³ See, for example, C126, Art. 1(4).

used for both singular and plural and there are no full stops (unless this is grammatically needed at the end of a sentence). For weight, the preferred unit is kilograms with metric ton equivalents.³⁴⁴ For duration, hours are used, often expressed as "hours in a day" or "hours per week".³⁴⁵ Lastly, maritime instruments use "gross tonnage" or "gross register tons" to express the size of vessels or maritime activity.³⁴⁶

- 178.** Numerals followed by the name of a unit of measurement (or the abbreviation of a unit) are usually written in figures. Examples include: "1,600 gross tonnage"³⁴⁷, "12.00 square metres"³⁴⁸ and "100 kg"³⁴⁹. However, there is no uniform practice.³⁵⁰ Decimal numbers followed by the name of a unit of measurement are systematically written in figures, with the full figure and the fraction separated by a decimal point.³⁵¹ Decimal fractions below the number one should be preceded by a nought. Numbers from one to ten in English are spelt out in words in the text. Figures are always used before millions, with the word "million" being written in letters, except when of value from one to ten.³⁵²
- 179.** *Percentages.* Percentages are always written in figures in Conventions and Recommendations.³⁵³ The mathematical sign "%" is not used in Conventions and Recommendations and the percentage is invariably written in letters as "per cent".³⁵⁴
- 180.** *Hours.* Hours are written with the indication whether it is in the morning or in the evening, sometimes - but rarely - using the abbreviations "a.m." or "p.m."³⁵⁵ When the time falls between two full hours, the hours and minutes are written out.³⁵⁶ For midday and midnight, the practice is to use the words written in full rather than resorting to the numerical hour.³⁵⁷
- 181.** *Figures and numbers.* For years, dates and articles of legal texts, figures are usually used.³⁵⁸ Where cardinal numerals are used to quantify nouns, they are generally written as figures if over ten and in letters if equal or inferior to ten, as, for example, "20 persons"³⁵⁹, "three persons"³⁶⁰, or "two ratings"³⁶¹. Fractions, however, are expressed in letters in

³⁴⁴ See, for example, C27, Art. 1(1).

³⁴⁵ See, for example, C47; C67; C109; C153, Arts. 5-8; C180, Art. 5.

³⁴⁶ See, for example, C164, Art. 9(2)(a); and R140, Para. 1(1).

³⁴⁷ See, for example, C164, Art. 9(2)(a).

³⁴⁸ See, for example, C133, Art. 5(3)(b)(iv).

³⁴⁹ See, for example, R160, Para. 19.

³⁵⁰ See, for example, C27, Art. 1(1), where the term "one thousand kilograms" appears.

³⁵¹ See, for example, C133, Art. 5.

³⁵² See, for example, C133, Art. 15(2) uses "one million tons" and "two million tons".

³⁵³ See, for example, C130, Art. 10(b); and C168, Art. 11(3).

³⁵⁴ See, for example, C128, Art. 9; C168, Art. 11; and R144, Para. 6(2).

³⁵⁵ See, for example, C79, Arts. 2 and 3; C90, Art. 2(2) and (3), Art. 3(4); and C171, Art. 1(a).

³⁵⁶ See, for example, C79, Art. 2(2) (The ILOLEX French version, however, expresses hours here in figures).

³⁵⁷ See, for example, C57, Art. 11(2); and C171, Art. 1(a) where "midnight" is used, and C57 Art. 12(f) where the word "midday" appears.

³⁵⁸ See, for example, C109, Art. 9(1); C175, Art. 8(1)(a) and (b); and R193, Para. 7(1), where numerals are used to denote the Articles and Paragraphs cited. See R187, Para. 10, where a date is given using the year in figures.

³⁵⁹ See, for example, C168, Art. 11(3)(b).

³⁶⁰ See, for example, C133, Art. 5(3)(b)(iii).

Conventions and Recommendations: "one half"³⁶², "half of the yearly average number"³⁶³, "not less than two-thirds of the ... previous earnings"³⁶⁴, or "a two-thirds majority"³⁶⁵. But when the fraction is stated alongside a unit of measurement, figures with a decimal point are used.³⁶⁶

182. *Age and duration.* There is no uniform practice regarding the expression of age; the general rule in English is to prefer figures.³⁶⁷ In more recently adopted instruments, the general practice appears systematically to be figures. Drafting practice regarding duration/length of time has also lacked uniformity; overall, time periods relating to years³⁶⁸, months³⁶⁹ and weeks³⁷⁰ have been expressed in numbers. The same style has been used for minutes.³⁷¹ The practice has been less systematic for hours. Length of time in hours is sometimes expressed in letters, sometimes in figures; in English, this follows the grammatical rule that numbers from one to ten are spelt out in the text, and letters over ten appear as numerals. The Seafarers and Crew Working Time Convention, 1996 (No. 180), is a good example where both styles - figures and letters - are used in one and the same provision (Art. 5(1) and (2)). The overall trend appears to be to draft the length of time using letters for hours, although one or two examples of the contrary exist.³⁷²

(ii) *Proposals*

183. *Numbers and figures.* In view of current drafting practice and the ILO house style manual, the following situations call for figures to be used (in standard script):

- *numbers from 11 onwards;*
- *numbers followed by a unit of measurement (or an abbreviation of the unit) including fractions with decimal points;*
- *population figures;*
- *percentages;*
- *times of the day (rather than length of time) when the 24-hour clock is used except for "midday" or "midnight";*
- *ages;*

³⁶¹ See C133, Art. 8(4).

³⁶² See, for example, C126, Art. 12(2).

³⁶³ See, for example, C128, Art. 11(2)(b).

³⁶⁴ See, for example, C183, Art. 6(3).

³⁶⁵ See, for example, R164, Para. 19(2).

³⁶⁶ See, for example, C32, Art. 5.

³⁶⁷ See, for example, C136, Art. 11(2); C152, Art. 38(2); and R172, Para. 1(3) where age is expressed as figures "18 years of age", and C165, Art. 19(c); C180, Art. 6; C182, Art. 2 and R190, Para. 4 where age is written as a stand alone figure.

³⁶⁸ See, for example, C157, Art. 18(3); C164, Art. 9(4); and C178, Art. 3(1).

³⁶⁹ See, for example, C168, Art. 19(2)(a); R153, Para. 6(1); and R180, Para. 3(1)(a).

³⁷⁰ See, for example, C110, Art. 47(3); C168, Art. 19(2)(a); C183, Art. 4; R179, Para. 11; and R191, Para. 1(1).

³⁷¹ See, for example, C31, Art. 3(3); C46, Art. 3(2).

³⁷² See, for example, R178, Para. 4(1); and R187, Para. 3(b).

- *dates and in phrases covering decades, such as "the 1950s" (this is different from French);*
- *dimensions of documents, degrees, sums of money and statistics; and*
- *where numerals are used: years, sections of an act, sessions, etc.); it should be noted that ordinal numbers are spelt out up to and including "tenth" and in figures from "11th" onwards typed in superscript.*

However, it is proposed that numerals be spelt out fully in letters in the following instances:

- *numbers from one to and including ten;*
- *numbers, where they are followed by neither a unit of measurement nor a percentage;*
- *fractions, whether preceded or not by the determinate or indeterminate article;*
- *duration;*
- *whenever figures start a phrase; and*
- *when they denote a percentage.*

184. *Where numbers involve writing out a large number of figures, they can be separated by groups of three, preceding the decimal point if there is one. The groups of three are separated by a comma (which is different from the French grammatical rule which uses a space), as, for example, "1,500". Decimals are designated by the mathematical decimal point typed on the line (here, again, French usage is different and uses a comma). Decimal fractions below unity are preceded by a nought. The multiplication sign is written as a small "x".*

185. *Where the texts refers to numbers in the value of millions, the word "million(s)" is spelt out in full after the figures, except where the number goes beyond round figures, for example, "2 million" and "2.3 million", but " 2,550,000". For billions, the word itself is usually spelt out after the full figure except where it is not a round number: for example, "2 billion", "2.5 billion" or "2 billion 500 million"; but "2,555,500,000".*

186. *Finally, when the numbers of figures are fractions (and not full numbers), they are rounded off to the nearest hundredth in favour of the full amount closest to the fraction, unless there is a special reason not to do this.*

187. *Units of measurement. The technical provisions of Conventions and Recommendations sometimes contain references to specific units for measurement in order to express a standard with scientific rigour. This happens, for example, when defining a maximum weight that can be supported during the handling of loads, the maximum length of working time or the maximum level of tolerance of a particular dangerous substance. In order to harmonize the units used in ILO instruments with the recognized international systems, it is preferable to use the International System of Measurement (SI)³⁷³ together with the sizes recommended in the ISO 31-0 standard on quantities and units of the International Organization for Standardization (ISO).³⁷⁴*

³⁷³ Bureau international des Poids et Mesures: *The International System of Units (SI)*, 7th ed., 1998.

³⁷⁴ International Organization for Standardization (ISO) ISO: *International standard – Quantities and units*, Geneva, 1992.

188. *The basic SI measures are as follows:*

Size	SI basic unit - name	SI unit basic unit - symbol
Length	<i>metre</i>	m
Mass	<i>kilogram</i>	kg
Time	<i>second</i>	S
Electric current	<i>ampere</i>	A
Thermo-dynamic temperature	<i>kelvin</i>	K
Quantity of matter	<i>mole</i>	mol
Intensity of light	<i>candela</i>	cd

This means that wherever SI basic units are mentioned in an instrument, drafters should use the SI symbols and not any other symbol. The style rule is to use roman script, without italics, whatever the context or lettering style. The abbreviations do not adopt the plural, nor are they punctuated by a full stop unless the usual grammatical rule requires one (for example, at the end of a sentence). The symbols are written in small letters except where the symbol is derived from a proper noun. They are placed after the numeral, leaving a space between the value and the abbreviation.³⁷⁵

189. *Units derived from these basic standards use superscript figures and mathematical symbols where operations are described, like multiplication or division. For example:*

Measurement derived from size	IS basic unit - name	IS basic unit - symbol
Surface	<i>square metre</i>	m ²
Volume	<i>cubic metre</i>	m ³
Speed	<i>metre per second</i>	m/s

190. *Clearly, some instruments may refer to units of measurement that do not appear in the SI system but which are commonly used in combination with that system and respond to a specific need in the legislative field. For example, when referring to time, it could be appropriate to maintain a reference to "hours", with the symbol "h". If the drafting has to be more precise, the unit of "minutes" could be added (the symbol is "min"). The word "hours" could be abbreviated when followed by minutes. For example, the drafter could choose "between 15 hours and 15h30" or "between 15h30 and 15h45". Expressions such as "eight hours and thirty minutes", "nine and a quarter hours" or "two hours forty-five in the afternoon" should be written as: "8h30", "9h15" and "14h45". Drafters should also use the words "midday" and "midnight" rather than "12h" and "24h" when using the 24-hour clock.*
191. *Lastly, for maritime instruments, units of weight, distance and length have their own drafting style and these should be respected, with the SI equivalent (if any) in brackets.*

³⁷⁵ See *International standard – Quantities and units*, *ibid.*, p. 10.

2.4.2.5. Abbreviations (other than units of measurement)

(i) *Drafting practice*

192. Conventions and Recommendations rarely contain abbreviations. Abbreviations are only used in the case of acronyms denoting international organizations to which reference is sometimes made; note that the definite article is always used when the acronym is used as such (like "the WTO"), but not where it is used as a noun (like "UNESCO"). In some Conventions and Recommendations you will see "the ILO" or "the IMO" in this form.³⁷⁶

(ii) *Proposals*

193. *Abbreviations, except for numerical symbols, should be used sparingly. References to international organizations should be made using their official name in full.*

194. *If, in the interests of making the text easier to read, abbreviations must be resorted to, the acronym - in brackets - should follow the first mention of the official name which should be written out in full: for example, "the International Labour Organization (ILO)". This is particularly important in English texts since "ILO" can mean either the Organization or the Office.*

2.4.2.6. Currencies

(i) *Drafting practice*

195. In older instruments, the only currencies that were expressly mentioned were the United States dollar and the British pound,³⁷⁷ although it was sometimes stated that equivalent sums could be calculated in the currency of other countries. More recent instruments, however, only use United States dollars.³⁷⁸ Currency units are spelt out in words rather than their respective symbols.

(ii) *Proposals*

196. *It is recommended to spell out currencies in letters.*

2.4.2.7. Italics and underlining

(i) *Drafting practice*

197. In ILO instruments italic script is used only in a limited number of cases. First, italics are used for foreign words and expressions not in common use, like Gallicisms or Latin phrases, or other words not in the drafting language) that are obscure to the average reader. Thus, the Latin expressions "*mutatis mutandis*" and "*bona fide*" normally appear in italics.³⁷⁹ Drafters should be careful here, since English words are often italicized in French,³⁸⁰ likewise words from other languages which are neither English nor French, like

³⁷⁶ See R189, Para. 20; R193, Para. 8; and C164, Art. 13(2)(a) where both the full name and the abbreviation "IMO" are used in a slightly different order to make the text more readable.

³⁷⁷ See, for example, C76, Art. 5; C93, Art. 5; C109, Art. 6; and R109, Para. 2.

³⁷⁸ See R187, Para. 10.

³⁷⁹ See, for example, C152, Art. 18(5) for use of "*mutatis mutandis*"; note, however, that the Latin term "*bona fide*" is not italicized in English (contrary to French) as it has entered into common usage: C133, Art. 1(6), for example.

³⁸⁰ See C22, Art. 1 in the French language version.

"dhows", are not italicized in English or French.³⁸¹ Secondly, italics are used for the titles of official publications referred to in a Convention or a Recommendation: for example, Article 6(3) of the Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164), refers, in italic script, to the *International medical guide for ships* and the *Medical first-aid guide for use in accidents involving dangerous goods*. The same practice relates to the *Code of practice on safety in the use of asbestos*.³⁸²

198. Certain terms appear in italics for stylistic reasons, to give emphasis to a word or phrase that has particular importance in an instrument. Articles 9 and 11 of the Social Security (Seafarers) (Revised) Convention, 1987 (No. 165), for example, use italics to draw attention to the various benefits available and which are listed in subparagraphs.

199. Lastly, there is no underlining in ILO Conventions and Recommendations.

(ii) *Proposals*

200. *In ILO Conventions and Recommendations, words or expressions foreign to the language in which the instruments are drafted should be avoided. Where an expression - originally borrowed from a foreign language - has become common usage or is a recognized technical term, it can be used but, in that case, not italicized. A list of such words in English appears in the ILO house style manual, and includes expressions such as: "ad hoc", "apartheid", "in extenso", "in extremis", "de facto", "de jure", "status quo" and certain currency units.*

201. *When the context makes it absolutely necessary (for example, where there is no English language alternative, equivalent phrase), expressions not in the drafting language should be written in italics. Italics are also the rule for titles of foreign language laws, decrees and protocols, publications, etc. For the latter, where the exact title is reproduced in the instrument, initial capitals in the original language are respected. Practice determines the words that have become a common usage or recognized technical terms.*

2.4.2.8. Tenses

(i) *Drafting practice*

202. ILO Conventions are usually drafted in the present indicative and imperative mood; essentially the former is used for definitions and scope and the latter for the substantive obligations under the Convention. In English legislative drafting, the auxiliary "shall" has nothing to do with tense; its only function is to indicate that a provision is meant to be imperative.³⁸³ The imperative "shall" thus identifies a provision as a requirement laid down in the Convention. A third form of verb, "may" is used for optional or permissible provisions. French translations of the mandatory/permissible instructions vary.³⁸⁴

203. Recommendations are usually drafted in the present or conditional tense in English. The present indicative introduces the scope of the instrument.³⁸⁵

204. Lastly, other tenses for verbs are used in some ILO instruments, although rarely, for example the simple past.

³⁸¹ See C53, Art. 1(1)(c).

³⁸² See R172, Para. 5.

³⁸³ See Driedger on the Construction of Statutes, 3rd ed., by R. Sullivan, Butterworths, Toronto, 1994, p. 541 and C185.

³⁸⁴ See French version of C171, Art. 7(3)(a) and C178, Art. 6(2).

³⁸⁵ See, for example, R162, Para. 1.

(ii) *Proposals*

205. *Three main forms of the verb tense should normally be used in ILO Conventions:*

- *the present indicative for definitions, scope, setting out the undertakings of ratifying States;*
- *the imperative ("shall") for the obligations placed by the Convention on ratifying States; and*
- *the permissive "may" is used in situations of discretion.*

206. *For Recommendations, the conditional tense is preferred: "should...".*

2.4.2.9. Persons

(i) *Drafting practice*

207. ILO Conventions use the third person singular, and occasionally the third person plural, depending on the grammatical rule pertaining to the subject of the verb: an individual³⁸⁶ or members of a group.³⁸⁷

(ii) *Proposals*

208. *It is recommended that the instruments use the singular (although the plural form may be useful to reflect a more gender-inclusive language. See the section on gender-inclusive language).*

2.4.2.10. Active and passive usage

(i) *Drafting practice*

209. ILO instruments regularly use passive voice and yet in national legislative practice, in order to name the subject to whom a legislative provision gives a power or a duty, the active voice has traditionally been applied in legislative drafting. A provision spelled out in passive voice either omits this subject or does not indicate it clearly. The use of the passive voice should not be excluded when, for example, the subject to whom a legislative provision gives a power or a duty is unknown or unimportant. Article 4 of the Migration for Employment Convention (Revised), 1949 (No. 97), is a good example:

Article 4

Measures shall be taken as appropriate by each Member, within its jurisdiction, to facilitate the departure, journey and reception of migrants for employment.³⁸⁸

210. Use of the passive voice is the rule where the subject of the action is purposely undefined.³⁸⁹

211. Regarding negative and positive verb forms, ILO instruments rarely use negations to express a positive obligation.³⁹⁰ The negative form of verbs is usually restricted to specific

³⁸⁶ See, for example, "the competent authority".

³⁸⁷ See, for example, "member States".

³⁸⁸ See also C67, Art. 19(1); C171, Art. 1(b); and C185, Art. 3(9).

³⁸⁹ See, for example, C114, Art. 4(1); C169, Art. 26; and R157, Para. 7(1).

prohibitions,³⁹¹ to the determination of upper and lower limits³⁹² or to exclusions from the instrument's scope.³⁹³

(ii) **Proposals**

212. *Drafters should use the active voice wherever possible:*

- *so as to designate the subject to which the instrument is attributing a power, right or discretion. Verb auxiliaries can then be used, such as "may"; at times, the context might require that the verb be reworded using a different expression, like "... is empowered to/has the right to exercise ...". A note of caution, however, when using this form of the active voice: "is entitled to" denotes a right, as opposed to discretionary power. In yet other circumstances, the verb might be modified by adverbs, such as "possibly", "optionally" or "alternatively" (if there are but two choices);*

For example:

The competent authority may authorize the division of annual paid leave ~~may be authorized by the competent authority.~~

- *to specify the subject on whom the instrument imposes an obligation:*

For example:

Each member, within its jurisdiction, shall take measures to facilitate the departure, journey and reception of migrants for employment.

instead of:

Measures shall be taken as appropriate by each Member, within its jurisdiction, to facilitate the departure, journey and reception of migrants for employment.

213. *When the subject cannot be identified, or where the drafting principle of gender-inclusive language requires the choice of a neutral phraseology, the passive voice could be used. For example, "The right to benefits may be the subject of suspension in whole or in part" could be changed to: "The right to benefits could be wholly or partially suspended."*

214. *Likewise, when a legislative provision can be drafted either positively or negatively, it is preferable to use the positive verb form because it is usually more direct, straightforward and therefore easier to understand. However, the negative can be used whenever the intent behind a legislative provision requires it, as in the following examples:*

- *when the context calls for a prohibition; in such cases drafters should take care to avoid double and multiple negatives. Prohibitions can be expressed using words like "may not", or the impersonal "workers are prohibited from", or occasionally "must not"; and*

³⁹⁰ See, for example, C62, Art. 7(2), which states: "A scaffold shall not be constructed, taken down, or substantially altered, except (a) under the supervision of a competent and responsible person; and (b) as far as possible by competent workers possessing adequate experience in this kind of work.

³⁹¹ See, for example, C169, Art. 4(2).

³⁹² See, for example, C22, Art. 6(3)(10)(c): "... provided that such period shall not be less for the shipowner than for the seaman;". See also C152, Art. 2(2), which states: "... is satisfied ... that the overall protection afforded is not inferior to that which would result from the full application of the provisions of this Convention."

³⁹³ See, for example, C157, Art. 2(4); C165, Art. 28; and R132, Para. 2.

- *when specifying exclusions from the scope provisions of the instrument.*

2.4.2.11. Nouns and verbal forms

(i) *Drafting practice*

215. A number of provisions use nouns to express an action when an equally good verb exists. In most cases, therefore, it seems that the use of the noun form rather than a verb is not legally justified.

(ii) *Proposals*

216. *Verbs are generally preferred to their noun forms in ILO instruments because they are more precise, direct and clear; special care should be taken to follow this plain language drafting style in the drafting of ILO instruments.*

For example:		
<i>To provide</i>	instead of	<i>to make provision for</i>
<i>To use</i>		<i>to make use of</i>

217. *Simple verbs are always preferable to complicated sandwich structures.*

For example:		
<i>To inquire into</i>	instead of	<i>to carry out an inquiry into</i>
<i>To mention</i>		<i>to make mention of</i>
<i>To clarify</i>		<i>to make it clear</i>

218. *Lastly, grammatical rules are respected when it comes to split infinitives and verbs and their auxiliary clusters, unless clarity requires otherwise.*

For example:	
<i>"The employer shall, within two weeks of the date of receipt of the employee's claim, give reasons for the dismissal."</i>	
should be redrafted as:	
<i>"The employer shall give reasons for the dismissal within two weeks of the date of receipt of the employee's claim."</i>	

2.4.2.12. Personal pronouns and adjectives

(i) *Drafting practice*

219. ILO texts show many different examples of indefinite pronouns, such as "whosoever", "what(so)ever", "more" and adjectives, like "several". "More" is usually seen in phrases like "two or more".³⁹⁴

(ii) *Proposals*

220. *Wherever possible drafters should avoid indefinite pronouns in ILO Conventions and Recommendations, unless they permit the avoidance of a gender-specific term (see the section on gender-inclusive language).*

For example:

"anyone", "whoever", "latter", "or more".

