

Health and Safety Commission Paper		MISC/05/21	
Meeting Date:		Open Gov. Status:	Fully Open
Type of Paper:	Misc	Paper File Ref:	226/SASD/1034/2004
Exemptions:	None		

HEALTH AND SAFETY COMMISSION

PROPOSED NEW ILO INSTRUMENTS ON A PROMOTIONAL FRAMEWORK FOR OCCUPATIONAL SAFETY AND HEALTH

A Paper by Eleanor Keech, International Unit

Advisor(s): Malcolm Darvill

Cleared by Jonathan Rees on 17 November 2005

Issue

1. The Commission is invited to note the recent International Labour Organisation (ILO) Report IV(1) (Annex A) detailing progress on the development of an instrument on a Promotional Framework for Occupational Safety and Health (OSH) and HSE's proposed response. Any comments on this are requested by 25th November.

Timing

2. The ILO has requested that Governments respond to them on the report by no later than 15th November 2005. However, it has agreed to extend this deadline until 30th November.

Recommendation

3. **The Commission is invited to note the report, HSE's proposed responses to the three questions posed to Member States in it, and that HSE is content with the texts of the proposed Convention and Recommendation as currently drafted in the report.**

Background

4. Following the International Labour Conference (ILC) 2005, HSE has been provided with Report IV(1)¹, see Annex I, on the Promotional Framework for OSH to be

¹ Available on the internet at: www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-iv-1.pdf

discussed at the 2006 International Labour Conference. The report includes proposed texts for a new Convention and a Recommendation on the topic.

5. At the ILC 2003, initial discussions were held on developing a new instrument on a Promotional Framework for OSH. In 2004 the ILO issued a questionnaire to governments on the topic. HSE's International Unit produced a Commission paper on the UK response to the questionnaire (Misc/04/26).
6. That paper and its response formed the negotiating brief for the UK (HSE) delegate at the ILC 2005. The key objective of this was to secure an instrument which will command widespread support among Member States and which most of them, including the UK, would be able to adopt. However the European Commission and the Luxembourg Presidency attempted to obtain an agreed EU position. Although at first there was no clear majority for the EC and the Presidency's preference for a Convention and Recommendation, they managed to win over all but three MS (UK, Germany and Netherlands). The minority's preference – for a looser instrument such as a Declaration – was also shared by the majority of the rest of IMEC (the ILO group of Industrialised Market Economy Countries, which includes all EU member states, the USA, Australia, New Zealand, Canada and Japan).
7. At the start of discussions in the ILC OSH Committee, the Employers' group unsuccessfully proposed to amend the ILO's text – to substitute "Convention supplemented by a Recommendation" by the word "Declaration". This was opposed by the workers and a majority of Government members of the Committee. The rarely used measure of a record vote rejected the amendment.
8. Having lost the argument the UK then sought and worked assiduously to ensure that the resulting instrument provided a flexible framework – one that aligned with the model that exists in the UK and most EU MS. The UK also sought to reunite the EU Government group with the rest of IMEC, by chairing the IMEC OSH Committee and speaking for the non-EU IMEC Governments in the plenary Committee
9. Throughout the remaining Committee proceedings, the workers' group unsuccessfully attempted to include more prescriptive detail into the proposed framework, in particular in relation to workers' rights. A full report on the proceedings can be found at: www.ilo.org/public/english/standards/relm/ilc/ilc93/pdf/pr-18.pdf
10. The resulting framework instruments, as set out in Report IV (1), are ones which the UK, other EU MS and the rest of IMEC can all support. They will be discussed at the 2006 ILC with a view to adopting them. The UK intends to seek to ensure that they are adopted as now drafted, consolidating our work to build consensus at ILC 2005.

Argument

11. It is the policy of the UK to ratify all ILO instruments where possible. As the text of this Convention has not been settled on it is too early to conclude whether we would be in a position to ratify it. However, initial indications are favourable if the instruments remain as currently drafted as they strongly resemble the UK model of health and safety. Having less prescriptive instruments also increases the likelihood of many other Member States being able to ratify them.
12. The ILO has specifically invited comments on three questions. They are set out below with HSE's recommendation on how the UK should respond. **In essence the proposed responses are designed to keep the text as currently drafted.**

Q1. The articulation of the link between the proposed instruments and relevant existing instruments in the area of occupational safety and health: How can this be best achieved with a view to the promotion of relevant existing instruments? Please comment.

Proposed response: The UK is satisfied with the way in which the relevant existing instruments are referred to in the proposed instruments, as currently drafted. Any more specific reference could result in Member states that are currently unable to ratify some or all of the existing instruments from ratifying the proposed ones. This would be contrary to the conclusions adopted at the 91st ILC, 2003

Q2. Should the basic principles governing a national policy on occupational safety and health be included? If so, please specify.