221. *Lastly, if a pronoun may refer to more than one person or entities in a sentence, a good drafting device to avoid ambiguity regarding the subject being referred to is to repeat the name of the person/entity in question.*

For example:

"After the Chairperson has named a mediator, he or she shall oversee the correct functioning of the procedure."

should be redrafted as:

"After the Chairperson has named a mediator, the mediator shall oversee the correct functioning of the procedure." (if one wishes to refer to the mediator)

OR

"After he or she has named a mediator, the Chairperson shall oversee the correct functioning of the procedure." (if one wishes to refer to the Chairperson)

2.4.2.13. Adjectives and adverbs

(i) *Drafting practice*

222. Qualifying words like adjectives and adverbs are designed to qualify the meaning of the word or phrase to which they relate. Practice is to place them immediately before or after the noun or verb which they modify.

(ii) *Proposals*

223. *If poorly placed within the body of a text, qualifying terms may give rise to ambiguity. To avoid this, good drafting practice is to place them as close as possible to the word or phrase that they qualify, especially when there is a risk of confusion with another word or phrase in the sentence.*

³⁹⁴ See, for example, C170, Art. 6(2); C176, Art. 12; C184, Art. 6(2).

For example:

"The Chairperson of the Tribunal may authorize payment of compensation only."

OR

"Only the Chairperson of the Tribunal may authorize payment of compensation."

OR

"The Chairperson of the Tribunal only may authorize payment of compensation."

- 224.** *Lastly, regarding the use of the pronouns "which" or "who", no comma is used to separate them from the noun when they qualify or limit its meaning.*

For example:

"This provision applies only to enterprises which employ three or more workers."

- 225.** *However, when the pronoun introduces an adjectival phrase descriptive of the noun it qualifies, it is preceded by a comma, with a second comma at the end of the adjectival phrase. In English grammar, a drafting device to avoid confusion about whether or not to use a comma, is to use a different pronoun, namely "that". Drafters would then follow the advice that: "which" informs whereas "that" defines.*

For example:

"The procedure, which is described in section 9 of the 1998 Act on settlement of disputes, states that."

OR

"The procedure that is described in section 9 of the 1998 Act on settlement of disputes states that."

2.4.2.14. Conciseness

(i) *Drafting practice*

- 226.** In Conventions and Recommendations a large number of provisions use wordy expressions instead of a single term, and yet there is often an equivalent single word available that is clear and respects the plain language approach. For example, one often sees "by means of"³⁹⁵, "by reason of"³⁹⁶, or "for the purpose of"³⁹⁷.

(ii) *Proposals*

- 227.** *Conciseness and brevity are desirable - and part of the plain language approach - because the use of unnecessary additional words in a text can create problems when the text is applied. A superfluous term can be the source of misunderstanding and errors in interpretation of the text; it can complicate a reader's grasp of the meaning underlying the instrument. Each word that appears in the text must be aimed at making the text and its meaning clear, and any words that do not fulfil that function should be dropped.*

³⁹⁵ See, for example, C134, Art. 9(2).

³⁹⁶ See, for example, C165, Art. 14.

³⁹⁷ See, for example, C180, Art. 7(1).

For example:

"A worker having the status of employee ."

should be redrafted as:

"An employee."

- 228.** *Along these lines the following examples show that where one word can replace a grouped phrase of several words that have the same meaning, the drafter should use the single word:*

For example:

<i>while</i>	instead of	<i>during such time as</i>
<i>during</i>		<i>during the course of</i>
<i>contract with</i>		<i>enter into a contract with</i>
<i>for</i>		<i>in the interest of</i>
<i>after</i>		<i>subsequent to</i>
<i>by</i>		<i>on the part of</i>
<i>that</i>		<i>to the effect that</i>

2.4.2.15. And/or

(i) *General*

- 229.** When considering the use of the expression "and/or", drafters need to clarify the scope of each of the coordinating conjunctions "and" and "or" when used separately.
- 230.** The conjunction "and" on its own poses no particular problem of interpretation. Its purpose is to link two parts of a phrase and expresses the idea of addition. In a legal instrument defining the conditions that must be met for a right or an obligation to take effect, the word "and" indicates that the conditions in question are cumulative and must all be met.
- 231.** The conjunction "or" is a little more ambiguous. In principle, the term is inclusive in meaning, but can have an exclusive connotation,³⁹⁸ depending on the context. On the one hand, it may thus indicate either that all the conditions or that only some of them must be met (inclusive use). On the other hand, it may also convey the idea that one - and only one - of the stated conditions must be met (exclusive use of "or" indicating alternative conditions). This applies, for example, to cases where the conjunction "or" links mutually exclusive conditions which cannot coexist without giving rise to a contradiction in terms or a practical impossibility.
- 232.** The use of the expression "and/or" in some technical writing, including legal texts, is intended to prevent the conjunction "or" from being construed in its exclusive (disjunctive) sense. It is not clear that this phrase eliminates ambiguity. Judge Louis-Philippe Pigeon, a former Justice of Canada's Supreme Court, once wrote when Professor of Constitutional Law:

³⁹⁸ That is, the conditions cannot be cumulative.

What is to be said of "and/or"? It is quite simply inadmissible. I quote part of what Daviault said in his work *Langage et traduction* regarding "and/or": he cites a United States judge who described the combination as "A befuddling, nameless thing, that Janus-faced verbal monstrosity, neither word nor phrase, the child of a brain of someone too lazy or too dull to know what he means."

"And/or" appears to be used by people whose main concern is to appear erudite. In my view, they achieve quite the opposite effect. Use of this pseudo-conjunction is abhorrent to the spirit of both English and French. It is important to take the time to think and to construct a sentence in such a way as to avoid it.³⁹⁹

(ii) *Drafting practice*

233. The expression "and/or" appears in 29 provisions of six Conventions⁴⁰⁰ and four Recommendations.⁴⁰¹ Two Conventions, namely, the Accommodation of Crews Convention, 1946 (No. 75), and the Accommodation of Crews Convention (Revised), 1949 (No. 92), make extensive use of the term. Two recent examples of the use of "and/or" are seen in the Worst Forms of Child Labour Convention, 1999 (No. 182), and Recommendation (No. 190).

234. In all cases where "and/or" is used, the intention is to give an inclusive sense to the two linked conditions, so that they can be either alternative or concurrent conditions. Indeed, there appear to be no cases, with two exceptions,⁴⁰² in which the linked conditions could be construed as mutually exclusive or in which the context would normally preclude one of the two alternatives.

(iii) *Proposals*

235. *Use of the term "and/or" should always be avoided, since it does not resolve the semantic ambiguities inherent in using "or" on its own in either its inclusive or exclusive (disjunctive) sense.*

236. *The coordinating conjunction "or" should be used only in cases where the provisions indicates that all - or only some of the conditions must be met.*

237. *The coordinating conjunction "and" must be used when all the conditions given have to be met.*

238. *In cases where the conditions can only be understood as alternatives, the wording should reflect that intended meaning unambiguously, for example, by stating explicitly "either [condition X] or [condition Y] but not both".*

2.4.2.16. Ensure/secure

239. The distinction between the concepts "ensure/secure" ("assurer" in French) and "arrange" ("veiller" in French) is found primarily and almost exclusively in the French language version of instruments.

³⁹⁹ Pigeon, L.-P.: *Rédaction et interprétation des lois*, 2nd edition, Quebec, Editeur officiel du Québec, 1978, p. 35.

⁴⁰⁰ C75, C92, C154, C155, C158 and C182.

⁴⁰¹ R105, R162, R164 and R190.

⁴⁰² See C75, Art. 18(3), and C92, Art. 18(3). In the first sentence of both Articles, the terms linked by the conjunction "and/or" are formally opposed: a ship in the process of being built cannot be undergoing conversion, since for the latter to occur it must already have been built, and vice versa. While the context does not appear to preclude the coexistence of these two states, this would run counter to logic.

240. The verb "ensure/secure" is linked to the notion of obligation. It is normally preceded by "shall" ("devoir" in French).
241. For example, Article 30 of the Safety and Health in Construction Convention, 1988 (No. 167), stipulates that the employer "shall ensure" proper use, and in Article 35 that "each Member ... must take all necessary measures ... to ensure" effective enforcement. Such formulas are used frequently in the Conventions.
242. To refer to an obligation, the English-language version of instruments does not distinguish between "ensure" or "secure", though favouring the former.⁴⁰³
243. The word "arrange" (sometimes used as the equivalent of "veiller" in French), on the other hand, is used in texts that are less binding, and is used far more frequently in Recommendations than in Conventions. For example, Paragraph 2(3) of the Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977 (No. 156), stipulates that "It should be the duty of the employer to arrange for equipment used to ...".
244. The Spanish-language texts sometimes make a similar distinction as in French by using the verbs "asegurar" or "velar". The verb "garantizar" is sometimes used as a synonym of the French term "assurer".⁴⁰⁴

2.4.3. Punctuation

2.4.3.1. Drafting practice

245. The signs most commonly used in legal texts are: the full stop (.), the comma (,), the semi-colon (;) and the colon (:). For ILO instruments more particularly, some commentary is needed to explain usage of the semi-colon, quotation marks, brackets and dashes.
246. The use of the semi-colon is common in listings, after a colon.

For example:

"For the purpose of this Convention the term "agriculture" does not cover:

- a) subsistence farming;
- b) industrial processes that use agricultural products as raw material and the related services;
and
- c) the industrial exploitation of forests." (C184, Art. 2)

In English, the practice is to use the word "and" before the last element of a listing (contrary to French). Modern plain language omits the element "and". The ILO might consider introducing this practice.

247. In certain cases, however, semi-colons are used to mark a pause, longer than a comma and shorter than a full stop, within a long sentence.

For example:

"For the purpose of this Convention the expression "fee-charging employment agency" means-

- a) employment agencies conducted with a view to profit, that is to say, any person, company, institution, agency or other organization which acts as an intermediary for the purpose of

⁴⁰³ See, for example, the English-language versions of C174, Preamble; and C167, Art. 19.

⁴⁰⁴ See, for example, the Spanish-language versions of C174, Preamble; and C167, Art. 35.

procuring employment for a worker or supplying a worker for an employer ...; the expression does not include newspapers or other publications unless they are published wholly or mainly for the purpose of acting as intermediaries between employers and workers;" (C34, Art. 1(1)(a))"

- 248.** Quotation marks are used in ILO instruments specifically to denote definitions. The word being defined is placed between the quotation marks and followed by the definition attributed to that word in the instrument. A recent example is Article 2 of the Worst Forms of Child Labour Convention, 1999 (No. 182):

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

This drafting style shows that the word "child" - placed in quotation marks - is attributed a special meaning beyond the common usage, and defined by the words which follow that punctuation. Yet the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189), Paragraph 12(e), shows an unusual use of punctuation of this kind to denote the fact that a commonly used phrase is being used with a special meaning, without being defined elsewhere in the text:

e) promoting easy access to an integrated range of effective services through "single window" arrangements or referral services;

- 249.** Lastly, some ILO instruments use parentheses to insert further information or an explanation into the text. For example, Article 7(1) of the Seafarers' Annual Leave with Pay Convention, 1976 (No. 146), reads as follows:

1. Every seafarer taking the annual leave envisaged in this Convention shall receive in respect of the full period of that leave at least his normal remuneration (including the cash equivalent of any part of that remuneration which is paid in kind), calculated in a manner to be determined by the competent authority or through the appropriate machinery in each country.

Conventions adopted after the Safety and Health in Construction Convention, 1988 (No. 167), do not include any parenthetical explanations such as that example. For Recommendations, text in parentheses appears in the French version until the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189).⁴⁰⁵ Unlike French usage, there appears to be no use of dashes (instead of commas or parentheses) in English language instruments to break a text in order to introduce a new element.⁴⁰⁶

2.4.3.2. Proposals

- 250.** *Punctuation should be used sparingly, and follows the usual grammatical rules that apply to legal texts for the full stop (.), the semi-colon (;), the colon (:), and quotation marks ("...").*
- 251.** *In English, plain language usage encourages the semi-colon to mark a pause within a long sentence, rather than a comma or a full stop. In ILO texts, it is recommended that drafters use a full stop rather than a semi-colon.*
- 252.** *Quotation marks should only be used for definitions when giving a specific meaning to a word or term within an instrument. In such cases, quotation marks are used only on the*

⁴⁰⁵ See the French version of R189, Para. 16(4). No such use is made in the English version.

⁴⁰⁶ See, for example, the French version of C157, Art. 4(3)(b); and R153, Para. 13.

first occasion that the word or term is used, and are not repeated throughout the rest of the text.

- 253.** *Lastly, brackets and dashes should not be used to introduce a new proposition in a sentence since this fails to logically connect the elements of the sentence and frequently results in long sentences. Commas around the new proposition suffice as punctuation to show the reader that a sub-clause is being used. That style is in fact becoming the norm.*⁴⁰⁷

2.4.4. Gender-inclusive language⁴⁰⁸

2.4.4.1. International context

- 254.** Gender-inclusive language is important for promoting and achieving equality between men and women and avoiding sexist language.⁴⁰⁹ In 1995, an expert group meeting on the development of guidelines for the integration of gender perspectives into human rights activities and programmes, convened by the Office of the High Commissioner for Human Rights and the United Nations Development Fund for Women (UNIFEM), adopted the following specific recommendation:

- (a) The language used in the formulation of new human rights instruments and standards and in existing standards should be gender inclusive. The Office of the High Commissioner for Human Rights should establish a guideline on gender inclusivity in all the official languages of the United Nations, for use in the preparation of all its communications, reports and publications. The Commission on Human Rights, its Sub-Commission and the various human rights mechanisms referred to above should also strive to ensure that the language used in reports and resolutions is gender inclusive.

2.4.4.2. Drafting practice

- 255.** The International Labour Conference adopted at its 100th Session a Resolution concerning gender equality and the use of language in legal texts of the ILO.^{409bis} In the Resolution the Conference resolved that gender equality should be reflected through the use of appropriate language in the official legal texts of the Organization and that in the ILO Constitution and other legal texts of the Organization, in accordance with applicable rules of interpretation, the use of one gender includes in its meaning a reference to the other gender unless the context otherwise requires.⁴¹⁰

⁴⁰⁷ See, for example, C164, Art. 7(2).

⁴⁰⁸ English and French versions of the following substantially differ because of the languages' own characteristics (see in particular under heading (c)).

⁴⁰⁹ In French, the expression used for "gender-inclusive language" is "langage épécène" which means denoting either sex without change of gender.

^{409bis} ILO: *Provisional Record* No. 10, International Labour Conference, 100th Session, Geneva, 2011, p. 2.

⁴¹⁰ Paragraph revised in 2011. See Appendix 10. Instructions on avoiding sexist and racist language in ILO publications, may be found in the ILO house style manual already mentioned, and on using gender-inclusive drafting in national legislation, prepared by the Office and contained in the Labour legislation guidelines (available at <http://www.ilo.org/public/english/dialogue/fpdial/llg/>).

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256. English and French grammatical rules differ.⁴¹¹ In English language texts, earlier instruments were cast, as in French, solely in the masculine, following the old interpretation maxim that words importing the masculine gender are to be read to include females. Sometimes provisions are addressed to workers of one sex only, usually in the context of reproductive health. More recent instruments containing such provisions have been drafted in a way that avoids pronouns. An example is Article 18 of the Safety and Health in Agriculture Convention, 2001 (No. 184), entitled "Women workers": "Measures shall be taken to ensure that the special needs of women agricultural workers are taken into account in relation to pregnancy, breastfeeding and reproductive health".⁴¹²
257. There are, however, examples of continuing use of sexist words that echo traditions of particular sectors and branches of activity. For example, in 1996 a Convention and Recommendation were adopted referring, in their titles and the body of the instruments, to the "manning" of ships.⁴¹³ Those same instruments use the term "fishermen"⁴¹⁴ rather than "fishing people" or "fishers", the latter sometimes used in national legal texts.
258. There is a trend in recent texts, nevertheless, to use the plural of nouns in order to avoid grammatical constructions that would, under English language rules, require the drafter to use a masculine or feminine pronoun. For example, Paragraph 5 of the Private Employment Agencies Recommendation, 1997 (No. 188), states "Workers . should have a written contract of employment specifying their terms and conditions of employment."

2.4.4.3. First attempts towards a gender-inclusive language

259. A number of works on linguistics show that the first attempts to eliminate sexism in written language relied on grammatical signs such as parentheses, commas, slashes and hyphens. These had certain practical advantages, but are not recommended, since, quite apart from irritating the reader, such signs themselves help to sideline women or push them into the background.
260. The real aim of gender-inclusive writing should be to ensure that language is equally inclusive of women and men, while avoiding cumbersome repetitions and eschewing the stereotypes inherent in the universal use of the masculine gender. A number of proposals for dealing with this are given below.

2.4.4.4. Proposals

261. *Male-dominated language marginalizes and trivializes women, or makes them invisible. Research concludes that the generic masculine is a false generic that fails to communicate equally the two genders and taints the universality of the text. Modern society and, indeed, the fundamental principles of decent work and employment and professional equality between women and men require new drafting approaches. While recognizing that gender-inclusive writing and the feminization of the language used must be a habit of thought before it can become a habit of writing, drafters should consider the following strategies as a means of giving concrete expression to the principle of gender-inclusive language. Different approaches to implementing this strategy are set out below.*

⁴¹¹ In French language instruments, certain general rules apply, such as the masculine form of declensions being normally used as the generic form. The feminine form is used only to indicate that a given provision applies specifically to women. However, there are a number of examples of the use of gender-neutral language, where this has been feasible, in more recent instruments. For example, the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), in the French version, uses the gender-neutral term "gens de mer" rather than "marins".

⁴¹² See also Art. 7(2)(e) of the Worst Forms of Child Labour Convention, 1999 (No. 182).

⁴¹³ C180 and R187.

⁴¹⁴ See, for example, C180, Art. 1(2).

262. *In general:*

- *use common sense in avoiding assumptions that the reader will accept the text as inclusive of all workers and employers;*
- *use plurals or repetition of the subject or introduce a general noun where grammatical syntax tempts a drafter to use the masculine pronoun (e.g. not "the worker... he" but "workers... they", or not "the worker... his rights" but "the worker... that person's rights");*
- *use parallel constructions to avoid gender-biased terms e.g. not "men and their wives" but "husbands and wives";*
- *do not use parentheses, slashes, hyphens or square brackets when introducing feminine and masculine forms e.g. "she or he" rather than "he/she" or "(s)he";*
- *restructure sentences whenever necessary (to avoid for instance unnecessary references to "his", "him", etc. in subordinate clauses).*

263. *When referring to persons of unspecified sex who could be either men or women, avoid:*

- *terms which, although apparently covering both sexes, may appear to be insufficiently inclusive of women;*
- *formulas that reflect a stereotypical idea of gender roles;*
- *titles and common nouns ending in "man" e.g. "seafarer" rather than "seaman" and "chairperson" rather than "chairman".*

264. *More specific proposals address particular phrases and terms. First, regarding the use of the words "man", "men" and "mankind":*

- *drafters should avoid them;⁴¹⁵*
- *try to replace them by words like "person", "human being", "people", "community", "society", "humanity"; "humankind";*
- *do not use expressions like "man of letters", "statesman", etc.*

265. *For example,*

use the following	instead of
<i>Average person</i>	<i>Average man</i>
<i>Business circles, business managers</i>	<i>Businessmen</i>
<i>Ordinary person, individual</i>	<i>Common man</i>
<i>Ombudsperson</i>	<i>ombudsman</i>
<i>Personnel</i>	<i>manpower</i>

⁴¹⁵ However, if the substance of a draft text or provision applies to one sex only, words that identify that sex should be used. It is clear that there may be occasions when the context requires use of these words, such as Art. 1(1) of the Workers with Family Responsibilities Convention, 1981 (No. 156), which states: "This Convention applies to men and women workers with responsibilities in relation to their dependent children...".

Scientists

Men of science

Staff, labour, workforce, worker

Staff, labour, workforce, worker

Work month or person month

Man month

266. *Secondly, as regards the feminization of occupations, functions, grades and titles, the following is proposed:*

- *eliminate sexist terms and enhance the visibility of women in the text;*
- *do not use generic masculine titles or job names to functions exercised by women.*

Appendices

Explanatory note

Some appendices supplement the *Manual for drafting ILO instruments* by providing either additional information concerning the themes discussed in the Manual or examples to facilitate the work of those responsible for drafting future instruments of the International Labour Organization.

Appendix 1

Summary description of ILO instruments

1. International labour Conventions and Protocols

Synonymous with international treaties, international labour Conventions go through a pre-established tripartite discussion procedure and are also adopted within a tripartite framework. Once a Convention has been adopted by the ILC, the member States are required under the Constitution to bring it before the competent authorities "for the enactment of legislation or other action". This innovative requirement is intended to generate democratic debate at national level on whether it is appropriate to ratify the international labour Convention concerned. If the member State decides to ratify the Convention, it is only at that point that it acquires binding force for that State and that the State has to take such action as may be necessary to make its provisions effective.

Generally speaking, it is recognized that Conventions have to be universal - in other words ratifiable by the largest possible number of States - adapted to national conditions, flexible and viable. Some Conventions are more technical, setting out specific standards which the member States undertake to comply with or to achieve through ratification, while others are more of a promotional nature, setting aims that have to be pursued by means of ongoing national action plans. From the point of view of the ILO Constitution, international labour Conventions do not affect more favourable national provisions. Furthermore, if a State withdraws from the ILO, it remains bound by Conventions which it has previously ratified.

Since the Organization was founded, the ILC has pursued an intense programme of legislative activity with 187 Conventions adopted to date (September 2006) which involved more than 7,400 ratifications. They cover all labour-related issues.

Protocols are also international treaties, but which, in the ILO context, do not exist independently since they are always linked to a Convention. Like Conventions, they are subject to ratification (however, the Convention to which they are linked also remains open for ratification). They are used for the purpose of partially revising Conventions, in other words where the subject of the revision is limited. They thus allow adaptation to changing conditions and they enable practical difficulties to be dealt with which have arisen since the Convention was adopted, thus making the Conventions more relevant and up to date. Protocols are particularly appropriate where the aim is to keep intact a Convention which has already been ratified and which may receive further ratifications, while amending or adding to certain provisions on specific points. The ILC has adopted five Protocols to date.