Proposed response: Yes, as currently defined in the proposed instruments

Q3. Concerning workplace measures, should any specific issues of prevention, such as indication of rights, duties and responsibilities, information and training, and workplace safety and health committees, be included? If so, please specify.

Proposed response: Yes, but again as currently set out in the texts of the proposed instruments in Report IV (1). No further additions are necessary.

Consultation

13. TUC; CBI; Joint International Unit of the Department for Work and Pensions/Department for Education and Skills have been consulted. The CBI and TUC have also been consulted in their specific roles as the UK's ILO representatives for employers and workers.

14. The CBI is satisfied with HSE's proposed response. However the TUC has understandably re-adopted the position of the Workers Group at last year's ILC, preferring the proposed instruments to be more prescriptive, especially in respect to workers' rights. HSE believes that including this level of prescription would prevent widespread ratification of the instruments – the fate of many of the ILO's existing OSH instruments – and would therefore be contrary to the objectives of the instruments. Details of the TUC's response are given in Annex II. Because HSE considers that they cannot be included in the UK's response, they will be sent to the ILO as a response contrary to the Government's reply. They will then be published in the report and document for ILC 2006. This is normal practice.

Presentation

15. None at this stage.

Costs and Benefits

16. Costs and benefits of ratifying the Convention and Recommendation, if and when adopted by the ILO, will be set out in a regulatory impact assessment that will accompany any proposal to HSC and Ministers. **Provided that the final instruments remain strongly aligned to our current organisation and arrangements, the costs should be negligible. The benefits on the other hand would be to demonstrate our commitment to the ILO, its principles and its work to improve working standards of overseas workers, especially in the third world.**

Financial/Resource Implications for HSE

17. HSE would have to spend time and resources on an examination of the future instrument to determine whether we would be in a position to ratify. However given the nature of the proposed instruments as currently drafted this is unlikely to divert significant resource away from delivering HSC/E's key aims and objectives of delivering the HSC Strategy.

Environmental Implications

18. None.

Other Implications

19. None identified at present.

Action

20. International Unit will consider any comments received from the Commission to inform its reply to the Joint International Unit of the Department for Work and Pensions/Department for Education and Skills, who will then pass on these comments to the ILO by their deadline.

International Labour Conference, 95th Session, 2006

Report IV(1)

Promotional framework for occupational safety and health

Fourth item on the agenda

International Labour Office Geneva

CONTENTS

Page

INTRODUCTION.....	1
PROPOSED TEXTS.....	2
Proposed Convention on the Promotional Framework for Occupational Safety and Health	4
Proposed Recommendation on the Promotional Framework for Occupational Safety and Health	7

INTRODUCTION

On 15 June 2005 the International Labour Conference, meeting in Geneva at its 93rd Session, adopted the following resolution:

The General Conference of the International Labour Organization,

Having adopted the report of the Committee appointed to consider the fourth item on the agenda,

Having in particular approved as general conclusions, with a view to the consultation of Governments, proposals for a Convention and a Recommendation concerning occupational safety and health,

Decides that an item entitled. Occupational safety and health. shall be included in the agenda of its next ordinary session for second discussion with a view to the adoption of a Convention and a Recommendation.

By virtue of this resolution and in accordance with article 39, paragraph 6, of the Standing Orders of the Conference, the Office is required to prepare, on the basis of the first discussion by the Conference, the texts of a proposed Convention and Recommendation. These texts are to be sent to governments and are to reach them not later than two months from the closing of the 93rd Session of the Conference. The purpose of this report is to transmit to governments the proposed texts.

Governments are asked to reply within three months, after consulting the most representative organizations of employers and workers, and to state whether they have any amendments to suggest or comments to make. Under the Standing Orders of the Conference, any amendments or comments on the proposed texts should be sent as soon as possible, and should reach the Office in Geneva no later than 15 November 2005.

Governments which have no amendments or comments to put forward are asked to inform the Office by the same date whether they consider that the proposed texts are a satisfactory basis for discussion by the Conference at its 95th Session in June 2006.

Governments are requested to indicate which organizations of employers and workers they consulted before they finalized their replies pursuant to article 39 paragraph 6, of the Standing Orders. Such consultation is also required by Article 5(1)(a) of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), for countries which have ratified this Convention. The results of the consultation should be reflected in the governments. replies.