2. International labour Recommendations

International labour Recommendations go through the same tripartite drafting and adoption process as Conventions. They too have to be brought before the competent authorities, but they are not subject to ratification and do not therefore have binding force. The ILO Constitution provides that Recommendations shall be adopted where the subject, or aspect of it, dealt with by the ILC, is not suitable for a Convention. However, practice has moved away from the primary role provided for in the Constitution, and most up-to-date Recommendations supplement and clarify the content of the Conventions they accompany. Only a small number of independent Recommendations have been adopted by the ILC. Recommendations serve above all to define the standards that are to guide government action.

The ILC has adopted 198 Recommendations to date.

3. Other ILO instruments

Although Conventions and Recommendations are the instruments most commonly used by the ILC to formulate standards, it has also, in its long practice, used other types of texts.

(a) ILC and Governing Body declarations

Declarations are generally used by the ILO ILC or Governing Body in order to make a formal statement and reaffirm the importance which the constituents attach to certain principles and values. Although declarations are not subject to ratification, they are intended to have a wide application and contain symbolic and political undertakings by the member States. In some cases declarations could be regarded as an expression of customary law. Four declarations have been adopted by the ILO: the Declaration of Philadelphia in 1944, which has since formed an integral part of the ILO Constitution; the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy in 1977; the Declaration on apartheid in 1964; and lastly, in 1998, the Declaration on Fundamental Principles and Rights at Work.

(b) ILC resolutions

The ILC generally uses resolutions for two different purposes. First, it may use resolutions as a way of formally expressing its will or its opinion on a given subject. These resolutions are intended as a response to practical situations and specific needs. Some are used as guidelines in terms of social policy standards and as reference points by the ILO's supervisory bodies for evaluating national situations. Secondly, the ILC may adopt resolutions accompanied by conclusions following general tripartite discussions within one of its technical committees. Although such discussions may not lead directly to a standard setting action, in many cases they enable problems to be explored in detail and from every angle (this was the case with social security in 2001, the informal economy in 2002, the employment relationship and occupational safety and health in 2003, and migrant workers in 2004).

(c) Other ILO texts

Technical committees of experts, special or regional conferences and bodies set up to deal with particular issues (social security, labour statistics, health and safety) or sectors (industrial committees, joint maritime commissions, etc.) are also required to adopt texts which may take various forms (resolutions, guidelines, standard regulations). These standards vary both in their content, which may relate to fundamental principles or technical matters, and in the authority conferred on them. However, they are certainly useful in that they are designed to respond to practical situations and have been adopted by bodies representing the interests involved.

Lastly, mention must be made of the guidelines and codes of practice prepared by the International Labour Office's technical departments and branches. Although not binding, they are still useful in that they are sometimes provided for in the Conventions themselves, and they develop and flesh out international labour standards. Their amendment procedure is also much more flexible than for the international labour Conventions and Recommendations. These guidelines and codes of practice are subject to the tripartite discussion process and to the Governing Body.

Appendix 2

Minute from C.W. Jenks to Jean Morellet¹ of 25 May 1934

[Original in English]

Mr. Morellet,

It would seem desirable to take this year a step which we have contemplated for some time, and to include in the text of Conventions as they are submitted to the Conference by the Drafting Committee the short titles for future citation.

In this connection I think three birds could be killed with one stone if we substitute the short title for the present last four lines of the Preamble to Conventions - i.e. if for "the following Draft Convention for ratification by the Members of the International Labour Organisation, in accordance with the provisions of Part XIII of the Treaty of Versailles and of the corresponding parts of the other Treaties of Peace" we substitute "the following Draft Convention which may be cited as the Unemployment Insurance and Relief Convention, 1934, etc." By doing this -

- (a) we can get in the short title and get it in at a convenient place at the head of the Convention;
- (b) we can get out the reference to ratification by Members which is superfluous and becomes a little inapt if an accession clause is included;
- (c) we can get rid of the mention of the Treaty of Versailles and the corresponding parts of the other Treaties of Peace.

I think this change could be made by the Drafting Committee without preliminary authorisation by the Conference.

[...]

25.5.34

¹ Both Legal Advisors at the 18th Session of the International Labour Conference (1934).

Appendix 3

Letter from J. Morellet (Legal Adviser of the ILO) to J.H. Nisot (Legal Service of the League of Nations Secretariat) of 10 August 1937

10 August 1937

Dear Nisot,

Thank you for your letter of 5 August. It is true, unfortunately, that the expression "partial revision" may create confusion since a complete Convention comes out of the revision in any case, even when it is partial. This terminological imprecision dates back to the time when the Office had to present and explain the revision procedure to the Governing Body. It is, if I may say, "encysted" in the texts rather fortuitously and it does not cause any inconvenience other than inelegancy of expression. We will, however, try to have it disappear.

Cordially yours,

[Signature]

[Original in French (translation of the Office)]

Appendix 4

List of defined terms in ILO instruments

This appendix contains an exhaustive list of terms defined in ILO Conventions and Recommendations as well as provisions which use those terms. Certain definitions are of limited interest. Definitions which seem most useful are listed in Appendix 5 “Glossary”.

Terms	Conventions and Recommendations
Able seaman	C76, C93 and C109 (Art. 4(c))
Access	C152 (Art. 3(g)); R160 (Para. 2(g))
Accommodation of crews	C75 and C92 (Art. 2(g)); C133 (Art. 2(h))
Activities in the non-commercial services sector	P81 (Art. 1(2))
Adult	C133 (Art. 2(g))
Age normally qualifying workers for an old-age benefit	R162 (Para. 20(d))
Agricultural occupations	C103 (Art. 1(4))
Agricultural undertaking ²	R70 (Annex, Art. 46(a)); R74 (Annex, Art. 25(a))
Agricultural undertakings ³	C129 (Art. 1(1))
Agricultural worker	C44 (Art. 2(4)) – shall be defined by legislation
Agriculture	C184 (Art. 1)
Air pollution	C148 (Art. 3(a))
Airborne asbestos dust	C162 (Art. 2(c)); R172 (Para. 3(c))
Allowance	C44 (Art. 1(1)(b))
Apprenticeship	R60 (Para. 1); R57 (Para. 1(c))
Approved	C75 and C92 (Art. 2(i)); C126 (Art. 2(h)); C133 (Art. 2(j))
Article	C170 (Art. 2(e))
Asbestos	C162 (Art. 2(a)); R172 (Para. 3(a))
Asbestos dust	C162 (Art. 2(b)); R172 (Para. 3(b))
Authorized person	C152 (Art. 3(d)); R160 (Para. 2(d))
Basic pay or wages	C76 (Art. 4(d)); C95 (Art. 1); R187 (Para. 2(a))
Benefit ⁴	C44 (Art. 1(1)(a))
Benefit ⁵	C102 (Art. 1(2)); C118 (Art. 1(b))
Benefits awarded/granted under traditional schemes	C118 (Art. 1(c)); C157 (Art. 1(o))
Bottles	C49 (Art. 1(2))
Branches of economic activity	C155 (Art. 3(a)); C170 (Art. 2(d)); R164 (Para. 2(a))
Breach of contract	C110 (Art. 23)

² In French: *établissement*.

³ In French: *entreprises*.

⁴ In French: *indemnité*.

⁵ In French: *prestation*.

Terms	Conventions and Recommendations
Central authority	C81 (Art. 4(2))
Central body	C129 (Art. 7(2))
Central coordinating authority	C178 (Art. 1(7)(a))
Chemicals	C170 (Art. 2(a))
Chief engineer	C53 (Art. 2(c))
Child	C3, C103 and C182 (Art. 2); C102 (Art. 1(1)(e)); C110 (Art. 46); C128 (Art. 1(h)); C130 (Art. 1(g)); C183 (Art. 1); R131 (Para. 1(f)); R134 (Para. 1(f))
Coal mines	C46 (Art. 1(1))
Collective agreement	R91 (Para. 2(1))
Collective bargaining	C154 (Art. 2)
Commercial undertaking	C3 (Art. 1(2)); R70 (Annex, Art. 46(b)); R74 (Annex, Art. 25(b))
Commuting accident	P155 (Art. 1(d))
Comparable full-time worker	C175 (Art. 1(c)); R182 (Para. 2(c))
Competencies	R195 (Para. 2(b))
Competent authority	C29 (Art. 3); C179 (Art. 1(1)(a)); C180 (Art. 2(a)); R187 (Para. 2(a))
Competent Member	C157 (Art. 1(c)); C165 (Art. 1(f))
Competent person	C152 (Art. 3(b)); C167 (Art. 2(f)); R160 (Para. 2(b)), R175 (Para. 2(g))
Complaint	C147 (Art. 4(3))
Consolidated wage	R187 (Para. 2(c))
Construction	C167 (Art. 2 (a)); R175 (Para. 2(a))
Construction site	C167 (Art. 2(b)); R175 (Para. 2(b))
Contract	C64 and C86 (Art. 1(d))
Contributory benefit	R131 (Para. 1(h))
Contributory benefit and non-contributory benefit	C128 (Art. 1(j))
Convention, the	R176 (Para. 1(c))
Dangerous occurrence	P155 (Art. 1(c))
Death grant	C118 (Art. 1(d))
Dependant ⁶	C165 (Art. 1(d))
Dependant ⁷	C70 (Art. 1(1)(b))
Dependent	C121 (Art. 1(d)); C128 (Art. 1(e)); C130 (Art. 1(e)); R121 and R131 (Para. 1(c)); R134 (Para. 1(d))
Dependent child	C121 (Art. 1(e)); C156 (Art. 1(3)); R165 (Para. 1(3))
Disabled person ⁸	R99 (Para. 1(b))
Disabled person ⁹	C159 (Art. 1(1)) and R168 (Para. 1(1))

⁶ In French: *personne à charge*.

⁷ In French: *personne à la charge des gens de mer*.

⁸ In French: *invalide*.

Terms	Conventions and Recommendations
Discrimination	C111 (Art. 1(1) and (2)); R111 (Para. 1(1))
Distant trade ship	C76 and C93 (Art. 11(b)); C109 (Art. 12(b))
Dock work	C152 (Art. 1); R160 (Para. 1) C137 (Art. 1(2)) and R145 (Para. 2) – to be defined by national legislation
Dockworkers	C137 (Art. 1(2) states that this term shall be defined by national legislation); R145 (Para. 2)
Emergency ¹⁰	C29 (Art. 2(2)(d));
Employability	R195 (Para. 2(d))
Employer	In the context of indigenous workers: C64 and C86 (Art. 1(b)). C119 (Art. 14); C167 (Art. 2(e)); C176 (Art. 1(2)); C177 (Art. 1(c)); R175 (Para. 2(f)); R184 (Para. 1(c))
Employment	C111 (Art. 1(3)); R111 (Para. 1(3))
Engineer	C125 (Art. 3(c)); R126 (Para. 2(c))
Engineer officer in charge of a watch	C53 (Art. 2(d))
Equal remuneration for men and women workers for work of equal value	C100 (Art. 1 (b))
Exposure to asbestos	C162 (Art. 2(e)); R172 (Para. 3(e))
Fee-charging employment agencies	C34 (Art. 1); C96 (Art. 1)
Fisherman	C114 (Art. 2)
Fishing vessel	C112 and C113 (Art. 1(1)); C114 (Art. 1(1)); C125 (Art. 1); C126 (Art. 2(a)); R126 (Para. 1(1))
Force majeure	C4 and C41 (Art. 4(a)); C30 (Art. 5(1))
Forced or compulsory labour	C29 (Art. 2(1) and (2))
Full-time worker affected by partial unemployment	R182 (Para. 2(d))
Hazardous chemicals	C170 (Art. 2(b))
Hazardous substance	C174 (Art. 3(a))
Health	C155 (Art. 3(e)); R164 (Para. 2(e))
Health service	C161 (Art. 1(a))
Home trade vessel	C22 (Art. 2(d))
Home work	C177 (Art. 1(a)); R184 (Para. 1(a))
Hours of rest	C180 (Art. 2(c))
Hours of work	C30 (Art. 2); C51 (Art. 2(5)); C57 (Art. 2(d)); C61 (Art. 3(1)); C67 (Art. 4(a)); C76 and C93 (Art. 11(d)); C109 (Art. 12(d)); C153 (Art. 4); C172 (Art. 4(1)); C180 (Art. 2(b)); R161 (Para. 5); R179 (Para. 6); R187 (Para. 2(d))
Inconvenient hours	R157 (Para. 30(d))
Indigenous worker	C50 (Art. 2(b))
Industrial undertaking ¹¹	C77 and C103 (Art. 1(2)); C128 and C130 (Art. 1(f));

⁹ In French: *personne handicapée*.

¹⁰ In French: *force majeure*.

¹¹ In French: *entreprises industrielles*.

Terms	Conventions and Recommendations
Industrial undertaking ¹²	R134 (Para. 1(e)); R131 (Para. 1(d)) C1, C3, C4, C5, C6, C14, C41 and C59 (Art. 1(1)); C89 and C90 (Art. 1(1)); C121 (Art. 1(c)); R70 (Annex, Art. 46(c))
Insolvency	C173 (Art. 1(1)); R180 (Para. 1(1))
Inspector	C178 (Art. 1(7)(b))
Institution	C157 (Art. 1(d))
Introduction	R61 (Para. 1(1)(b)); R86 (Para. 1(c))
Labour administration	C150 (Art. 1(a)); R158 (Para. 1(a))
Landowner	R132 (Para. 3)
Lands	C169 (Art. 13(2))
Legal provisions ¹³	C81 (Art. 27); C129 (Art. 2); C178 (Art. 1(7)(c))
Legislation	C118, C121 and C168 (Art. 1(a)); C128 and C130 (Art. 1(a)); C157 and C165 (Art. 1(b)); R121, R131, R134 and R176 (Para. 1(a)); R167 (Para. 1(b))
Length	C126 (Art. 2(c))
Lifelong learning	R195 (Para. 2(a))
Lifting appliance	C152 (Art. 3(e)); C167 (Art. 2(h)); R160 (Para. 2(e)); R175 (Para. 2(i))
Lifting gear	C167 (Art. 2(i)); R175 (Para. 2(j))
Lignite mines	C31 (Art. 1(2)); C46 (Art. 1(2))
Long-service benefit	R162 (Para. 20(e))
Loose gear	C152 (Art. 3(f)); R160 (Para. 2(f))
Machinery	C152 (Art. 13(7))
Major accident	C174 (Art. 3(d))
Major hazard installation	C174 (Art. 3(c))
Manual transport of loads	C127 (Art. 1(a)); R128 (Para. 1(a))
Master	C22 (Art. 2(c)); C23 (Art. 2(c)); C53 (Art. 2(a))
Mate	C125 (Art. 3(b)); R126 (Para. 2(b))
Medical care	C130 (Art. 1(k)); R134 (Para. 1(i))
Member	C157 and C165 (Art. 1(a)); R167 (Para. 1(a))
Member of the family	C157 (Art. 1(g)); R167 (Para. 1(e))
Migrant for employment	R86 (Para. 1(a))
Migrant worker	C97 and C143 (Art. 11(1)); R100 (Para. 2)
Mine	C45 (Art. 1); C123, C124 and C176 (Art. 1(1)); R124 and R125 (Para 1(1))
National authorities	R97 (Para. 19) (within federal States)
National laws or regulations ¹⁴	R97 (Para. 19) (in Federal States)
Navigating officer in charge of a watch	C53 (Art. 2(b))
Near miss	C174 (Art. 3(f))
Near trade ship	C76 and C93 (Art. 11(a)); C109 (Art. 12(a))
Necessarily continuous operations (in the context of glassworks)	C43 (Art. 1(2))
Night	C4 (Art. 2(1)); C6 (Art. 3(1)); C20, C89 and C90 (Art. 2); C57 (Art. 11(2)); C60 (Art. 3(5)); C76 and C93 (Art. 19(2)); C109 (Art. 20); C180 (Art. 6); R70 (Annex, Art. 46(f)); R153 (Para. 4(1)(c))
Night work	C171 (Art. 1(a)); R178 (Para. 1(a))
Night worker	C171 (Art. 1(b)); R178 (Para. 1(b))
Noise	C148 (Art. 3(b))

¹² In French: *établissement industrielles*.

¹³ In French: *dispositions légales*.

¹⁴ In French: *legislation*.

Terms	Conventions and Recommendations
Non-contributory	C165 (Art. 1(n)); C157 (Art. 1(j))
Non-industrial occupations	C78 (Art. 1(2)); C79 (Art. 1(2)); C103 (Art. 1(3))
Normal hours of work	C63 (Art. 14(4)); R116 (Para. 11); R157 (Para. 30(a))
Nursing personnel	C149 (Art. 1(1)); R157 (Para. 1)
Occupation	C111 (Art. 1(3)); R111 (Para. 1(3))
Occupational accidents	C134 (Art. 1(3)); P155 (Art. 1(a)); R142 (Para. 1(b))
Occupational disease	C18 and C42 (Art. 2 and Table); C130 (Art. 30(j)); P155 (Art. 1(b))
Occupational health service	R112 (Para. 1)
Officer	C57 (Art. 2(b)); C75 and C92 (Art. 2(d)), C76, C93 and C109 (Art. 4(a)); C126 and C133 (Art. 2(d))
Old-age benefit	R162 (Para. 20(b))
On-call duty	R157 (Para. 30(c))
Organization	C87 (Art. 10); C110 (Art. 69)
Other member of the immediate family who needs care or support	R165 (Para. 1(3))
Overtime	R157 (Para. 30(b)); R187 (Para. 2(e))
Paid educational leave	C140 (Art. 1); R148 (Para. 1)
Part-time worker	C175 (Art. 1(a)); R182 (Para. 2(a))
Passenger ship	C75 and C92 (Art. 2(b)); C76 and C93 (Art. 11(c)); C109 (Art. 12(c)); C133 (Art. 2(c))
Period of insurance	C157 (Art. 1(k))
Period of residence	C157 (Art. 1(m))
Periods of employment and periods of occupational activity	C157 (Art. 1(l))
Petty officer	C75, C92 and C133 (Art. 2(f))
Placing	R61 (Para. 1(1)(c)); R86 (Para. 1(d))
Plantation	C110 and P110(Art. 1(1)); R110 (Para. 1(1)(3))
Prescribed	C75 and C92 (Art. 2(h)); C118 (Art. 1(f)); C121, C128, C130 and C168 (Art. 1(b)); C126 (Art. 2(g)); C133 (Art. 2(i)); C102 (Art. 1(a)); R121, R131, R134 and R176 (Para. 1(b)); R162 (Para. 20(a))
Private employment agency	C181 (Art. 1(1))
Processes	C28 and C32 (Art. 1(1))
Processing of personal data of workers	C181 (Art. 1(3))
Production worker	R88 (Para. 1(b))
Public employee	C151 (Art. 2 refers to Art. 1 for person employed by public authorities)
Public employees' organisation	C151 (Art. 3)
Qualifications	R195 (Para. 2(c))
Qualifying period	C102 (Art. 1(1)(f)); C128 and C130 (Art. 1(i)); R131 and R134 (Para. 1(g)); R162 (Para. 20(f))
Rating ¹⁵	C57 (Art. 2(c))
Rating ¹⁶	C75, C92, C126 and C133 (Art. 2(e)); C76, C93 and C109 (Art. 4(b))
Recruiting	C50 (Art. 2(a))
Recruitment	C110 (Art. 5); R61 (Para. 1(1)(a)); R86 (Para. 1(b))
Recruitment and placement service	C179 (Art. 1(1)(b))
Refugee	C118 (Art. 1(g)); C157 (Art. 1(e)); C165 (Art. 1(k)); R167 (Para. 1(c))
Registered	C75 and C92 (Art. 2(j)); C126 (Art. 2(i)); C133 (Art. 2(k))
Regular manual transport of loads	C127 (Art. 1(b)); R128 (Para. 1(b))
Regulations	C64 ¹⁷ (Art. 1(c)); C86 ¹⁸ (Art. 1(c)); C155 (Art. 3(d));

¹⁵ In French: *personnel subalterne*.

¹⁶ In French: *personnel*.

Terms	Conventions and Recommendations
	R164 (Para. 2(d))
Remuneration	C100 (Art. 1(a))
Repatriation	C70 (Art. 1(1)(c)); 165 (Art. 1(ii))
Representative organizations	C144 (Art. 1); R152 (Para. 1)
Residence	C102 (Art. 1(1)(b)); C118 (Art. 1(e)); C128 and C130 (Art. 1(d)); C157 (Art. 1(i)); C165 (Art. 1(g)); R134 (Para. 1(c)); R167 (Para. 1(g))
Resident	C102 (Art. 1(1)(b)); C130 (Art. 1(d))
Respirable asbestos fibres	C162 (Art. 2(d)); R172 (Para. 3(d))
Responsible person	C152 (Art. 3(c)); R160 (Para. 2(c))
Retirement benefit	R162 (Para. 20(c))
Road transport vehicle	C67 (Art. 1(2))
Running time of the vehicle	C67 (Art. 4(b))
Rural workers	C141 (Art. 2(1)); R149 (Para. 2(1))
Safety report	C174 (Art. 3(e))
Scaffold	C167 (Art. 2(g)); R175 (Para. 2(h))
Seafarer ¹⁹	C163 (Art. 1(1)(a)); C164 and C166 (Art. 1(4)); C180 (Art. 2(d)); C185 (Art. 1(1)); R173 (Para. 1(1)(a)); R187 (Para. 2(f))
Seafarer ²⁰	C70 and C163 (Art. 1(a)); C71 (Art. 1); C134 (Art. 1(1)); C145 (Art. 1(2)); with reference to national legislation; C146 (Art. 2(2)); C164 (Art. 1(4)); C165 (Art. 1(c)); C178 (Art. 1(7)(d)); C179 (Art. 1(1)(d)); C180 (Art. 2(d)); C185 (Art. 1(1)); R142 (Para. 1(a)); R154 (Para. 1(2)); R173 (Para. 1(a)); R187 (Para. 2(f))
Seafarers' working and living conditions	C178 (Art. 1(7)(e))
Seaman ²¹	C8 (Art. 1(1)); C9 (Art. 1); C22 (Art. 2(b)); C23 (Art. 2(b))
Semi-tribal	C107 (Art. 1(2))
Ship ²²	C52 (Art. 3(h)); C75 and C92 (Art. 2(b)); C133 (Art. 2(a)); C152 (Art. 3(h)); R160 (Para. 2(h))
Ship's cook	C69 (Art. 2)
Shipowner	C179 (Art. 1(1)(c)); C180 (Art. 2(e)); R18 (Para. 2(g))
Sickness	R134 (Para. 1(h))
Skilled fisherman	R126 (Art. 2(d))
Skipper (or master) ²³	C53 (Art. 2(a)); C125 (Art. 3(a)); R126 (Para. 2(a))
Standard beneficiary	C130 (Art. 1(h))
Stateless person	C118 (Art. 1(h)); C157 (Art. 1(f)); C165 (Art. 1(1)); R167 (Para. 1(d))
Structural change	R122 (Para. 13(2))
Subsidiary work	C67 (Art. 4(c))
Survivor	C157 (Art. 1(h)); C165 (Art. 1(e)); R167 (Para. 1(f))
System of labour administration	C150 (Art. 1(b)); R158 (Para. 1(b))
Technical education	R57 (Para. 1(b))
Temporarily resident/temporary residence	C157 (Art. 1(j)); C165 (Art. 1(h))
Termination (of employment)	C158 (Art. 3); R166 (Para. 4)
Threshold quantity	C174 (Art. 3(b))

¹⁷ In French: *dispositions légales*.

¹⁸ In French: *dispositions légales*.

¹⁹ In French: *marin*.

²⁰ In French: *gens de mer*.

²¹ In French: *marin*.

²² In French: *navire*, here as on every usage of the term "ship".

²³ In French: *patron*.

Terms	Conventions and Recommendations
Tip	C172 (Art. 6(1))
Tons	C57 (Art. 2(a)); C75, C92, C126 and C133 (Art. 2(b))
Trade	C26 (Art. 1(2))
Use of chemicals at work	C170 (Art. 2(c))
Vessel ²⁴	C7 (Art. 1); C8 (Art. 1(2)); C15 (Art. 1); C16 (Art. 1); C22 (Art. 2(a)); C23 (Art. 2(a)); C58 (Art. 1); R70 (Annex, Art. 46 (e))
Vibration	C148 (Art. 3(c))
Vocational guidance	R87 (Para. 1(1)); R150 (Para. 2(1))
Vocational rehabilitation	R99 (Para. 1(a))
Vocational training	R57 and R88 (Para. 1(a))
Welfare facilities and services	C163 (Art. 1(b)); R173 (Para. 1(b))
Widow	C102 (Art. 1(1)(d)); C128 (Art. 1(g)); R131 (Para. 1(e))
Wife	C102 (Art. 1(1)(c)); C128 (Art. 1(f)); C130 (Art. 1(f)); R131 (Para. 1(d)); R134 (Para. 1(e))
Woman	C3 (Art. 2); C103 (Art. 2); C110 (Art. 46); C183 (Art. 1)
Worker	Dockworker: C28 and C32 (Art. 1(2)). Indigenous: C64 (Art. 1(a)); C86 (Art. 1(a)). C152 (Art. 3(a)); C155 (Art. 3(b)); C162 (Art. 2(f)); C167 (Art. 2(d)); C181 (Art. 1(2)); R160 (Para. 2(a)); R164 (Para. 2(b)); R175 (Para. 2(d)); R172 (Para. 3(f))
Worker ²⁵	C31 (Art. 2); C46 (Art. 2)
Workers concerned, the	C172 (Art. 2(1)); R179 (Para. 3)
Workers' representatives	C135 (Art. 3); C162 (Art. 2(g)); C170 (Art. 2(f)), C171 (Art. 10(2)); R143 (Para. 2); R166 (Para. 20(3)); R175 (Para. 2(e)); R179 (Para. 7(2)); R172 (Para. 3(g)) – persons recognized as such by national law or practice but defined in accordance with C135
Workers' representatives concerned	C158 (Art. 13(3)); R166 (Para. 20(3))
Workplace	C155 (Art. 3(c)); C167 (Art. 2(c)); R164 and R175 (Para. 2(c))
Worst forms of child labour, the	C182 (Art. 3)
Year	C132 (Art. 4(2)); C146 (Art. 4(2))
Young seafarers	R153 (Para. 2(1))
Young worker	C127 (Art. 1(c)); R128 (Para. 1(c))

²⁴ In French: *navire*, here as on every usage of the term “vessel”.

²⁵ In French: *ouvrier*.

Appendix 5

Glossary of frequently defined terms in ILO instruments

This appendix repeats some of the terms listed in Appendix 4 and therefore does not include all the definitions included in ILO instruments. The terms listed below were chosen because of their significance for the drafting of future ILO instruments, or to bring to the attention of those responsible for drafting that one term may have several definitions.

Terms	Definitions
Adult (French: <i>adulte</i>)	means a person who is at least 18 years of age (C133, Art. 2(g))
Agricultural occupations (French: <i>travaux agricoles</i>)	includes all occupations carried on in agricultural undertakings, including plantations and large-scale industrialised agricultural undertakings (C103, Art. 1(4))
Agricultural undertaking French: <i>entreprise agricole/ établissement agricole</i>	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 (French: <i>entreprise agricole</i>) (C129, Art. 1(1)) may be defined so as to include processes conducted on the undertaking for the preservation and despatch of the agricultural products of the undertaking, unless it is desired to classify these processes as parts of an industrial undertaking (French: <i>établissement agricole</i>) (R70, Annex, Art. 46(a); R74, Annex, Art. 25(a))
Agriculture (French: <i>agriculture</i>)	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 (C184, Art. 1)
Apprenticeship French: <i>apprentissage</i>)	means any system by which an employer undertakes by contract to employ a young person and to train him or have him trained systematically for a trade for a period the duration of which has been fixed in advance and in the course of which the apprentice is bound to work in the employer's service (R60, Para. 1; R57, Para. 1(c))
Basic pay or wages (French: <i>saiaire ou solde de base</i>)	the term <i>basic pay or wages</i> means the remuneration of an officer or rating in cash, exclusive of overtime, premiums or any other allowances either in cash or in kind (C76, Art. 4(d); C93, Art. 4(d)) the term <i>basic pay or wages</i> means the remuneration of an officer or rating in cash exclusive of the cost of food, overtime, premiums or any other allowances either in cash or in kind (C109, Art. 4(d)) the term <i>basic pay or wages</i> means the pay, however composed, for normal hours of work; it does not include payments for overtime worked, bonuses, allowances, paid leave or any other additional remuneration (R187, Para. 2(a))
Benefit (French: <i>indemnité</i>)	a payment related to contributions paid in respect of the beneficiary's employment whether under a compulsory or a voluntary scheme (C44, Art. 1(1)a))
Benefits granted under transitional schemes (French: <i>prestations accordées au titre de</i>	means either benefits granted to persons who have exceeded a prescribed age at the date when the legislation applicable came into force, or benefits granted as a transitional measure in consideration of events occurring or periods completed outside the present boundaries of

Terms	Definitions
<i>régimes transitoires</i>	the territory of a Member (C118, Art. 1(c); C157, Art. 1(o))
Central coordinating authority (French: <i>autorité centrale de coordination</i>)	ministers, government departments or other public authorities having power to issue and supervise the implementation of regulations, orders or other instructions having the force of law in respect of inspection of seafarers' working and living conditions in relation to any ship registered in the territory of the Member (C178, Art. 1(7)(a))
Chief engineer (French: <i>chef mécanicien</i>)	means any person permanently responsible for the mechanical propulsion of a vessel (C53, Art. 2(c))
Child (French: <i>enfant</i>)	signifies any child whether legitimate or illegitimate (C3, Art. 2) means any child whether born of marriage or not (C103, Art. 2; C110, Art. 46) means a child under school-leaving age or under 15 years of age, as may be prescribed (C102, Art. 1(e)) covers: (i) a child under school-leaving age or under 15 years of age, whichever is the higher; (ii) a child under a prescribed age higher than that specified in clause (i) of this subparagraph and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, under prescribed conditions: Provided that this requirement shall be deemed to be met where national legislation defines the term so as to cover any child under an age appreciably higher than that specified in clause (i) of this subparagraph (C128, Art. 1(h)) covers: (i) a child under school-leaving age or under 15 years of age, whichever is the higher: Provided that a Member which has made a declaration under Article 2 may, while such declaration is in force, apply the Convention as if the term covered a child under school-leaving age or under 15 years of age; (ii) a child under a prescribed age higher than that specified in clause (i) of this subparagraph and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, under prescribed conditions: Provided that this requirement shall be deemed to be met where national legislation defines the term so as to cover any child under an age appreciably higher than that specified in clause (i) of this subparagraph (C130, Art. 1(g)) applies to any child without discrimination whatsoever (C183, Art. 1)) covers: (i) a child under school-leaving age or under 15 years of age, whichever is the higher; (ii) a child under a prescribed age higher than that specified in subclause (i) of this clause and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, under prescribed conditions (R131, Para. 1(f)) covers: (i) a child under school-leaving age or under 15 years of age, whichever is the higher; (ii) a child under a prescribed age higher than that specified in subclause (i) of this clause and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, under prescribed conditions (R134, Para. 1(f)) shall apply to all persons under the age of 18 (C182, Art. 2)
Collective agreement (French: <i>convention collective</i>)	means all agreements in writing regarding working conditions and terms of employment concluded between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more representative workers' organisations, or, in the absence of such organisations, the representatives of the workers duly elected and authorised by them in accordance with national laws and regulations, on the other (R91, Para. 2(1))
Collective bargaining	extends to all negotiations which take place between an employer, a

Terms	Definitions
(French: <i>négociation collective</i>)	group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for: (a) determining working conditions and terms of employment; and/or (b) regulating relations between employers and workers; and/or (c) regulating relations between employers or their organisations and a workers' organisation or workers' organisations (C154, Art. 2)
Commercial undertaking (French: <i>établissement commercial</i>)	includes any place where articles are sold or where commerce is carried on (C3, Art. 1(2)) includes: (i) commercial establishments and offices, including establishments engaging wholly or mainly in the sale, purchase, distribution, insurance, negotiation, loan or administration of goods or services of any kind; (ii) establishments for the treatment or care particularly of the aged, infirm, sick, destitute, or mentally unfit; (iii) hotels, restaurants, boarding houses, clubs, cafés and other refreshment houses; (iv) theatres and places of public amusement; (v) any establishment similar in character to those enumerated in sub-paragraphs (i), (ii), (iii), and (iv) above (R70, Annex, Art. 46(b); R74, Annex, Art. 25(b))
Comparable full-time worker (French: <i>travailleur à plein temps se trouvant dans une situation comparable</i>)	refers to a full-time worker who: (i) has the same type of employment relationship; (ii) is engaged in the same or a similar type of work or occupation; and (iii) is employed in the same establishment or, when there is no comparable full-time worker in that establishment, in the same enterprise or, when there is no comparable full-time worker in that enterprise, in the same branch of activity as the part-time worker concerned (C175, Art. 1(c); R182, Para. 2(c))
Competencies (French: <i>compétence</i>)	covers the knowledge, skills and know-how applied and mastered in a specific context (R195, Para. 2(b))
Competent authority (French: <i>autorité compétente</i>)	means the minister, designated official, government department or other authority having power to issue regulations, orders or other instructions having the force of law in respect of the recruitment and placement of seafarers (C179, Art. 1(a); C180, Art. 2(a); R187, Para. 2(a))
Competent member (French: <i>membre compétent</i>)	means the Member under whose legislation the person concerned can claim benefit (C157, Art. 1(c); C165, Art. 1(f))
Competent person (French: <i>personne compétente</i>)	means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill for the safe performance of the specific work. The competent authorities may define appropriate criteria for the designation of such persons and may determine the duties to be assigned to them (C167, Art. 2(f)) means a person possessing the knowledge and experience required for the performance of a specific duty or duties and acceptable as such to the competent authority (C152, Art. 3(b); R160, Para. 2(b)) means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill for the safe performance of the specific work. The competent authorities may define appropriate criteria for the designation of such persons and may determine the duties to be assigned to them (R175, Para. 2(g))
Consolidated wage (French: <i>salaire forfaitaire</i>)	means a wage or salary which includes the basic wage and other pay-related benefits; a consolidated wage may include compensation for all overtime hours which are worked and all other pay-related benefits, or it may include only certain benefits in a partial consolidation (R187, Para. 2(c))
Contract	when used in an article following Article 3, means, unless the contrary intention appears, a contract which is required by Article 3 to be made in

Terms	Definitions
(French: <i>contrat</i>)	writing (C64, Art. 1(d)) a contract of employment by which a worker enters the service of an employer as a worker for remuneration in cash or in any other form whatsoever, but does not include contracts of apprenticeship made in accordance with special provisions relating to apprenticeship contained in the regulations (C86, Art. 1(d))
Contributory benefit (French: <i>prestation contributive</i>)	means benefits the grant of which depends on direct financial participation by the persons protected or their employer or on a qualifying period of occupational activity (R131, Para. 1(h))
Contributory benefit and non-contributory benefit (French: <i>prestation contributive et prestation non contributive</i>)	mean respectively benefits the grant of which depends or does not depend on direct financial participation by the persons protected or their employer or on a qualifying period of occupational activity (C128, Art. 1(j))
Disabled person (French: <i>invalide</i>)	means an individual whose prospects of securing and retaining suitable employment are substantially reduced as a result of physical or mental impairment (R99, Para. 1(b))
Disabled person (French: <i>personne handicapée</i>)	means an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognised physical or mental impairment (C159, Art. 1(1); R168, Para. 1(1))
Discrimination (French: <i>discrimination</i>)	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. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination (C11, Art. 1(1) and (2); R111, Para. 1(1))
Distant trade ship (French: <i>navire affecté à la grande navigation</i>)	means a vessel other than a near trade ship (C76, Art. 11(b); C93, Art. 11(b); C109, Art. 12(b))
Employer (French: <i>employeur</i>)	includes, unless the contrary intention appears, any public authority, individual, company or association, whether non-indigenous or indigenous (C64, Art. 1(b) and C86, Art. 1(b): In the context of indigenous workers) for the purpose of this Part of this Convention includes, where appropriate under national laws or regulations, a prescribed agent of the employer (C119, Art. 14) means: (i) any physical or legal person who employs one or more workers on a construction site; (ii) as the context requires, the principal contractor, the contractor or the subcontractor (C167, Art. 2(e); R175, Para. 2(f)) means any physical or legal person who employs one or more workers in a mine and, as the context requires, the operator, the principal contractor, contractor or subcontractor (C176, Art. 1(2)) 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 (C177, Art. 1(c); R184, Para. 1(c))
Employment (French: <i>emploi</i>)	<i>employment</i> and occupation include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment

Terms	Definitions
	(C111, Art. 1(3); R111, Para. 1(3))
Equal remuneration for men and women workers for work of equal value (French: <i>égalité de rémunération entre la main-d'oeuvre masculine et la main-d'oeuvre féminine pour un travail égal</i>)	refers to rates of remuneration established without discrimination based on sex (C100, Art. 1(b))
Fee-charging employment agencies (French: <i>bureaux de placement payants</i>)	means (a) employment agencies conducted with a view to profit, that is to say, any person, company, institution, agency or other organisation which acts as an intermediary for the purpose of procuring employment for a worker or supplying a worker for an employer with a view to deriving either directly or indirectly any pecuniary or other material advantage from either employer or worker; the expression does not include newspapers or other publications unless they are published wholly or mainly for the purpose of acting as intermediaries between employers and workers; (b) employment agencies not conducted with a view to profit, that is to say, the placing services of any company, institution, agency or other organisation which, though not conducted with a view to deriving any pecuniary or other material advantage, levies from either employer or worker for the above services an entrance fee, a periodical contribution or any other charge (C34, Art. 1(1); C96, Art.1(1))
Fisherman/fisher (French: <i>pêcheur</i>)	includes every person employed or engaged in any capacity on board any fishing vessel and entered on the ship's articles. It excludes pilots, cadets and duly indentured apprentices, naval ratings, and other persons in the permanent service of a government (C114, Art. 2)
Fishing vessel (French: <i>bateau de pêche</i>)	includes all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters (C113, Art. 1(1); C112, Art. 1(1)) includes all registered or documented ships and boats of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters (C114, Art. 1(1)) includes all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters and are registered in a territory for which the Convention is in force, with the exception of – (a) ships and boats of less than 25 gross registered tons; (b) ships and boats engaged in whaling or similar pursuits; (c) ships and boats engaged in fishing for sport or recreation; (d) fishery research and fishery protection vessels (C125, Art. 1) includes all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters, with the exception of ships and boats engaged in whaling or similar pursuits and fishery research and fishery protection vessels (R126, Para. 1(1))
Force majeure (French: <i>force majeure</i>)	when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character (C4, Art. 4(a); C41, Art. 4(a)) that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population (C29, Art. 2(2)(d)) accidents to plant, interruption of power, light, heating or water, or occurrences causing serious material damage to the establishments (C30, Art. 5(1))

Terms	Definitions
Forced or compulsory labour (French: <i>travail forcé ou obligatoire</i>)	the term <i>forced or compulsory labour</i> 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. (2) Nevertheless, for the purposes of this Convention, the term <i>forced or compulsory labour</i> shall not include: (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character; (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country; (c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations; (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population; (e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services (C29, Art. 2(1) and (2))
Full-time workers affected by partial unemployment (French: <i>travailleur à plein temps en chômage partiel</i>)	that is by a collective and temporary reduction in their normal hours of work for economic, technical or structural reasons, are not considered to be part-time workers (R182, Para. 2(d))
Home trade vessel (French: <i>navire affecté au home trade</i>)	means a vessel engaged in trade between a country and the ports of a neighbouring country within geographical limits determined by the national law (C22, Art. 2(d); C23, Art. 2(d))
Home work (French: <i>travail à domicile</i>)	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 (C177, Art. 1(a) and (b); R184, Para. 1(a))
Hours of rest (French: <i>heures de repos</i>)	means time outside hours of work; this term does not include short breaks (C180, Art. 2(c))
Hours of work (French: <i>durée du travail</i>)	the time during which the persons employed are at the disposal of the employer; it does not include rest periods during which the persons employed are not at the disposal of the employer (C30, Art. 2) the time during which the persons employed are at the disposal of the employer and does not include rest periods during which they are not at his disposal (C51, Art. 2(5); C61, Art. 3(1)) time during which a member of the crew is required by the orders of a superior to do any work on account of the vessel or the owner, or to be at the disposal of a superior outside the crew's quarters (C57, Art. 2(d)) the time during which the persons concerned are at the disposal of the employer or of any other person entitled to claim their services, or in the case of owners of vehicles and members of their families, the time during

Terms	Definitions
	<p>which they are engaged on their own account in work connected with a road transport vehicle, its passengers or its load, and includes: (i) time spent in work done during the running time of the vehicle; (ii) time spent in subsidiary work; (iii) periods of mere attendance; (iv) breaks for rest and interruptions of work, which breaks or interruptions do not exceed a duration to be prescribed by the competent authority (C67, Art. 4(a))</p> <p>time during which a person is required by the orders of a superior to do work on account of the vessel or the owner (C76, Art. 11(d); C93, Art. 11(d); C109, Art. 12)</p> <p>the time spent by wage-earning drivers on -- (a) driving and other work during the running time of the vehicle; and (b) subsidiary work in connection with the vehicle, its passengers or its load. 2. Periods of mere attendance or stand-by, either on the vehicle or at the workplace and during which the drivers are not free to dispose of their time as they please, may be regarded as hours of work to an extent to be prescribed in each country by the competent authority or body, by collective agreements or by any other means consistent with national practice (C153, Art. 4)</p> <p>the time during which a worker is at the disposal of the employer; (C172, Art. 4(1); R179, Para. 6)</p> <p>time during which a seafarer is required to do work on account of the ship (C180, Art. 2(b))</p> <p>the time spent by the persons covered by Paragraph 1 of the Recommendation on: (a) driving and other work during the running time of the vehicle; (b) subsidiary work in connection with the vehicle, its passengers or its load (R161, Para. 5)</p> <p>means time during which a seafarer is required to do work on account of the ship (R187, Para. 2(d))</p>
<p>Industrial undertaking (French: <i>entreprise industrielle/établissements industriels</i>)</p>	<p>includes all undertakings in the following branches of economic activity: mining and quarrying; manufacturing; construction; electricity, gas, water and sanitary services; and transport, storage and communication (French: <i>entreprise industrielle</i>) (C128, Art. 1(c); C130, Art. 1(c))</p> <p>For the purpose of this Convention, the term <i>industrial undertakings</i> includes particularly: (a) mines, quarries, and other works for the extraction of minerals from the earth; (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in ship-building or in the generation, transformation or transmission of electricity or motive power of any kind; (c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work (French: <i>entreprise industrielle</i>) (C89, Art. 1(1))</p> <p>the term <i>industrial undertaking</i> includes particularly: (a) mines, quarries, and other works for the extraction of minerals from the earth; (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding or in the generation, transformation or transmission of electricity or motive power of any kind; (c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work; (d) undertakings engaged in the transport of passengers or goods by road or rail, including the handling of goods at docks, quays, wharves, warehouses or airports (French: <i>entreprise industrielle</i>) (C90, Art. 1(1); C103, Art. 1(2); C77, Art. 1(2))</p> <p>the term <i>industrial undertaking</i> includes particularly: (a) mines, quarries, and other works for the extraction of minerals from the earth; (b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in</p>

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	<p>which materials are transformed; including shipbuilding and the generation, transformation, and transmission of electricity or motive power of any kind; (c) construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, waterwork or other work of construction, as well as the preparation for or laying the foundations of any such work or structure; (d) transport of passengers or goods by road, rail, sea or inland waterway, including the handling of goods at docks, quays, wharves or warehouses, but excluding transport by hand (French: <i>établissements industriels</i>) (C1, Art. 1(1); C3, Art. 1(1); C5, Art. 1(1); C6, Art. 1(1); C14, Art. 1(1); C59, Art. 1(1); C4, Art. 1(1); C59, Art. 1(1): except for subparagraph (d) which is deleted)</p> <p>includes all undertakings in the following branches of economic activity: mining and quarrying; manufacturing; construction; electricity, gas, water and sanitary services; and transport, storage and communication (French: <i>établissements industriels</i>) (C121, Art. 1(c))</p> <p>includes: (i) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding, in the generation, transformation, or transmission of electricity, in the production or distribution of gas or motive power of any kind, in the purification or distribution of water, or in heating; (ii) undertakings engaged in the construction, reconstruction, maintenance, repair, alteration, or demolition of any one or more of the following: buildings, railways, tramways, airports, harbours, docks, piers, works of protection against floods or coast erosion, canals, works for the purpose of inland, maritime or aerial navigation, roads, tunnels, bridges, viaducts, sewers, drains, wells, irrigation or drainage works, telecommunication installations, works for the production or distribution of electricity or gas, pipelines, waterworks, and undertakings engaged in other similar work or in the preparation for or laying the foundations of any such work or structure; (iii) mines, quarries or other works for the extraction of minerals from the earth; (iv) undertakings engaged in the transport of passengers or goods, excluding transport by hand, unless such undertakings are regarded as parts of the operation of an agricultural or commercial undertaking (French: <i>établissements industriels</i>) (R70, Annex, Art. 46(c))</p>
Insolvency (French: <i>insolvabilité</i>)	refers to situations in which, in accordance with national law and practice, proceedings have been opened relating to an employer's assets with a view to the collective reimbursement of its creditors (C173, Art. 1(1); R180, Para. 1(1))
Introduction (French: <i>introduction</i>)	means any operations for ensuring or facilitating the arrival in or admission to a territory of persons who have been recruited within the meaning of (a) (R61, Para. 1(1)(b); R86, Para. 1(c))
Labour administration (French: <i>administration du travail</i>)	means public administration activities in the field of national labour policy (C150, Art. 1(a); R158, Para. 1(a))
Legislation/national laws or regulations (French: <i>legislation</i>)	includes any social security rules as well as laws and regulations (C118, Art. 1(a); C121, Art. 1(a); C128, Art. 1(a); C130, Art. 1(a); C157, Art. 1(b); C165, Art. 1(b); C168, Art. 1(a); R121, Para. 1(a); R131, Para. 1(a); R134, Para. 1(a); R167, Para. 1(b); R176, Para.1(a)) where the term national is used in this Recommendation in reference to laws, regulations, or authorities, it shall be understood, in the case of a federal State, to refer, as appropriate, to the federal, state, provincial, cantonal or other competent governmental unit (R97, Para. 19: federal State)
Lifelong learning (French: <i>education et</i>)	encompasses all learning activities undertaken throughout life for the development of competencies and qualifications

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<i>formation tout au long de la vie</i>	(R195, Para. 2(a))
Long-service benefit (French: <i>prestation d'ancienneté</i>)	means a benefit the grant of which depends only upon the completion of a long qualifying period, irrespective of age (R162, Para. 20(e))
Master (French: <i>capitaine</i>)	includes every person having command and charge of a vessel except pilots (C22, Art. 2(c); C23, Art. 2(c)) <i>master or skipper</i> means any person having command or charge of a vessel (C53, Art. 2(a))
Medical care (French: <i>soins médicaux</i>)	includes allied benefits (R134, Para. 1(i))
Member (French: <i>membre</i>)	means any Member of the International Labour Organization that is bound by the Convention (C157, Art. 1(a); C165, Art. 1(a)) means any State Member of the International Labour Organization (R167, Para. 1(a))
Migrant worker/for employment (French: <i>travailleur migrant</i>)	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 (C97, Art. 11(1); R86, Para. 1(a)) 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 (C143, Art. 11(1)) means any worker participating in such migratory movements either within the countries and territories described in clause (a) of Paragraph 1 above or from such countries and territories into or through the countries and territories described in clauses (b) and (c) of Paragraph 1 above, whether he has taken up employment, is moving in search of employment or is going to arranged employment, and irrespective of whether he has accepted an offer of employment or entered into a contract. Where applicable, the term <i>migrant worker</i> also means any worker returning temporarily or finally during or at the end of such employment (R100, Para. 2)
National authorities (French: <i>autorités nationales</i>)	where the term <i>national</i> is used in this Recommendation in reference to laws, regulations, or authorities, it shall be understood, in the case of a federal State, to refer, as appropriate, to the federal, state, provincial, cantonal or other competent governmental unit (R97, Para. 19: within federal States)
Near miss (French: <i>quasi-accident</i>)	means any sudden event involving one or more hazardous substances which, but for mitigating effects, actions or systems, could have escalated to a major accident (C174, Art. 3(f))
Near trade ship (French: <i>navire affecté à la petite navigation</i>)	means a vessel exclusively engaged in voyages upon which it does not proceed farther from the country from which it trades than the near-by ports of neighbouring countries within geographical limits which (i) are clearly specified by national laws, regulations or by collective agreement between organisations of shipowners and seafarers; (ii) are uniform in respect of the application of all the provisions of this Part of the Convention; (iii) have been notified by the Member when registering its ratification by a declaration annexed thereto; (iv) have been fixed after consultation with the other Members concerned (C76, Art. 11(a); C93, Art. 11(a); C109, Art. 12(a))
Night (French: <i>nuit</i>)	signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning. 2. In those countries where no Government regulation as yet applies to the employment of women in industrial undertakings during the night, the term <i>night</i> may provisionally, and for a maximum period of three

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	<p>years, be declared by the Government to signify a period of only ten hours, including the interval between ten o'clock in the evening and five o'clock in the morning (C4, Art. 2)</p> <p>signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning (C6, Art. 3(1))</p> <p>signifies a period of at least seven consecutive hours. The beginning and end of this period shall be fixed by the competent authority in each country after consultation with the organisations of employers and workers concerned, and the period shall include the interval between eleven o'clock in the evening and five o'clock in the morning. When it is required by the climate or season, or when it is agreed between the employers' and workers' organisations concerned, the interval between ten o'clock in the evening and four o'clock in the morning may be substituted for the interval between eleven o'clock in the evening and five o'clock in the morning (C20, Art. 2)</p> <p>signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning. 2. Provided that, where there are exceptional circumstances affecting the workers employed in a particular industry or area, the competent authority may, after consultation with the employers' and workers' organisations concerned, decide that in the case of women employed in that industry or area, the interval between eleven o'clock in the evening and six o'clock in the morning may be substituted for the interval between ten o'clock in the evening and five o'clock in the morning. 3. In those countries where no Government regulation as yet applies to the employment of women in industrial undertakings during the night, the term <i>night</i> may provisionally, and for a maximum period of three years, be declared by the Government to signify a period of only ten hours, including the interval between ten o'clock in the evening and five o'clock in the morning (C41, Art. 2)</p> <p>means a period of at least nine consecutive hours between times before and after midnight to be prescribed by national laws or regulations (C57, Art. 11(2))</p> <p>means: (a) in the case of children under fourteen years of age, a period of at least twelve consecutive hours comprising the interval between 8 p.m. and 8 a.m.; (b) in the case of children over fourteen years of age, a period which shall be prescribed by national laws or regulations but the duration of which shall not, except in the case of tropical countries where a compensatory rest is accorded during the day, be less than twelve hours (C60, Art. 3(5))</p> <p>means a period of at least nine consecutive hours between times before and after midnight to be prescribed by national laws or regulations or collective agreements (C76, Art. 19(2); C93, Art. 19(2); C109, Art. 20(2))</p> <p>signifies a period of at least eleven consecutive hours, including an interval prescribed by the competent authority of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning; the competent authority may prescribe different intervals for different areas, industries, undertakings or branches of industries or undertakings, but shall consult the employers' and workers' organisations concerned before prescribing an interval beginning after eleven o'clock in the evening (C89, Art. 2)</p> <p>a period of at least twelve consecutive hours (C90, Art. 2)</p> <p>signifies a period of at least eleven consecutive hours: Provided that in those tropical countries in which work is suspended during the middle of the day, the night period may be shorter if compensatory rest is accorded during the day (R70, Annex, Art. 46(f))</p> <p>means a period of at least nine consecutive hours between times before</p>

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	and after midnight to be prescribed by national laws or regulations or by collective agreements (R153, Para. 4(1)(c))
Night work (French: <i>travail de nuit</i>)	the term night work means all work which is performed during a period of not less than seven consecutive hours, including the interval from midnight to 5 a.m., to be determined by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements (C171, Art. 1(a); R178, Para. 1(a))
Night worker (French: <i>travailleur de nuit</i>)	means an employed person whose work requires the performance of a substantial number of hours of night work which exceeds a specified limit. This limit shall be fixed by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements (C171, Art. 1(b); R178, Para. 1(b))
Non-industrial occupations (French: <i>travaux non industriels</i>)	includes all occupations other than those recognised by the competent authority as industrial, agricultural and maritime occupations (C78, Art. 1(2); C79, Art. 1(2)) includes all occupations which are carried on in or in connection with the following undertakings or services, whether public or private: (a) commercial establishments; (b) postal and telecommunication services; (c) establishments and administrative services in which the persons employed are mainly engaged in clerical work; (d) newspaper undertakings; (e) hotels, boarding houses, restaurants, clubs, cafés and other refreshment houses; (f) establishments for the treatment and care of the sick, infirm or destitute and of orphans; (g) theatres and places of public entertainment; (h) domestic work for wages in private households; and any other non-industrial occupations to which the competent authority may decide to apply the provisions of the Convention (C103, Art. 1(3))
Normal hours of work (French: <i>heures de travail normales</i>)	where not fixed by or in pursuance of laws or regulations, collective agreements or arbitral awards, shall be taken as meaning the number of hours, per day, week or other period, in excess of which any time worked is remunerated at overtime rates or forms an exception to the rules or custom of the establishment relating to the classes of wage earners concerned (C63, Art. 14(4))
Nursing personnel (French: <i>personnel infirmier</i>)	includes all categories of persons providing nursing care and nursing services (C149, Art. 1(1); R157, Para. 1)
Occupation (French: <i>profession</i>)	the terms employment and <i>occupation</i> include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment (C111, Art. 1(3); R111, Para. 1(3))
Occupational accidents (French: <i>accidents du travail</i>)	accidents to seafarers arising out of or in the course of their employment (C134, Art. 1(3); R142, Para. 1(b)) covers an occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury (P155, Art. 1(a))
(Occupational) health service (French: <i>service de médecine du travail/service de santé au travail</i>)	means a service established in or near a place of employment for the purposes of: (a) protecting the workers against any health hazard which may arise out of their work or the conditions in which it is carried on; (b) contributing towards the workers' physical and mental adjustment, in particular by the adaptation of the work to the workers and their assignment to jobs for which they are suited; and (c) contributing to the establishment and maintenance of the highest possible degree of physical and mental well-being of the workers (French: <i>service de médecine du travail</i>) (R112, Para. 1) the term <i>occupational health services</i> means services entrusted with essentially preventive functions and responsible for advising the employer, the workers and their representatives in the undertaking on (i)

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	the requirements for establishing and maintaining a safe and healthy working environment which will facilitate optimal physical and mental health in relation to work; (ii) the adaptation of work to the capabilities of workers in the light of their state of physical and mental health (French: <i>service de santé au travail</i>) (C161, Art. 1(a))
Old-age benefit (French: <i>prestation de vieillesse</i>)	means a benefit provided in the case of survival beyond a prescribed age (R162, Para. 20(b))
Organization (French: <i>organisation</i>)	means any organisation of workers or of employers for furthering and defending the interests of workers or of employers (C87, Art. 10; C110, Art. 69)
Overtime (French: <i>heures supplémentaires</i>)	means hours worked in excess of normal hours of work (R157, Para. 30(b)) means time worked in excess of the normal hours of work (R187, Para. 2(e))
Part-time worker (French: <i>travailleur à temps partiel</i>)	means an employed person whose normal hours of work are less than those of comparable full-time workers (C175, Art. 1(a); R182, Para. 2(a))
Passenger ship (French: <i>navire à passagers</i>)	means a ship in respect of which there is in force either (i) a safety certificate issued in accordance with the provisions of the International Convention for the Safety of Life at Sea for the time being in force or (ii) a passenger certificate (C75, Art. 2(c); C92, Art. 2(c)) means a vessel licensed to carry more than twelve passengers (C76, Art. 11(c); C93, Art. 11(c); C109, Art. 12(c)) means a ship in respect of which there is in force either (i) a passenger ship safety certificate issued in accordance with the provisions of the International Convention for the Safety of Life at Sea for the time being in force, or (ii) a passenger certificate (C133, Art. 2(c))
Period of employment (French: <i>période d'emploi</i>)	means periods defined or recognised as such by the legislation under which they were completed and such other periods as are regarded by that legislation as equivalent to periods of employment or periods of occupational activity respectively (C157, Art. 1(l))
Period of residence (French: <i>période de résidence</i>)	means a period of residence defined or recognised as such by the legislation under which it was completed (C157, Art. 1(m))
Plantation (French: <i>plantation</i>)	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. 3. For the purpose of this Article the term <i>plantation</i> shall ordinarily include services carrying out the primary processing of the product or products of the plantation (C110, Art. 1(1) and (3); R110, Para. 1(1) and (3))
Private employment agency (French: <i>agence d'emploi privée</i>)	means any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services: (a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom; (b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to hereafter as a "user enterprise") which assigns their tasks and supervises the execution of these tasks; (c) other services relating to jobseeking, determined by the competent authority after consulting the most representative employers' and workers' organizations, such as the provision of information, that do

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	not set out to match specific offers of and applications for employment (C181, Art. 1(1))
Production worker (French: <i>personnel d'exécution</i>)	includes any individual employed in or training for employment in any branch of economic activity in any capacity other than a supervisory or managerial capacity (R88, Para. 1(b))
Public employee (French: <i>agent public</i>)	person employed by public authorities (C151, Art. 2: reference to Art. 1)
Qualifications (French: <i>qualifications</i>)	means a formal expression of the vocational or professional abilities of a worker which is recognized at international, national or sectoral levels (R195, Para. 2(c))
Qualifying period (French: <i>stage</i>)	means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed (C102, Art. 1(1)(f); C128, Art. 1(i); C130, Art. 1(i); R134, Para. 1(g); R162, Para. 20(f); R131, Para. 1(g))
Rating (French: <i>personnel</i>)	means a member of the crew other than an officer (French: <i>personnel</i>) (C57, Art. 2(c))
Rating (French: <i>personnel subalterne</i>)	means a member of the crew other than an officer (French: <i>personnel subalterne</i>) (C75, Art. 2(e); C92, Art. 2(e); C126, Art. 2(e); C133, Art. 2(e)) means a member of the crew other than a master or officer and includes a certificated seaman (French: <i>personnel subalterne</i>) (C76, Art. 4(b); C93, Art. 4(b); C109, Art. 4(b))
Recruiting/ recruitment (French: <i>recrutement</i>)	includes all operations undertaken with the object of obtaining or supplying the labour of persons who do not spontaneously offer their services at the place of employment or at a public emigration or employment office or at an office conducted by an employers' organisation and supervised by the competent authority (C50, Art. 2(a)) means: (i) the engagement of a person in one territory on behalf of an employer in another territory, or (ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory, together with the making of any arrangements in connection with the operations mentioned in (i) and (ii) including the seeking for and selection of would-be emigrants and the preparation for departure of the emigrants (R61, Para. 1(1)(a)) means: (i) the engagement of a person in one territory on behalf of an employer in another territory, or (ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory, together with the making of any arrangements in connection with the operations mentioned in (i) and (ii) including the seeking for and selection of emigrants and the preparation for departure of the emigrants (R86, Para. 1(b))
Recruitment and placement service (French: <i>service de recrutement et de placement</i>)	means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of employers or placing seafarers with employers (C179, Art. 1(1)(b))
Refugee (French: <i>réfugié</i>)	has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees of 28 July 1951 (C118, Art. 1(g)) has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees of 28 July 1951 and in paragraph 2 of Article 1 of the Protocol relating to the Status of Refugees of 31 January 1967 (C157, Art. 1(e), C165, Art. 1(k)) has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees of 28 July 1951 and in paragraph 2 of Article 1 of the Protocol relating to the Status of Refugees of 31 January 1967, without geographical limitation (R167, Para. 1(c))
Remuneration	includes the ordinary, basic or minimum wage or salary and any

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(French: <i>rémunération</i>)	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 (C100, Art. 1(a))
Representative organisations (French: <i>organisations représentatives</i>)	means the most representative organisations of employers and workers enjoying the right of freedom of association (C100, Art. 1(a); R152, Para. 1)
Responsible person (French: <i>personne responsable</i>)	means a person appointed by the employer, the master of the ship or the owner of the gear, as the case may be, to be responsible for the performance of a specific duty or duties and who has sufficient knowledge and experience and the requisite authority for the proper performance of the duty or duties (C152, Art. 3(c); R160, Para. 2(c))
Retirement benefit (French: <i>prestation de retraite</i>)	means old-age benefit the award of which is subject to the cessation of any gainful activity (R162, Para. 20(c))
Rural worker (French: <i>travailleurs ruraux</i>)	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 (C141, Art. 2(1)) 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 (R149, Para. 2(1))
Seafarers (French: <i>gens de mer</i>)	includes every person employed on board or in the service of any sea-going vessel, other than a ship of war, which is registered in a territory for which this Convention is in force (C70, Art. 1(a); C71, Art. 1) covers all persons who are employed in any capacity on board a ship, other than a ship of war, registered in a territory for which the Convention is in force and ordinarily engaged in maritime navigation (C134, Art. 1(1)) means persons defined as such by national law or practice or by collective agreement who are normally employed as crew members on board a sea-going ship other than (a) a ship of war; (b) a ship engaged in fishing or in operations directly connected therewith or in whaling or in similar pursuits (C145, Art. 1(2); R154, Para. 1(2)) means a person who is employed in any capacity on board a sea-going ship registered in a territory for which the Convention is in force, other than-- (a) a ship of war; (b) a ship engaged in fishing or in operations directly connected therewith or in whaling or similar pursuits (C146, Art. 2(2)) means any person who is employed in any capacity on board a seagoing ship, whether publicly or privately owned, other than a ship of war (C163, Art. 1(a); R173, Para. 1(a)) means any person who is employed in any capacity on board a seagoing ship to which this Convention applies (C164, Art. 1(4)) means persons employed in any capacity on board a seagoing ship which is engaged in the transport of cargo or passengers for the purpose of trade, is utilised for any other commercial purpose or is a seagoing tug, with the exception of persons employed on (i) small vessels including those primarily propelled by sail, whether or not they are fitted with auxiliary engines; (ii) vessels such as oil rigs and drilling platforms when not engaged in navigation (C165, Art. 1(c)) means persons who are employed in any capacity on board a seagoing ship to which the Convention applies. In the event of any doubt as to whether any categories of persons are to be regarded as seafarers for the

Terms	Definitions
	<p>purpose of this Convention, the question shall be determined by the central coordinating authority after consulting the organizations of shipowners and seafarers concerned (C178, Art. 1(7)(d))</p> <p>the term <i>seafarer</i> means any person who fulfils the conditions to be employed or engaged in any capacity on board a seagoing ship other than a government ship used for military or non-commercial purposes (C179, Art. 1(1)(d))</p> <p>means any person defined as such by national laws or regulations or collective agreements who is employed or engaged in any capacity on board a seagoing ship to which this Recommendation applies (C180, Art. 2(d); R187, Para. 2(f))</p> <p>means any person who is employed or is engaged or works in any capacity on board a vessel, other than a ship of war, ordinarily engaged in maritime navigation (C185, Art. 1(1))</p> <p>covers all persons who are employed in any capacity on board a ship, other than a ship of war, ordinarily engaged in maritime navigation (R142, Para. 1(a))</p>
Seaman/seafarer (French: <i>marin</i>)	<p>includes all persons employed on any vessel engaged in maritime navigation (C8, Art 1(1))</p> <p>includes all persons, except officers, employed as members of the crew on vessels engaged in maritime navigation (C9, Art. 1)</p> <p>means any person who is employed in any capacity on board a seagoing ship, whether publicly or privately owned, other than a ship of war (C163, Art. 1(1)(a); R173, Para. 1(1)(a))</p> <p>means any person defined as such by national laws or regulations or collective agreements who is employed or engaged in any capacity on board a seagoing ship to which this Convention applies (C180, Art. 2(d))</p> <p>means any person who is employed or is engaged or works in any capacity on board a vessel, other than a ship of war, ordinarily engaged in maritime navigation (C185, Art. 1(1))</p> <p>includes every person employed or engaged in any capacity on board any vessel and entered on the ship's articles. It excludes masters, pilots, cadets and pupils on training ships and duly indentured apprentices, naval ratings, and other persons in the permanent service of a Government (C22, Art. 2(b); C23, Art. 2(b))</p> <p>means any person who is employed in any capacity on board a seagoing ship to which this Convention applies; (C166, Art. 1(4); C164, Art. 1(4))</p> <p>means any person defined as such by national laws or regulations or collective agreements who is employed or engaged in any capacity on board a seagoing ship to which this Recommendation applies (R187, Para. 2(f))</p>
Ship's cook (French: <i>cuisinier de navire</i>)	means the person directly responsible for the preparation of meals for the crew of the ship (C69, Art. 2)
Shipowner (French: <i>armateur</i>)	means the owner of the ship or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for operation of the ship from the shipowner and who on assuming such responsibilities has agreed to take over all the attendant duties and responsibilities (C179, Art. 1(c); C180, Art. 2(e); R187, Para. 2(g))
Sickness (French: <i>maladie</i>)	means any morbid condition, whatever its cause (R134, Para. 1(h))
Skipper (French: <i>patron</i>)	master or skipper means any person having command or charge of a vessel (C53, Art. 2(a))

Terms	Definitions
	<p>any person having command or charge of a fishing vessel (C125, Art. 3(a)) any person having command or charge of a fishing vessel (R126, Para. 2(a))</p>
<p>Stateless person (French: <i>apatride</i>)</p>	<p>has the meaning assigned to it in Article 1 of the Convention relating to the Status of Stateless Persons of 28 September 1954 (C118, Art. 1(h); C157, Art. 1(f); C165, Art. 1(1); R167, Para. 1(d))</p>
<p>System of labour administration (French: <i>système d'administration du travail</i>)</p>	<p>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 (C150, Art. 1(b); R158, Para. 1(b))</p>
<p>Termination of employment (French: <i>licenciement</i>)</p>	<p>means termination of employment at the initiative of the employer (C158, Art. 3; R166, Para. 4)</p>
<p>Tip (French: <i>pourboire</i>)</p>	<p>means an amount of money given voluntarily to the worker by a customer, in addition to the amount which the customer has to pay for the services received (C172, Art. 6(1))</p>
<p>Vessel/ship (French: <i>navire</i>)</p>	<p>includes all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war (C7, Art. 1; C8, Art. 1(2); C15, Art. 1; C16, Art. 1; C58, Art. 1) includes any ship or boat of any nature whatsoever, whether publicly or privately owned, ordinarily engaged in maritime navigation (C22, Art. 2(a); C23, Art. 2(a)) means a vessel to which the Convention applies (C75, Art. 2(a); C92, Art. 2(a); C133, Art. 2(a)) covers any kind of ship, vessel, barge, lighter or hovercraft, excluding ships of war (C152, Art. 3(h)) includes all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned, excluding ships of war; it may be interpreted as excluding vessels of less than a specified tonnage and carrying a crew of less than a specified number (R70, Annex, Art. 46(e)) covers any kind of ship, vessel, barge, lighter or hovercraft, excluding ships of war (R160, Para. 2(h))</p>
<p>Vocational guidance (French: <i>orientation professionnelle</i>)</p>	<p>means assistance given to an individual in solving problems related to occupational choice and progress with due regard for the individual's characteristics and their relation to occupational opportunity (R87, Para. 1(1)) means that guidance and training are directed to identifying and developing human capabilities for a productive and satisfying working life and, in conjunction with the different forms of education, to improve the ability of the individual to understand and, individually or collectively, to influence working conditions and the social environment (R150, Para. 2(1))</p>
<p>Vocational rehabilitation (French: <i>adaptation et réadaptation professionnelle</i>)</p>	<p>means that part of the continuous and co-ordinated process of rehabilitation which involves the provision of those vocational services, e. g. vocational guidance, vocational training and selective placement, designed to enable a disabled person to secure and retain suitable employment (R99, Para. 1(a))</p>
<p>Vocational training (French: <i>formation professionnelle</i>)</p>	<p>means any form of training by means of which technical or trade knowledge can be acquired or developed, whether the training is given at school or at the place of work (R57, Para. 1(a)) means any form of training for employment by means of which technical,</p>

Terms	Definitions
	<p>trade or supervisory knowledge or skill can be acquired or developed, whether the training is given inside or outside an undertaking, and includes retraining (R88, Para. 1(a))</p> <p>means that guidance and training are directed to identifying and developing human capabilities for a productive and satisfying working life and, in conjunction with the different forms of education, to improve the ability of the individual to understand and, individually or collectively, to influence working conditions and the social environment (R150, Para. 2(1))</p>
Widow (French: <i>veuve</i>)	<p>means a woman who was maintained by her husband at the time of his death (C102, Art. 1(1)(d); C128, Art. (1)(g)), R131, Para. 1(e))</p>
Worker (French: <i>ouvrier</i>)	<p>shall mean: (a) in underground coal mines, any person occupied underground, by whatever employer and on whatever kind of work he may be employed, except persons engaged in supervision or management who do not ordinarily perform manual work; (b) in open coal mines, any person employed directly or indirectly in the extraction of coal, except persons engaged in supervision or management who do not ordinarily perform manual work (C31, Art. 2; C46, Art. 2)</p>
Worker (French: <i>travailleur</i>)	<p>means any person employed in the processes (C28, Art. 1(2); C32, Art. 1(2))</p> <p>means an indigenous worker, that is to say a worker belonging to or assimilated to the indigenous population of a dependent territory of a Member of the Organisation or belonging to or assimilated to the dependent indigenous population of the home territory of a Member of the Organisation (C64, Art. 1(a))</p> <p>means an indigenous worker, that is to say a worker belonging to or assimilated to the indigenous population of a non-metropolitan territory (C86, Art. 1(a))</p> <p>means any person engaged in dock work (C152, Art. 3(a))</p> <p>covers all employed persons, including public employees (C155, Art. 3(b))</p> <p>includes the members of production co-operatives (C162, Art. 2(f); R172, Para. 3(f))</p> <p>means any person engaged in construction (C167, Art. 2(d); R175, Para. 2(d))</p> <p>includes jobseekers (C181, Art. 1(2))</p> <p>means any person engaged in dock work (R160, Para. 2(a))</p> <p>covers all employed persons, including public employees (R164, Para. 2(b))</p>
Workers concerned, the (French: <i>travailleurs concernés</i>)	<p>means workers employed within establishments to which the Convention applies pursuant to the provisions of Article 1, irrespective of the nature and duration of their employment relationship. However, each Member may, in the light of national law, conditions and practice and after consulting the employers' and workers' organisations concerned, exclude certain particular categories of workers from the application of all or some of the provisions of this Convention (C172, Art. 2(1))</p> <p>means workers employed within establishments to which this Recommendation applies pursuant to the provisions of paragraphs 1 and 2, irrespective of the nature and duration of their employment relationship (R179, Para. 3)</p>
Workers' representatives (French: <i>représentants des travailleurs</i>)	<p>means persons who are recognised as such under national law or practice, whether they are: (a) trade union representatives, namely representatives designated or elected by trade unions or by the members of such unions; or (b) elected representatives, namely representatives who are freely elected by the workers of the undertaking in accordance</p>

Terms	Definitions
	<p>with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognised as the exclusive prerogative of trade unions in the country concerned (C135, Art. 3; R143, Para. 2; R175, Para. 2(e))</p> <p>means the workers' representatives recognised as such by national law or practice, in conformity with the Workers' Representatives Convention, 1971 (C162, Art. 2(g); R179, Para. 7(2); R172, Para. 3(g))</p> <p>means persons who are recognised as such by national law or practice, in accordance with the Workers' Representatives Convention, 1971 (C170, Art. 2(f); C171, Art. 10(2))</p>
<p>Workers' representatives in the undertaking (French: <i>représentants des travailleurs dans l'entreprise</i>)</p>	<p>following the definition in national legislation (C161, Art. 1(b))</p> <p>means persons who are recognised as such under national law or practice (R171, Para. 47)</p>
<p>Workplace (French: <i>lieu de travail</i>)</p>	<p>covers all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer (C155, Art. 3(c); R164, Para. 2(c))</p> <p>means all places where workers need to be or to go by reason of their work and which are under the control of an employer as defined in subparagraph (e) below (C167, Art. 2(c); R175, Para. 2(c))</p>
<p>Young seafarer (French: <i>jeunes marins</i>)</p>	<p>includes all young persons under 18 years of age employed in any capacity on board a sea-going ship other than (a) a ship of war; (b) a ship engaged in fishing or in operations directly connected therewith or in whaling or similar pursuits (R153, Para. 2(1))</p>

Appendix 6

Exclusion, exception, inclusion

Appendix 6 presents examples of provisions included in ILO Conventions which allow for derogation at the time of ratification, for example, by authorizing specific exclusions or inclusions, by granting the competent authority the possibility to determine the scope of the instrument or by expressly providing for exclusions. Both the Conventions and corresponding provisions containing derogations are indicated.

Contents of clause
Exclusion to be provided by law (C24, Art. 2(2))
Exclusion to be provided by law (C25, Art. 2(2))
Exclusion specifically provided and exemptions to be defined by the competent authority (C30, Art. 1(2) and (3))
Exclusion for small tonnage and information to be reported to the ILO (C32, Art. 15)
Exception specifically provided and exemption by the competent authority (C33, Art. 1(2) and (3))
Possible exclusion of certain categories of persons from the application of the Convention (C45, Art. 3)
Determination of the scope of application by the competent authority (C52, Art. 1(2))
Possible exclusion of designated persons from the scope of the Convention (C52, Art. 1(3))
Possible exceptions allowed by legislation, limited to work of such a character that reasonably safe conditions normally obtain (C62, Art. 2(2))
Determination at the national level of the branches to which the Convention does not apply (C78, Art. 1(2))
Determination by the competent authority of the object of the Convention (C78, Art. 1(3))
Exception specifically provided for family undertakings (C78, Art. 1(4))
Determination at the national level of the branches to which the Convention does not apply (C79, Art. 1(2))
Determination by the competent authority of the object of the Convention (C79, Art. 1(3))
Exception specifically provided limited to specified situations (C79, Art. 1(4))
Possible exclusion of certain undertakings from the application of the Convention (C81, Art. 2(2))
Possible exclusion of certain employments from the application of the Convention (C90, Art. 1(3))
Exclusion of certain craft from the scope of the Convention (C91, Art. 1(3))
Possible exclusion of vessels of less than 200 gross register tons from the application of the Convention by national laws or regulations or collective agreements (C91, Art. 1(4))
Exception specifically provided by the Convention (C91, Art. 2(1))
Possible exclusion of categories of persons specifically designated by legislation under condition of service which are not less favourable (C91, Art. 2(2))

Contents of clause

Possible exception by the competent authority to create overall conditions which are not less favourable (C92, Art. 1(5))

Possible exclusion of certain persons from the application of the Convention (C94, Art. 1(5))

Possible exclusion of certain categories of persons whose circumstances and conditions of employment are such that the application to them of the Convention would be inappropriate (C95, Art. 2(2))

Notification of the exclusions in the first report submitted under article 22 of the Constitution (C95, Art. 2(3))

Determination of the undertakings, occupations and categories of persons to which Article 1(1) applies (C99, Art. 1(2))

Exception provided for persons whose conditions of employment render the provisions inapplicable to them (C99, Art. 1(3))

Determination of the undertakings, occupations and categories of persons to which the Convention applies (C101, Art. 4(1))

Exception provided for persons whose conditions of employment render the provisions inapplicable to them (C101, Art. 4(2))

Possible exclusion of exclusively family-run undertakings from the application of the Convention (C103, Art. 1(6))

Possible to include by declaration one or several of the categories mentioned (C106, Art. 3(1) and (2))

Obligation to indicate in the report under article 22 of the Constitution to what extent the Member intends to expand the declaration of the preceding paragraphs to the specified undertakings which have not yet been concerned by such a declaration (C106, Art. 3(3))

Determination of the exclusions by the competent authority (C114, Art. 1(2))

Possible exclusion by the competent authority of the application of the Convention for matters regulated by collective agreement (C114, Art. 1(3))

Possible exclusion by the competent authority of the Convention in those cases where the “circumstances and conditions of employment are such that the application [of the Convention] would be inappropriate” (C120, Art. 2)

Exclusion specifically provided: declaration to exclude notified with the ratification (C121, Art. 3)

Possible exclusion limited to the categories of persons specified as the Member deems it necessary (C121, Art. 4(2))

Determination at the national level of the content of the definitions of the workplaces to which the Convention applies (C126, Art. 1(2))

Exclusion of boats of less than 75 tons from the scope of the Convention (C126, Art. 1(3))

Possible declaration of limited temporary exclusion (C128, Art. 9(2))

Possible declaration of limited temporary exclusion (C128, Art. 16(2))

Determination by the competent authority of the matters included in the scope of application and matters excluded from it (C129, Art. 1(2))

Possible declaration to exclude limited categories of persons (C132, Art. 2(2))

Possibility to determine by national laws or regulations or by the competent authority the types of employment included within the scope of the Convention (C138, Art. 3(2))

Possible exception to the minimum age for admission to employment

Contents of clause (C138, Art. 3(3))
Possible exclusion of categories of employment or work in respect of which special and substantial problems of application arise (C138, Art. 4)
Exclusion of certain categories of persons from the scope of a part of the Convention (C143, Art. 11)
Exclusion of certain workers from the scope of the Convention according to the workplace (C146, Art. 2(2))
Determination by national laws or regulations of the workplaces subject to the Convention (C146, Art. 2(3))
Declaration to include the persons excluded as a result of paragraph 2 (C146, Art. 2(4))
Possible exclusion of particular branches of economic activity in respect of which special problems of a substantial nature arise (C148, Art. 1(2))
Possibility to partially accept the obligations of the Convention by fragmenting it according to the risks regulated by the Convention (C148, Art. 2(1))
Possibility to exclude persons who perform tasks specifically determined by this provision (C153, Art. 2(1))
Possibility to exclude by declaration limited categories of workers in respect of which there are particular difficulties from the application of the Convention (C155, Art. 2)
Possibility to exclude certain categories of workers specifically designated by the provision (C158, Art. 2(2))
Possibility to exclude branches of economic activities or particular undertakings from the application of certain provisions of the Convention if such application is unnecessary (C162, Art. 1(2))
Factors to consider in excluding branches of economic activity or undertakings: frequency, duration and level of exposure, as well as the type of work and the conditions at the workplace (C162, Art. 1(3))
Determination by national laws or regulations of the scope of the Convention by establishing the definition of "seagoing ship" for the purpose of the Convention (C163, Art. 1(2))
Determination by the competent authority of the content of the definitions of the workplaces subject to the Convention (C164, Art. 1(3))
Possible inclusion of commercial maritime fishing within the scope of the Convention (C165, Art. 2(2))
Possible inclusion of commercial maritime fishing within the scope of the Convention (C166, Art. 1(2))
Possible exclusion of particular branches of activity or undertakings in respect of which special problems of a substantial nature arise, on condition that a safe and healthy working environment is maintained (C167, Art. 1(2))
Extension of the scope of the Convention to such self-employed persons as may be specified by national laws or regulations (C167, Art. 1(3))
Possible exclusion of particular branches of activity, undertakings or products when particular application problems arise and when the overall protection afforded in pursuance of national law and practice is not inferior to that provided in the Convention (C170, Art. 1(2))
Specific exclusions of certain products from the scope of the Convention (C170, Art. 1(3) and (4))
Determination at the national level by the competent authority of the content of the definition of "night work" and of the moment from which a worker is deemed to be a night worker (C17, Art. 1(a) and (b))
Possible exclusion of establishments which fall within the definition of the scope of application but where special problems of a substantial nature arise

Contents of clause

(C172, Art. 1(2))

Possible inclusion of related establishments within the scope of application by means of a declaration appended to the ratification

(C172, Art. 1(3)(a))

Possible inclusion of related establishments within the scope of the Convention after ratification by means of a declaration notified to the Director-General of the ILO

(C172, Art. 1(3)(b))

The Member shall indicate in a declaration accompanying its ratification by which Parts of the Convention it shall be bound

(C173, Art. 3(1))

Possible inclusion of the Parts of the Convention excluded at the moment of ratification by means of a declaration to the Director-General of the ILO

(C173, Art. 3(2))

Possible limitation, in the declaration of acceptance, of the scope of Part III to certain categories of workers and to certain branches of economic activity

(C173, Art. 3(3))

Obligation to state the reason for the exclusions in the first report under article 22 of the Constitution

(C173, Art. 3(4))

Exclusions from the scope of application specifically provided in the Convention

(C174, Art. 1(3))

Possible exclusion of installations or branches of economic activity for which equivalent protection is provided

(C174, Art. 1(4))

Possible exclusion of particular categories of workers or of establishments when application to them would raise particular problems of a substantial nature

(C175, Art. 1)

Possible exclusion of certain categories of mines from the application of the Convention when the protection afforded under national law and practice is not inferior

(C176, Art. 2)

Determination by national laws or regulations of content of the definition of "seagoing ship" for the purpose of the Convention

(C178, Art. 1(2))

Exclusion of certain vessels from the scope of the Convention. Determination by the central coordinating authority of the specific vessels to which this provision applies

(C178, Art. 1(4))

Determination of the definition of "seafarers" for the purposes of application of the Convention by national laws or regulations or collective agreements

(C180, Art. 2(d))

Exclusion of the recruitment and placement of seafarers from the scope of the Convention

(C181, Art. 2(2))

Possible exclusion of workers in certain branches of economic activity where adequate protection is otherwise assured for the workers concerned

(C181, Art. 2(4)(b))

Determination by national laws or regulations or by the competent authority of certain types of work included in the scope of the Convention

(C182, Art. 4)

Possible exclusion of limited categories of workers when its application to them would raise special problems of a substantial nature

(C183, Art. 2)

Possible exclusion of certain undertakings from the application of the Convention

(P81, Art. 2(2))

Appendix 7

References to terms such as "adequate", "appropriate", "suitable", "proper", "relevant", "consistent", "convenient", "(in)compatible", "satisfactory"

Appendix 7 contains certain terms that are used in ILO Conventions which give Members discretion regarding the substance of the measures to be taken. The terms are, in particular, "adequate", "appropriate", "suitable", "proper", "relevant", "consistent", "convenient", "(in)compatible", and "satisfactory". Both the Conventions and provisions in which those terms are used are indicated. The French translation of those expressions is mentioned at the beginning of each table. When a different French expression is used, it is indicated in brackets.

Reference to the term "adequate"

The French term adéquat(e)(s), which means appropriate, is generally translated in English by such terms as "sufficient", "adequate", or "satisfactory" (often with the implication of meeting minimum requirements), or, when followed by "to", as "proportionate". The differences between the meanings of those terms in English may result in inconsistencies between the French and English texts.

Wording of the clause

"Chiefs who are duly recognised and who do not receive adequate remuneration in other forms ..."
(C29, Art. 7(3))

"The necessary measures shall be taken to ensure adequate inspection"
(C30, Art. 11(1))

"The following functions shall be discharged by the competent authority, except in so far as these functions are adequately discharged in virtue of collective agreements: ..."
(C68, Art. 2)

"The laws or regulations shall [...] (c) prescribe adequate penalties for any violation thereof"
(C75, Art. 3(2))

"Adequate mess room accommodation shall be provided for the catering department ..."
(C75, Art. 11(4))

"Where food, housing, clothing and other essential supplies and services form part of remuneration, all practicable steps shall be taken by the competent authority to ensure that they are adequate ..."
(C82, Art. 15(7))

"Adequate mess room accommodation shall be provided for the catering department ..."
(C92, Art. 11(4))

"The laws, regulations or other instrument giving effect to the provisions of this Convention [...] (b) shall [...] provide for the maintenance of: i) adequate records of the time worked by, and the wages paid to, the workers concerned"
(C94, Art. 4)

"Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment"
(C98, Art. 1(1))

"Where no adequate arrangements exist for the fixing of minimum wages by collective agreement, the necessary arrangements shall be made whereby minimum rates of wages can be fixed ..."
(C110, Art. 24(2))

"Where no adequate arrangements exist for the fixing of minimum wages by collective agreement, the necessary arrangements shall be made whereby minimum rates of wages can be fixed ..."
(C117, Art. 10(2))

"The laws or regulations shall [...] (d) prescribe adequate penalties for any violation thereof"
(C126, Art. 3(2))

"Appropriate measures, such as adequate inspection reinforced by other necessary measures, shall be

Wording of the clause

taken ...”
(C131, Art. 5)

“The laws or regulations shall [...] (c) prescribe adequate penalties for any violation thereof”
(C133, Art. 4(2))

“Recreation accommodation conveniently situated and appropriately (In French: *d'une manière convenable*) furnished ...”
(C133, Art. 7(1))

“Appropriate measures shall be taken to ensure the proper application of the provisions referred to in Article 4, by means of adequate inspection or otherwise”
(C134, Art. 6(1))

“Workers who may have skin contact with liquid benzene or liquid products containing benzene shall be provided with adequate means of personal protection ...”
(C136, Art. 8(1))

“... national laws or regulations or the competent authority may [...] authorise employment or work as from the age of 16 years on condition [...] that the young persons have received adequate specific instruction ...”
(C138, Art. 3(3))

“The financing of arrangements for paid educational leave shall be on a regular and adequate basis and in accordance with national practice”
(C140, Art. 7)

“In order to ensure adequate consideration of the matters referred to in paragraph 1 of this Article, consultation shall be undertaken at appropriate intervals fixed by agreement, but at least once a year”
(C144, Art. 5(2))

“Effective measures appropriate to the manner in which effect is given to the provisions of this Convention shall be taken to ensure the proper application and enforcement of regulations or provisions concerning annual leave with pay, by means of adequate inspection ...”
(C146, Art. 13)

“Each Member which ratifies this Convention undertakes [...] (d) to ensure that: (i) adequate procedures [...] exist for the engagement of seafarers ...”
(C147, Art. 2(d))

“All persons concerned shall be adequately and suitably [...] (b) instructed ...”
(C148, Art. 13)

“Public employees' organisations shall enjoy adequate protection against any acts of interference by a public authority in their establishment ...”
(C151, Art. 5(2))

“The competent authority or body in each country shall lay down adequate standards concerning driving time ...”
(C153, Art. 2(2))

“... the bodies [...] shall be empowered to order payment of adequate compensation ...”
(C158, Art. 10)

“... health services shall have such of the following functions as are adequate ...”
(C161, Art. 5)

“... exposure to asbestos shall be prevented or controlled by [...] making work in which exposure to asbestos may occur subject to regulations prescribing adequate engineering controls and work practices ...”
(C162, Art. 9)

“Each Member for which this Convention is in force undertakes to ensure that adequate welfare facilities and services are provided for seafarers both in port and on board ship”
(C163, Art. 2(1))

“The competent authority of each Member shall ensure by means of adequate supervision that the owners of ships registered in its territory comply with the provisions of the Convention ...”
(C166, Art. 11)

“the term *competent person* means a person possessing adequate qualifications, such as suitable training ...”
(C167, Art. 2(f))

“Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned”
(C169, Art. 14(3))

Wording of the clause

“Employers shall make an assessment of the risks arising from the use of chemicals at work, and shall protect workers against such risks by appropriate means, such as: [...] the use of adequate engineering control measures”
(C170, Art. 13(1))

“Adequate remedies, including penalties where appropriate, in case of violation of these laws and regulations shall be provided for and effectively applied”
(C177, Art. 9(2))

“A Member shall ensure that the competent authority: [...] (c) require that the management and staff of recruitment and placement services for seafarers should be adequately trained persons having relevant knowledge of the maritime industry”
(C179, Art. 2(c))

“... the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest”
(C180, Art. 7(3))

“... a Member may: [...] (b) exclude, under specific circumstances, workers in certain branches of economic activity, or parts thereof, from the scope of the Convention or from certain of its provisions, provided that adequate protection is otherwise assured for the workers concerned”
(C181, Art. 2(4))

Reference to the term "appropriate"

The qualifier "appropriate" is translated in French as approprié(e)(s) (i.e. adapted for a specific use or well adapted). In English it means "suitable" or "proper" depending on the circumstances.

Wording of the clause

“... measures to be taken to enable clear information to be obtained on board as to the conditions of employment, either by posting the conditions of the agreement in a place easily accessible from the crew's quarters, or by some other appropriate means”
(C22, Art. 8)

“... appropriate measures shall be prescribed to ensure their safe transport ...”
(C28, Art. 4)

“Appropriate measures shall be prescribed to ensure that no hoisting machine ...”
(C28, Art. 9)

“Appropriate measures shall be taken ...”
(C28, Art. 9(8))

“... appropriate measures shall be prescribed to ensure their safe transport ...”
(C32, Art. 4)

“Recreation accommodation, conveniently situated and appropriately furnished, shall be provided ...”
(C75, Art. 12(2))

Article 6(1):
“Appropriate measures shall be taken by the competent authority ...”
(C77, Art. 6(1))

“... the authority may exempt such areas from the application of the Convention either generally or with such exceptions in respect of particular undertakings or occupations ...”
(C77, Art. 8)

“... or empower an appropriate authority to specify, the occupations or categories of occupations ...”
(C78, Art. 4(2))

“... the authority may exempt such areas from the application of the Convention either generally or with such exceptions in respect of particular undertakings or occupations as it thinks fit”
(C78, Art. 8(1))

“National laws or regulations may empower an appropriate authority to grant ...”
(C79, Arts. 4(3) and 5(1))

“The competent authority shall make appropriate arrangements to promote ...”
(C81, Art. 5)

“... in such manner as may be deemed most appropriate under national conditions ...”
(C81, Art. 9)

Wording of the clause

“All possible steps shall be taken by appropriate international, regional, national and territorial measures ...”

(C82, Art. 4)

“... where appropriate and possible”

(C82, Art. 5)

“... the competent authority shall take appropriate measures with the object of ensuring ...”

(C95, Art. 7(2))

“... in the manner deemed most appropriate by the competent authority ...”

(C95, Art. 8(2))

“... take all appropriate steps against misleading propaganda relating to emigration and immigration”

(C97, Art. 3(1))

“... undertakes to maintain, within its jurisdiction, appropriate medical services ...”

(C97, Art. 5)

“... shall be entitled to recover, by judicial or other appropriate proceedings, the amount by which he has been underpaid ...”

(C99, Art. 4(2))

“... by such means as may be deemed appropriate ...”

(C102, Art. 10(4))

“... by such means as may be deemed appropriate ...”

(C102, Art. 49(4))

“... in such other manner consistent with national practice as may be appropriate under national conditions ...”

(C106, Art. 1)

“... the competent authority or through the appropriate machinery in each country ...”

(C106, Art. 5)

“Appropriate measures shall be taken ...”

(C106, Art. 10(1))

“... take all appropriate steps against misleading propaganda relating to emigration and immigration”

(C110, Art. 17(1))

“... shall take appropriate measures with the object of ensuring ...”

(C110, Art. 30(2))

“... in the manner deemed most appropriate by the competent authority ...”

(C110, Art. 31(2))

“... to ensure that workers are informed, in an appropriate [...] manner ...”

(C110, Art. 34)

“Machinery appropriate to national conditions shall be established ...”

(C110, Art. 60)

“Measures appropriate to national conditions shall be taken, where necessary ...”

(C110, Art. 61)

“... other appropriate authority designated by such laws or regulations ...”

(C112, Art. 2(3))

“... undertakes to give effect thereto by means of laws or regulations, codes of practice or other appropriate means”

(C115, Art. 1)

“... all appropriate steps shall be taken to ensure effective protection ...”

(C115, Art. 3(1))

“Appropriate levels shall be fixed ...”

(C115, Art. 7(1))

“Appropriate warnings ...”

(C115, Art. 9(1))

“Appropriate monitoring of workers ...”

(C115, Art. 11)

“... the worker shall undergo an appropriate medical examination”

(C115, Art. 13(a))

“... close study of the causes and effect of migratory movements and appropriate action where necessary”

(C117, Art. 3(2)(a))

“The sale and hire of machinery of which the dangerous parts [...] are without appropriate guards shall

Wording of the clause

be prohibited by national laws or regulations ...”

(C119, Art. 2(1))

“... as safe as if they were guarded by appropriate safety devices”

(C119, Art. 3(1)(a))

Article 4:

“... and, where appropriate under national laws or regulations ...”

(C119, Art. 4)

“... which [...] is without appropriate guards shall be prohibited by national laws or regulations ...”

(C119, Art. 6)

“... including the provision of appropriate penalties ...”

(C119, Art. 15(1))

“Workers shall be protected by appropriate and practicable measures ...”

(C120, Art. 17)

“All necessary measures, including the provision of appropriate penalties ...”

(C123, Art. 4(1))

“... undertakes either to maintain an appropriate inspection service for the purpose of supervising the application of the provisions of the Convention or to satisfy itself that appropriate inspection is carried out”

(C123, Art. 4(2))

“The medical examinations provided for in Article 2 [...] e certified in an appropriate manner”

(C124, Art. 3(1)(b))

“All necessary measures, including the provision of appropriate penalties ...”

(C124, Art. 4(1))

“... undertakes either to maintain an appropriate inspection service for the purpose of supervising the application of the provisions of the Convention or to satisfy itself that appropriate inspection is carried out”

(C124, Art. 4(2))

“... and measures shall be taken to give them appropriate further training in the course of their employment”

(C129, Art. 9(3))

“... the competent authority may either entrust certain inspection functions at the regional or local level on an auxiliary basis to appropriate government services or public institutions ...”

(C129, Art. 12(2))

“The competent authority shall make appropriate arrangements to promote ...”

(C129, Art. 13)

“... whose terms of employment are such that coverage would be appropriate”

(C131, Art. 1(1))

“... failure to apply them shall make the person or persons concerned liable to appropriate penal or other sanctions”

(C131, Art. 2(1))

“... period of the same length determined [...] through the appropriate machinery in the country concerned”

(C132, Art. 4(2))

“... to be determined by the competent authority or through the appropriate machinery in each country ...”

(C132, Art. 6(2))

“The medical examinations provided for in Article 9, paragraph 1, of this Convention shall be [...] certified in an appropriate manner”

(C136, Art. 10(1)(b))

“... receives appropriate instructions on measures to safeguard health ...”

(C136, Art. 13)

“... formulate and apply a social policy appropriate to national conditions and practice ...”

(C143, Art. 12(e))

“... after appropriate consultation with the representative organisations of employers and workers ...”

(C143, Art. 14(b))

“... consultation shall be undertaken at appropriate intervals fixed by agreement, ...”

(C144, Art. 5(2))

“When this is considered appropriate [...] the competent authority shall issue an annual report ...”

Wording of the clause

(C144, Art. 6)

“... such other manner consistent with national practice as may be appropriate under national conditions ...”

(C146, Art. 1)

“... under conditions to be determined by the competent authority or through the appropriate machinery in each country”

(C146, Art. 6(b))

“... to verify by inspection or other appropriate means ...”

(C147, Art. 2(f))

“... through technical standards, codes of practice and other appropriate methods”

(C148, Art. 4(2))

“In appropriate circumstances, the competent authority shall prescribe general procedures for this collaboration”

(C148, Art. 6(2))

“... obtain information and training and to appeal to appropriate bodies ...”

(C148, Art. 7(2))

“... in a manner appropriate to national conditions”

(C149, Arts. 2(1) and 5(1))

“Each Member which ratifies this Convention shall, in a manner appropriate to national conditions ...”

(C150, Art. 4)

“Measures appropriate to national conditions shall be taken, where necessary, ...”

(C151, Art. 7)

“... shall be ensured or assisted by technical standards or codes of practice approved by the competent authority, or by other appropriate methods consistent with national practice and conditions”

(C152, Art. 4(3))

“... by national laws or regulations or other appropriate methods consistent with national practice and conditions ...”

(C152, Art. 7(1))

“... shall be reviewed at appropriate intervals, [...] over-all ...”

(C155, Art. 7)

“... shall be secured by an adequate and appropriate system of inspection”

(C155, Art. 9(1))

“... shall take appropriate measures to promote information ...”

(C156, Art. 6)

“... or a combination of these methods, or in any other manner consistent with national practice which may be appropriate, account being taken of national conditions”

(C156, Art. 9)

Article 2(4) and (5):

“... measures may be taken by the competent authority or through the appropriate machinery in a country ...”

(C158, Art. 2(4) and (5))

“... and, where appropriate, time rates of wages and normal hours of work”

(C160, Art. 1(c))

“... information appropriate to the means of dissemination used ...”

(C160, Art. 5(a))

“Statistics of household expenditure or, where appropriate, family expenditure and, where possible, household income or, where appropriate, family income ...”

(C160, Art. 13)

“The provision made should be adequate and appropriate to the specific risks of the undertakings”

(C161, Art. 3(1))

“... shall have such of the following functions as are adequate and appropriate to the occupational risks of the undertaking”

(C161, Art. 5)

“... shall be secured by an adequate and appropriate system of inspection”

(C162, Art. 5(1))

“... repatriation by appropriate and expeditious means”

(C166, Art. 4(1))

“... by means of collective agreements or in such other manner as may be appropriate under national

Wording of the clause

conditions ...”
(C166, Art. 9)

“... shall be available in an appropriate language to the crew members of every ship ...”
(C166, Art. 12)

“The competent authorities may define appropriate criteria for the designation of such persons ...”
(C167, Art. 2(f))

“All appropriate precautions shall be taken ...”
(C167, Art. 13(3))

“... account shall be taken, in particular, under prescribed conditions and to an appropriate extent, of the age of unemployed persons ...”
(C168, Art. 21(2))

“The consultations carried out [...] shall be undertaken, in good faith and in a form appropriate to the circumstances ...”
(C169, Art. 6(2))

“In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned ...”
(C169, Art. 14(1))

“... such workers [...] can be taken quickly to a place where appropriate treatment can be provided”
(C171, Art. 5)

“This income maintenance may be ensured by any of the measures listed in paragraph 2 of this Article, by other appropriate measures or by a combination of these measures”
(C171, Art. 7(3)(b))

“Appropriate social services shall be provided ...”
(C171, Art. 9)

“The provisions of this Convention may be implemented [...] in any other manner appropriate to national conditions and practice”
(C171, Art. 11(1))

“The provisions of this Convention may be applied by or through [...] any other appropriate manner consistent with national practice”
(C172, Art. 8(1))

“... plans and procedures [...] are established, updated at appropriate intervals and coordinated with the relevant authorities and bodies”
(C174, Art. 15)

“The workers and their representatives [...] shall be consulted through appropriate cooperative mechanisms in order to ensure a safe system of work”
(C174, Art. 20)

“... taking into account the special characteristics of home work and, where appropriate, conditions applicable to the same or a similar type of work carried out in an enterprise”
(C177, Art. 4)

“... implemented [...] in any other appropriate manner consistent with national practice”
(C177, Art. 5)

“Appropriate measures shall be taken ...”
(C177, Art. 6)

“... ensure that a system of protection, by way of insurance or an equivalent appropriate measure, is established ...”
(C179, Art. 4(2)(f))

“... establish or designate appropriate mechanisms to monitor the implementation of the provisions ...”
(C182, Art. 5)

“... provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour ...”
(C182, Art. 7(2)(b))

“Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention ...”
(C182, Art. 8)

Reference to the term "suitable"

The qualifier "suitable" or "suitably" is generally translated into French as *convenable* (i.e. well adapted, convenient) or *convenablement*, although this rule has several exceptions. In English this term may mean "convenient" in the sense of suitability to serving one's interest or comfort, or being available at a suitable time or place. See also the term "convenient" above.

Wording of the clause

"... to notify by means of the posting of notices in conspicuous places in the works or other suitable place ..."
(C1, Art. 8(1)(a))

"A seaman shall be deemed to have been duly repatriated if he has been provided with suitable employment on board a vessel ..."
(C23, Art. 3(2))

"... by the posting of notices in conspicuous positions in the establishment or other suitable place ..."
(C30, Art. 11(2)(a))

"... provide suitable (In French: *approprié(e)*) means for facilitating the identification and supervision of persons under a specified age ..."
(C33, Art. 7(b))

"... shall not be deemed to be suitable ..."
(C44, Art. 10(1))

"... the shipowner may discharge his liability to repatriate him by providing him with suitable employment on board a vessel ..."
(C55, Art. 6(4))

"... provide suitable (In French: *approprié(e)*) means for facilitating the identification and supervision of persons under a specified age ..."
(C60, Art. 7(c))

"Suitable scaffolds shall be provided for workmen ..."
(C62, Art. 7(1))

"A seafarer resident [...] shall be entitled to [...] board and lodging until he is able to obtain suitable employment ..."
(C70, Art. 3(1)(b))

"The usual remuneration payable in virtue of the preceding paragraph shall include a suitable (In French: *approprié(e)*) subsistence allowance ..."
(C72, Art. 5(2))

"Labour inspection services shall consist of suitably (In French: *approprié(e)*) trained inspectors"
(C85, Art. 2)

"Suitable (In French: *approprié(e)*) arrangements shall be made through advisory committees ..."
(C88, Art. 4(1))

"... assist workers to find suitable employment ..."
(C88, Art. 6(a))

"... sleeping rooms and mess rooms shall be properly lighted by natural light and shall be provided with adequate artificial light"
(C92, Art. 9(1))

"... canvas or other suitable material shall be fitted beneath the spring bottom of the upper berth ..."
(C92, Art. 10(20))

"... provision shall be made to protect the crews' quarters against the admission of mosquitoes by the fitting of suitable (In French: *approprié(e)*) screens to side scuttles, ventilators and doors ..."
(C92, Art. 15(3))

"... periodical payment representing a suitable proportion of that specified for total loss of earning capacity or corresponding loss of faculty ..."
(C102, Art. 36(2))

"The rates of cash benefit shall be fixed by national laws or regulations so as to ensure benefits sufficient for the full and healthy maintenance of herself and her child in accordance with a suitable standard of living"
(C103, Art. 4(2))

"... that the vehicles or vessels used for the transport of workers are suitable for such transport ..."
(C110, Art. 12(2)(a))

Wording of the clause

"... adequate and suitable (In French: *approprié(e)*) supplies of food ..."
(C110, Art. 13(2))

"All premises used by workers shall have sufficient and suitable (In French: *approprié(e)*) ventilation, natural or artificial or both, supplying fresh or purified air"
(C120, Art. 8)

"All premises used by workers shall have sufficient and suitable (In French: *approprié(e)*) lighting ..."
(C120, Art. 9)

"Sufficient and suitable (In French: *approprié(e)*) washing facilities and sanitary conveniences shall be provided ..."
(C120, Art. 13)

"Sufficient and suitable (In French: *approprié(e)*) seats ..."
(C120, Art. 14)

"Suitable (In French: *approprié(e)*) facilities [...] shall be provided and properly maintained"
(C120, Art. 15)

"... using all suitable (In French: *approprié(e)*) means, with a view to ..."
(C121, Art. 10(2))

"... take measures to further the placement of disabled persons in suitable (In French: *approprié(e)*) employment"
(C121, Art. 26(1)(c))

"... take measures to further the placement of disabled persons in suitable (In French: *approprié(e)*) employment"
(C128, Art. 13(1)(b))

"... local offices [...] suitably (In French: *de façon appropriée*) equipped in accordance with the requirements of the service ..."
(C129, Art. 15(1)(a))

"Suitable (In French: *approprié(e)*) standards of natural and artificial lighting shall be fixed ..."
(C133, Art. 11(5))

"... every effort shall be made, consistent with national practice and conditions, to provide the worker concerned with suitable alternative employment ..."
(C148, Art. 11(3))

"... providing and maintaining suitable (In French: *approprié(e)*) and adequate first-aid and rescue facilities"
(C152, Art. 4(1)(e))

"Access to a ship's hold or cargo deck shall be by means of (a) [...] a fixed ladder or cleats or cups of suitable (In French: *approprié(e)*) dimensions, of [...] proper construction; ..."
(C152, Art. 17(1))

"... the term *disabled person* means an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced ..."
(C159, Art. 1(1))

"... board and lodging until they are able to obtain suitable employment or are repatriated, whichever first occurs ..."
(C165, Art. 13)

"... suitable (In French: *approprié(e)*) and sound ladders shall be provided ..."
(C167, Art. 14(2))

"... full unemployment defined as the loss of earnings due to inability to obtain suitable employment ..."
(C168, Art. 10(1))

"1. The benefit to which a protected person would have been entitled in the case of full unemployment may be refused, withdrawn, suspended or reduced, to the extent prescribed, when the person concerned refuses to accept suitable employment.

2. In assessing the suitability of employment, account shall be taken, in particular, under prescribed conditions and to an appropriate extent, of the age of unemployed persons, their length of service in their former occupation, their acquired experience, the length of their period of unemployment, the labour market situation, the impact of the employment in question on their personal and family situation and whether the employment is vacant as a direct result of a stoppage of work due to an on-going labour dispute"

(C168, Art. 21(1) and (2))

"Suitable (In French: *approprié(e)*) first-aid facilities shall be made available for workers performing night work ..."
(C171, Art. 5)

Wording of the clause

"... the income of the woman worker shall be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living"
(C171, Art. 7(3)(b))

"... at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living"
(C183, Art. 6(2))

"... the income of a woman worker concerned shall be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living"
(P89, Art. 2(3)(b))

Reference to the term "proper"

The term "proper" may be used to mean "accurate, correct, fit, suitable, or right", or "thorough, complete". In French, it is sometimes translated as *approprié(e)*.

Wording of the clause

"Every Member of the International Labour Organisation for which this Convention is in force is responsible for the promotion of a proper (In French: *satisfaisant(e)*) standard of food supply ..."
(C68, Art. 1(1))

"... the arrangement and equipment of the catering department in every vessel in such a manner as to permit of the service of proper (In French: *convenable*) meals to the members of the crew"
(C68, Art. 5(2)(b))

"... seafarers shall be entitled to proper (In French: *approprié(e)*) and sufficient medical care"
(C70, Art. 2(1)(a))

"A seafarer [...] shall be entitled to- [...] a) proper (In French: *approprié(e)*) and sufficient medical care until he is cured or repatriated ..."
(C70, Art. 3(1)(a))

"... sleeping rooms and mess rooms shall be properly (In French: *convenablement*) lighted by natural light and shall be provided with adequate artificial light"
(C92, Art. 9(1))

"... special regard being had to all proper (In French: *approprié(e)*) humanitarian and economic considerations ..."
(C110, Art. 44)

"... by properly constructed (In French: *de modèle approprié*) lamps or lighting apparatus for emergency use"
(C126, Art. 9(2))

"Crew accommodation shall be properly (In French: *convenablement*) lighted"
(C133, Art. 11(1))

"... by properly constructed (In French: *de modèle approprié*) lamps or lighting apparatus..."
(C133, Art. 11(3))

"The medicine chest and its contents as well as the medical equipment carried on board shall be properly (In French: *de façon adéquate*) maintained and inspected at regular intervals ..."
(C164, Art. 5(4))

Reference to the term "relevant"

The term "relevant" refers to "bearing on or having reference" to a matter at hand. One French equivalent is *approprié(e)*.

Wording of the clause

"... the relevant (In French: *approprié(e)*) medical procedures and specific antidotes ..."
(C164, Art. 5(6))

Reference to the term "consistent"

The term "consistent" denotes "compatible" or "in harmony", "not contradictory". It can also refer, when applied to persons, to being "constant" in principles or action. The French equivalent would be *compatible*.

Wording of the clause

"Each Member shall [...] in so far as is consistent with such methods, ensure the application ..."
(C100, Art. 2(1))

"The practical implementation of the requirements prescribed in pursuance of paragraph 1 of this Article shall be ensured [...] by other appropriate methods consistent (In French: *compatible*) with national practice and conditions"
(C152, Art. 4(3))

"Where possible, these statistics shall be consistent with data on employment and hours of work ..."
(C160, Art. 11)

"... every effort shall be made, consistent with national conditions and practice ..."
(C162, Art. 21(4))

"... system of inspection consistent with national law and practice shall ensure compliance with the laws and regulations applicable to home work"
(C177, Art. 9(1))

Reference to the term "convenient"

The term "convenient" has several meanings, including "suitable", "serving one's comfort or interests", or "available or occurring at a suitable time or place". See also the discussion of the term "suitable" above. In French, it is usually translated by *convenable(s)* or *convenablement* which means that it is convenient, well adapted.

Wording of the clause

"... by means of notices posted conspicuously in the establishment or any other convenient place ..."
(C14, Art. 7(a))

"Recreation accommodation conveniently situated (In
(C133, Art. 7(1))

Reference to the terms "compatible", "incompatible"

The qualifier "(in)compatible" is generally translated into French as *(in)compatible(s)*. In English and French, these terms mean "able to coexist" or "consistent", or the opposite when their antonyms are used.

Wording of the clause

"Where the procedure prescribed in paragraph 2 is not compatible with the administrative or judicial practice ..."
(C81, Art. 13(3))

"These populations shall be allowed to retain their own customs and institutions where these are not incompatible with the national legal system ..."
(C107, Art. 7(2))

"To the extent consistent with the interests of the national community and with the national legal system ..."
(C107, Art. 8)

"... the competent authority shall take all necessary measures to ensure:(a) that the length of the daily journey is compatible with the maintenance of the health and strength of the workers ..."
(C110, Art. 12(3))

"So far as is compatible with the administrative practice of the Member, labour inspection in agriculture shall be placed under the supervision and control of a central body"
(C129, Art. 7(1))

"The number of workers exposed to carcinogenic substances or agents and the duration and degree of such exposure shall be reduced to the minimum compatible with safety"

Wording of the clause

(C139, Art. 2(2))

"To the extent compatible with national laws and regulations, and national practice, such arrangements shall be made at the national, regional and local levels as well as at the level of the different sectors of economic activity"
(C150, Art. 5(2))

"... all measures compatible with national conditions and possibilities shall be taken ..."
(C156, Art. 4)

"All measures compatible with national conditions and possibilities shall further be taken ..."
(C156, Art. 5)

"All measures compatible with national conditions and possibilities [...] shall be taken to enable workers ..."
(C156, Art. 7)

"the principal contractor [...] shall be responsible for co-ordinating the prescribed safety and health measures and, in so far as is compatible with national laws and regulations"
(C167, Art. 8(1)(a))

"Such action shall include measures for: (c) assisting the members of the peoples concerned [...] in a manner compatible with their aspirations and ways of life"
(C169, Art. 2(2))

Reference to the term "satisfactory"

The qualifier "satisfactory" is translated into French as *satisfaisant(e)(s)*. In English and in French, this term means "adequate, causing and giving satisfaction", or "satisfying expectations or needs". Other meanings of the term refers to "accurate, correct or suitable" or "reasonable" or "tolerable."

Wording of the clause

"... the competent authority shall satisfy itself: [...] (c) that the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils, and, where necessary, of housing and clothing, are satisfactory"
(C29, Art. 17(1))

"... the medical certificate shall attest: (a) that [...] his colour vision, are all satisfactory ..."
(C73, Art. 4(3))

"... one only of these means need be adopted in spaces where this ensures satisfactory ventilation"
(C92, Art. 7(3))

"The heating system shall be capable of maintaining the temperature in crew accommodation at a satisfactory level ..."
(C92, Art. 8(5))

"Any Member may, before permitting entry into its territory for one of the purposes specified in the preceding paragraph, require satisfactory evidence ..."
(C108, Art. 6(3))

"The system of ventilation shall be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate"
(C126, Art. 7(2))

"Vessels regularly engaged on voyages in the tropics and other areas with similar climatic conditions shall, as required by such conditions, be equipped both with mechanical means of ventilation and with electric fans: Provided that one only of these means need be adopted in spaces where this ensures satisfactory ventilation"
(C126, Art. 7(3))

"The heating system shall be capable of maintaining the temperature in crew accommodation at a satisfactory level ..."
(C126, Art. 8(4))

"The galley shall be equipped with cooking utensils, the necessary number of cupboards and shelves, and sinks and dish racks of rust-proof material and with satisfactory drainage"
(C129, Art. 16(3))

"... under conditions that ensure that the continuance of appointment or recognition depends upon satisfactory performance ..."
(C152, Art. 26(1)(a))

Appendix 8

“Reasonable, practicable, possible, reasonably practicable”

Appendix 8 gives some examples of using expressions mentioned above. This appendix is provided for information purposes only; it is not exhaustive and is not intended to encourage the use of these expressions. In English, the term "practicable" means "that can be done" or "that is possible in practice". Its French equivalent practicable refers to the idea of something that could be done, that is possible in practice. In English, the term "possible" means "capable of existing or happening", "that is likely to happen", or "acceptable". In French, the term possible could mean an absence of obstacle or contradiction. It could also mean something that complies with what is expected, that is acceptable, convenient. Finally, another meaning in French introduces a notion of uncertainty and means something that has some possibility of occurring. Given that the terms have different meanings in the French and English languages and given the lack of certainty as to their exact meaning, it would be preferable to avoid their use, unless their intended meaning is clarified either by the context of the sentence or by an indication provided in the report.

Wording of the clause

“Whenever practicable, the information shall be made available for such communication not later than three months after the end of the period to which it relates”
(C2, Art. 1)

“... measures shall be taken, wherever practicable, to prevent danger arising from dust caused by dry rubbing down and scraping”
(C13, Art. 5(1)(c))

“2. This period of rest shall, wherever possible, be granted simultaneously to the whole of the staff of each undertaking.

3. It shall, wherever possible, be fixed so as to coincide with the days already established by the traditions or customs of the country or district”
(C14, Art. 2(2) and (3))

“It shall in all cases contain the following particulars: [...] (7) if possible, the place and date at which the seaman is required to report on board for service”
(C22, Art. 6(3)(7))

“The said means of access shall be [...] where reasonably practicable ...”
(C28, Art. 3(2))

“... be securely fenced so far as is practicable without impeding the safe working of the ship”
(C28, Art. 9(6))

“... such provisions shall be rescinded as soon as possible, in order to comply with Article 1 of this Convention”
(C29, Art. 5(2))

“... hours of work which have been lost shall not be allowed to be made up on more than thirty days in the year and shall be made up within a reasonable lapse of time”
(C30, Art. 5(1)(a))

“... so far as is practicable having regard to the traffic and working ...”
(C32, Art. 2(2))

“The said means of access shall be [...] where reasonably practicable ...”
(C32, Art. 3(2)(a))

“... the said provisions shall be applied so far as reasonable and practicable to such other ships”
(C32, Art. 16)

“... any Member may in its national laws or regulations make such exceptions as it deems necessary in respect of [...] exceptional classes of workers in whose cases there are special features which make it unnecessary or impracticable to apply to them the provisions of this Convention”
(C44, Art. 2(2)(j))

“... if it is proved by the competent authority that he has failed or neglected to avail himself of a reasonable opportunity of suitable employment ...”
(C44, Art. 10(2)(d))

“The shipowners’, officers’ and seamen’s organisations concerned shall, so far as is reasonable and practicable, be taken into consultation ...”

Wording of the clause

(C57, Art. 18)

“... the competent authority [...] is satisfied [...] that the circumstances are such that the provision of fresh accommodation or other permanent equipment necessary for an increased crew is not reasonably possible”

(C57, Art. 21(1))

“... an appropriate authority has power to make regulations for the purpose of giving such effect as may be possible and desirable under national conditions ...”

(C62, Art. 1(1)(b))

“Each Member of the International Labour Organisation which ratifies this Convention undertakes that [...] (b) it will publish the data compiled in pursuance of this Convention as promptly as possible ...”

(C63, Art. 1(b))

“... such complaints should be submitted as soon as possible ...”

(C68, Art. 8)

“Provided that the Convention shall be applied where reasonable and practicable to ...”

(C75, Art. 1(4))

“Power for the operation of the aids to ventilation required by paragraphs 3 and 4 shall, when practicable, be available at all times when the crew is living or working on board”

(C75, Art. 7(5))

“The heating system shall, when practicable, be in operation at all times when the crew is living or working on board and conditions require its use.”

(C75, Art. 8(2))

“As far as practicable berthing of crew members shall be so arranged that watches are separated and that no day men share a room with watch-keepers”

(C75, Art. 10(28))

“Every vessel to which this Convention applies shall be sufficiently and efficiently manned for the purposes of [...] (c) preventing excessive strain upon the crew and avoiding or minimising as far as practicable the working of overtime”

(C76, Art. 20(1)(c))

“The organisations of shipowners and seafarers concerned shall, so far as is reasonable and practicable, be consulted in the framing of all laws or regulations”

(C76, Art. 22(2))

“Labour inspectors shall be empowered to take steps with a view to remedying defects observed in plant, layout or working methods which they may have reasonable cause to believe constitute a threat to the health or safety of the workers”

(C81, Art. 13(1))

“... international, regional, or national action shall be taken with a view to establishing conditions of trade which will [...] make possible the maintenance of a reasonable standard of living in non-metropolitan territories”

(C82, Art. 3(4))

“The competent authority may [...] exclude from the application of any provisions giving effect to any of the Conventions set forth in the Schedule undertakings or vessels in respect of which [...] adequate supervision may be impracticable”

(C83, Art. 3)

“All practicable measures shall be taken to assure ...”

(C84, Art. 3)

“to enter [...] any workplace liable to inspection where they may have reasonable cause to believe that persons enjoying legal protection ...”

(C85, Art. 4(2)(a))

“The employment service [...] shall [...] take all possible measures ...”

(C88, Art. 10)

“Provided that the Convention shall be applied where reasonable and practicable to ...”

(C92, Art. 1(4))

“The consistent working of overtime shall be avoided whenever possible”

(C93, Art. 18(1))

“Every vessel to which this Convention applies shall be sufficiently and efficiently manned for the purposes of [...] (c) preventing excessive strain upon the crew and avoiding or minimising as far as practicable the working of overtime.”

(C93, Art. 20(1))

“The organisations of shipowners and seafarers concerned shall, so far as is reasonable and practicable,

Wording of the clause

be consulted in the framing of all laws ...”
(C93, Art. 22(2))

“... competent authority shall take adequate measures to ensure fair and reasonable conditions of health, safety and welfare for the workers concerned”
(C94, Art. 3)

“... a final settlement of all wages due shall be effected [...] within a reasonable period of time ...”
(C95, Art. 12(2))

“... the competent authority of that country may determine that the provisions of paragraph 1 of this Article shall take effect only after a reasonable period ...”
(C97, Art. 8(2))

“... appropriate measures shall be taken to ensure that [...] (b) the value attributed to such allowances is fair and reasonable”
(C99, Art. 2(2))

“For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary”
(C102, Art. 66(3))

“... evidence, conforming in its presentation as closely as is practicable with any suggestions for greater uniformity of presentation made by the Governing Body of the International Labour Office ...”
(C102, Art. 76(1)(b))

“2. The weekly rest period shall, wherever possible, be granted simultaneously to all the persons concerned in each establishment.
3. The weekly rest period shall, wherever possible, coincide with the day of the week established as a day of rest by the traditions or customs of the country or district.
4. The traditions and customs of religious minorities shall, as far as possible, be respected”
(C106, Art. 6(2), (3) and (4))

“... the methods of social control practised by the populations concerned shall be used as far as possible ...”
(C107, Art. 8(a))

“The Member may also limit the seafarer’s stay to a period considered reasonable for the purpose in question”
(C108, Art. 6(3))

“The organisations of shipowners and seafarers concerned shall, so far as is reasonable and practicable, be consulted ...”
(C109, Art. 23(2))

“Where the circumstances make the adoption of such a provision practicable and necessary, the competent authority shall require the issue ...”
(C110, Art. 10)

“... the competent authority shall take appropriate measures with the object of ensuring that goods are sold and services provided at fair and reasonable prices ...”
(C110, Art. 30(2))

“[The agreement] shall contain the following particulars [...] (f) if possible, the place at which and date on which the fisherman is required to report on board for service”
(C114, Art. 6(3))

“the Member concerned shall notify, as soon as practicable, measures adopted by it prior to the ratification of the Convention, so as to comply with the provisions thereof ...”
(C115, Art. 3(3)(b))

“Workers [...] may be granted [...] to meet any reasonable personal or family expenses ...”
(C117, Art. 14(3))

“Sufficient and suitable seats shall be supplied for workers and workers shall be given reasonable opportunities of using them”
(C120, Art. 14)

“Workers shall be protected by appropriate and practicable measures against substances, processes and techniques which are obnoxious, unhealthy or toxic or for any reason harmful”
(C120, Art. 17)

“Medical care and allied benefits in respect of a morbid condition shall comprise [...] (g) the following treatment at the place of work, wherever possible ...”
(C121, Art. 10(1))

“For the other beneficiaries the benefit shall bear a reasonable relation to the benefit for the standard

Wording of the clause

beneficiary”
(C121, Art. 19(5))

“The said policy shall aim at ensuring that [...] (b) such work is as productive as possible ...”
(C122, Art. 1(2))

“... records indicating [...] (a) the date of birth, duly certified wherever possible ...”
(C123, Art. 4(4))

“... records containing [...] (a) the date of birth, duly certified wherever possible ...”
(C124, Art. 4(4))

“... where the competent authority determines, after consultation with the fishing-vessel owners’ and fishermen’s organisations where such exist, that this is reasonable and practicable”
(C126, Art. 1(3))

“In order to limit or to facilitate the manual transport of loads, suitable technical devices shall be used as much as possible”
(C127, Art. 6)

“Each Member [...] shall [...] (a) provide rehabilitation services which are designed to prepare a disabled person wherever possible for the resumption of his previous activity ...”
(C128, Art. 13(1))

“For the other beneficiaries the benefit shall bear a reasonable relation to the benefit for the standard beneficiary”
(C128, Art. 26(5))

“... suitably equipped in accordance with the requirements of the service, and, in so far as possible, accessible to the persons concerned”
(C129, Art. 15(1)(a))

Labour inspectors [...] shall be empowered [...] (b) to enter by day any premises which they may have reasonable cause to believe to be liable to inspection”
(C129, Art. 16(1))

“... the medical care referred to in Article 8 shall comprise at least: (a) general practitioner care, including, wherever possible, domiciliary visiting”
(C130, Art. 14(a))

“For the other beneficiaries the benefit shall bear a reasonable relation to the benefit for the standard beneficiary”
(C130, Art. 22(5))

“The elements to be taken into consideration in determining the level of minimum wages shall, so far as possible and appropriate in relation to national practice and conditions, include ...”
(C131, Art. 3)

“This Convention applies to tugs where reasonable and practicable”
(C133, Art. 1(3))

“The competent authority shall promote and, in so far as appropriate under national conditions, ensure the inclusion, as part of the instruction in professional duties, of instruction in the prevention of accidents ...”
(C134, Art. 9(1))

“Work processes involving the use of benzene or of products containing benzene shall as far as practicable be carried out in an enclosed system”
(C136, Art. 7(1))

“It shall be national policy to encourage all concerned to provide permanent or regular employment for dockworkers in so far as practicable”
(C137, Art. 2(1))

“... the names and ages or dates of birth, duly certified wherever possible ...”
(C138, Art. 9(3))

“... with a view to ensuring that comprehensive information and the broadest possible guidance are available to all children ...”
(C142, Art. 3(1))

“... aimed at acquainting migrant workers as fully as possible with the policy ...”
(C143, Art. 12(c))

“... to provide continuous or regular employment for qualified seafarers in so far as this is practicable ...”
(C145, Art. 2(1))

“The time at which the leave is to be taken shall [...] be determined by the employer after consultation

Wording of the clause

and, as far as possible, in agreement with the seafarer concerned or his representatives”
(C146, Art. 10(1))

“A seafarer taking annual leave shall be recalled only in cases of extreme emergency, with due notice”
(C146, Art. 12)

“... investigation of any complaint made in connection with and, if possible, at the time of the engagement in its territory of seafarers ...”
(C147, Art. 2(d)(ii))

“Provision shall be made for as close a collaboration as possible at all levels between employers and workers ...”
(C148, Art. 5(3))

“... for attaining the highest possible level of health for the population”
(C149, Art. 2(1))

“When national conditions so require, with a view to meeting the needs of the largest possible number of workers ...”
(C150, Art. 7)

“... on condition that: [...] (b) the competent authority, after consultation with the organisations of employers and workers concerned, is satisfied that it is reasonable in all the circumstances that there be such exemptions or exceptions”
(C152, Art. 2(1))

“... providing workers with any personal protective equipment and protective clothing and any life-saving appliances reasonably required where adequate protection against risks of accident or injury to health cannot be provided by other means”
(C152, Art. 4(1)(d))

“So far as is reasonably practicable, the means of access specified in this Article shall be separate from the hatchway opening”
(C152, Art. 17(2))

“The traditional means of supervision referred to in paragraphs 1 and 2 of this Article shall [...] be replaced or supplemented as far as possible by recourse to modern methods ...”
(C153, Art. 10(3))

“... collective bargaining should be made possible for all employers and all groups of workers in the branches of activity covered by this Convention ...”
(C154, Art. 5(2)(a))

“The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment”
(C155, Art. 4(2))

“Employers shall be required to ensure that, so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health”
(C155, Art. 16(1))

“... an aim of national policy to enable persons [...] to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities”
(C156, Art. 3(1))

“The employment of a worker shall not be terminated for reasons related to the worker’s conduct or performance before he is provided an opportunity to defend himself against the allegations made, unless the employer cannot reasonably be expected to provide this opportunity”
(C158, Art. 7)

“If [...] they are not empowered or do not find it practicable [...] to declare the termination invalid and/or order or propose reinstatement of the worker ...”
(C158, Art. 10)

“... existing services for workers generally shall, wherever possible and appropriate, be used with necessary adaptations”
(C159, Art. 7)

“Each Member which ratifies this Convention undertakes to communicate to the International Labour Office, as soon as practicable, the published statistics compiled ...”
(C160, Art. 5)

“The surveillance of workers’ health [...] shall take place as far as possible during working hours”
(C161, Art. 12)

Wording of the clause

“The competent authority shall be empowered, after consultation with the most representative organisations of employers and workers concerned, to permit derogations from the prohibition contained in paragraph 1 of this Article when replacement is not reasonably practicable ...”
(C162, Art. 11(2))

“To the extent it deems practicable [...] the competent authority shall apply the provisions of this Convention to commercial maritime fishing”
(C163, Art. 1(3))

“To the extent it deems practicable [...] the competent authority shall apply the provisions of this Convention to commercial maritime fishing”
(C164, Art. 1(2))

“In any ship of between 200 and 500 gross tonnage and in tugs this Article shall be applied where reasonable and practicable”
(C164, Art. 11(2))

“... when the seafarer does not claim his or her entitlement to repatriation within a reasonable period of time to be defined by national laws or regulations or collective agreements”
(C166, Art. 8)

“... co-operate as closely as possible with their employer in the application of the prescribed safety and health measures ...”
(C167, Art. 11(a))

“... take reasonable care for their own safety and health and that of other persons who may be affected by their acts or omissions at work ...”
(C167, Art. 11(b))

“... these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied by them ...”
(C169, Art. 16(4))

“... shall obtain the relevant information from the supplier or from other reasonably available sources ...”
(C170, Art. 10(2))

“Employers [...] shall co-operate as closely as possible with workers or their representatives ...”
(C170, Art. 16)

“Night workers [...] shall be transferred, whenever practicable, to a similar job ...”
(C171, Art. 6(1))

“The workers concerned shall be entitled to reasonable normal hours of work and overtime provisions ...”
(C172, Art. 4(2))

“The workers concerned shall be provided with reasonable minimum daily and weekly rest periods ...”
(C172, Art. 4(3))

“The workers concerned shall, where possible, have sufficient advance notice of working schedules ...”
(C172, Art. 4(4))

“Where special problems of a substantial nature arise so that it is not immediately possible to implement all the preventive and protective measures ...”
(C174, Art. 2)

“... take corrective action and if necessary interrupt the activity where, on the basis of their training and experience, they have reasonable justification to believe that there is an imminent danger of a major accident ...”
(C174, Art. 20(e))

“... provide for the use of personal protective equipment, having regard to what is reasonable, practicable and feasible”
(C176, Art. 6(d))

“Appropriate measures shall be taken so that labour statistics include, to the extent possible, home work”
(C177, Art. 6)

“To the extent the central coordinating authority deems it practicable [...] the provisions of this Convention shall apply to commercial maritime fishing vessels”
(C178, Art. 1(5))

“... all reasonable efforts shall be made to avoid a ship being unreasonably detained or delayed”
(C178, Art. 6(1))

“To the extent it deems practicable [...] the competent authority may apply the provisions of the Convention to fishermen or to seafarers serving ...”
(C179, Art. 1(2))

“To the extent it deems practicable, after consulting the representative organizations of fishing-vessel

Wording of the clause

owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing”
(C180, Article 1(2))

“A Member [...] shall [...] to the extent possible, provide for alternative inspection arrangements for any categories of workplaces thus excluded”
(P81, Art. 2(3))

“The competent authority shall, as soon as practicable, make available to the representative organizations of shipowners and seafarers information ...”
(P147, Art. 4(2))

“... ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour.”
(C182, Art. 7(2)(c))

Appendix 9

Application by stages

Appendix 9 gives some examples used in the Conventions to moderate the conditions for application of their provisions by stating that the obligations can be fulfilled progressively, in stages.

Wording of the clause

“Forced or compulsory labour exacted as a tax and forced or compulsory labour to which recourse is had for the execution of public works [...] shall be progressively abolished”
(C29, Art. 10(1))

“... for the progressive development of broad systems of education, vocational training and apprenticeship ...”
(C82, Art. 19(1))

“Each Member [...] shall indicate in subsequent annual reports [...] any progress which may have been made with a view to the progressive application of the Convention ...”
(C94, Art. 7(4))

“Each Member [...] shall indicate in subsequent annual reports [...] any progress which may have been made with a view to the progressive application of the Convention ...”
(C95, Art. 17(4))

“Each Member which has ratified this Convention shall indicate [...] any progress which may have been made with a view to the progressive application of the Convention in such establishments”
(C106, Art. 3(3))

“Adequate provision shall be made to the maximum extent possible under local conditions, for the progressive development of broad systems of education”
(C117, Art. 15(1))

“Each Member for which this Convention is in force undertakes to pursue a national policy designed [...] to raise progressively the minimum age for admission to employment or work”
(C138, Art. 1)

“Each Member shall gradually extend its systems of vocational guidance ...”
(C142, Art. 3(1))

“... each Member which ratifies this Convention shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration ...”
(C150, Art. 7)

“... collective bargaining should be progressively extended to all matters covered by subparagraphs (a), (b) and(c) of Article 2 of this Convention ...”
(C154, Art. 5(2))

“To give effect to the policy referred to in Article 4 of this Convention, the competent authority or authorities shall ensure that the following functions are progressively carried out: ...”
(C155, Art. 11)

“Each Member which ratifies this Convention undertakes that it will regularly collect, compile and publish basic labour statistics, which shall be progressively expanded [...] to cover the following subjects: ...”
(C160, Art. 1)

“Each Member undertakes to develop progressively occupational health services for all workers ...”
(C161, Art. 3(1))

“Each Member shall endeavour to extend the promotion of productive employment progressively to a greater number of categories than the number initially covered.”
(C168, Art. 8(3))

“Where feasible, these peoples shall progressively assume responsibility for the organisation and operation of such special training programmes, if they so decide”
(C169, Art. 22(3))

“The classification systems and their application shall be progressively extended”
(C170, Art. 6(4))

“Each Member [...] shall also describe all measures taken with a view to progressively extending the provisions of the Convention to the workers concerned”
(C171, Art. 2(3))

Wording of the clause

“A Member [...] shall [...] whether consideration is being given to the progressive extension of protection to the workers excluded”
(C175, Art. 8(3))

“... the competent authority [...] shall [...] make plans for progressively covering all mines”
(C176, Art. 2(2))

“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”
(C183, Art. 2(3))

Appendix 10

Resolution concerning gender equality and the use of language in legal texts of the ILO

The General Conference of the International Labour Organization, meeting at its 100th Session, 2011,

Considering that equality for women and men in the world of work is a core value of the International Labour Organization, which is committed to giving it effect in its own functioning under its Constitution and through its constitutional means of action which include international labour standards,

Noting that the principle of gender equality has been repeatedly affirmed by the International Labour Conference, including in the Declaration on Equality of Opportunity and Treatment for Women Workers and the accompanying resolution concerning a plan of action with a view to promoting equality of opportunity and treatment for women workers, both adopted by the 60th Session (1975), the resolution concerning the participation of women in ILO meetings, adopted by the 67th Session (1981), the resolution on equal opportunities and equal treatment for men and women in employment, adopted by the 71st Session (1985), the resolution concerning ILO action for women workers, adopted by the 78th Session (1991), the resolution concerning the promotion of gender equality, pay equity and maternity protection adopted by the 92nd Session (2004), and the resolution concerning gender equality at the heart of decent work, adopted by the 98th Session (2009),

Affirming the importance of language in promoting gender equality, including by ensuring the equal visibility of women and men,

1. Resolves that gender equality should be reflected through the use of appropriate language in official legal texts of the Organization. This can be achieved among others through the use of the principle applied in paragraph 2.
2. Further resolves that in the ILO Constitution and other legal texts of the Organization, in accordance with applicable rules of interpretation, the use of one gender includes in its meaning a reference to the other gender unless the context otherwise requires.
3. Requests the Director-General to reproduce the text of this resolution in the *Official Bulletin*, as well as in the Office publications *Constitution of the International Labour Organisation and selected texts*, the *Manual for drafting ILO instruments* and where appropriate in any subsequent compilation of legal texts of the ILO.

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