PROPOSED TEXTS

The texts of a proposed Convention and Recommendation on the promotional framework for occupational safety and health are given below. These texts are based on the conclusions adopted by the International Labour Conference following the first discussion at its 93rd Session (2005).

The report of the Committee on Safety and Health, appointed by the Conference to consider this item, together with the record of the discussion in plenary session and the conclusions adopted, are contained in the *Provisional Record of the Conference* (*Provisional Record* Nos. 18 and 24).¹

Some drafting changes have been incorporated in the proposed instruments in the interest of greater clarity, to bring the two official language versions of the texts into line with one another or to harmonize certain provisions. Where necessary, they are discussed below and the Office invites comments on these issues.

The Office wishes to draw particular attention to the discussion in the Conference plenary when the report of the Committee was being approved.² The Reporter and the Chairperson of the Committee emphasized the spirit of consensus and compromise that had prevailed in the Committee and the desire to reach sensible and practical solutions. The Employers' group, for its part, expressed the view that, while the Employers were disappointed that their proposal for a Declaration had not been agreed to, the proposed new standards, built on the consensus of the 2003 discussion, would go a long way towards fostering political commitment to occupational safety and health and placing this issue high on national agendas. The Workers' group, for its part, stated that the new standards, as currently proposed, did not meet the Workers' expectations on what should be the content of an instrument establishing a promotional framework on occupational safety and health, and considered that the links to the workplace and to some key ILO instruments on occupational safety and health needed to be made more explicit in order to ensure an effective promotion of relevant existing instruments.

In the light of the foregoing and of the discussions in the Committee on these matters, and with a view to achieving tripartite consensus, the Office invites comments on the following questions:

1. The articulation of the link between the proposed instruments and relevant existing instruments in the area of occupational safety and health: How can this be best achieved with a view to the promotion of relevant existing instruments? Please comment.
2. Should the basic principles governing a national policy on occupational safety and health be included? If so, please specify.

¹ These texts are reproduced in the *Record of Proceedings* of the 93rd Session of the International Labour Conference. They can also be consulted on the web site of the International Labour Office: www.ilo.org. Requests for copies should be addressed to the Distribution Unit, ILO, CH-1211 Geneva 22. The proposed Conclusions appearing in *Provisional Record* No. 18 were adopted without change.

² See *Provisional Record* No. 24, pp. 12-14.

3. Concerning workplace measures, should any specific issues of prevention, such as indication of rights, duties and responsibilities, information and training, and workplace safety and health committees, be included? If so, please specify.

The Office also invites comments on how the draft instruments could be further improved, including whether text should be modified, added to or deleted and in which of the instruments proposed text should best be placed.

Proposed Convention

TITLE OF THE CONVENTION

The Global Occupational Safety and Health Strategy adopted at the 2003 International Labour Conference called for the development of a new instrument establishing a promotional framework in the area of occupational safety and health. The Office report for the 2005 International Labour Conference was therefore entitled "Promotional framework for occupational safety and health". Against this background and in view of the general agreement on the purpose of the new instrument, it is suggested that the term "Promotional framework for occupational safety and health" be included in the titles of the proposed Convention and Recommendation.

PREAMBLE

(Point 3 of the conclusions)

The Office has established a preambular text that incorporates point 3 of the conclusions. The reference to the ILO Constitution has been elaborated and modeled on preambles in previous Conventions, and the short title "Promotional Framework for Occupational Safety and Health Convention" is suggested (see comment above).

IV. NATIONAL SYSTEM

Article 4

(Point 9(2)(a) of the conclusions)

In Article 4, the Office understands that the amended and finally adopted text was intended to provide for flexibility as to the means of implementation of the national system. The adopted formulation of clause 2(a) was therefore slightly modified by replacing the word "and" with "or any" after the words "collective agreements". The Office notes, however, that the standard formulation used in ILO instruments is "laws and regulations, or collective agreements, or any other relevant instruments".

Proposed Recommendation

III. NATIONAL PROFILE

Paragraph 9

(Point 18(2) of the conclusions)

Paragraph 9 of the Recommendation, in specifying the information to be included in the national profile, lists the elements of the national system described in the Convention for greater clarity, instead of making a reference to Article 4, paragraph 2, of the Convention.

ANNEX

(Annex in the conclusions)

In the annex to the Recommendation, the Employment Injury Benefits Convention, 1964 (No. 121), and its accompanying Recommendation (No. 121), have been added. These instruments are relevant, as the texts of the proposed Convention and Recommendation refer to insurance schemes covering occupational accidents and diseases. They also include provisions for the prevention of occupational accidents and diseases and a list of occupational diseases. A title has been added to the list of relevant ILO instruments contained in the annex based on guidance provided in the *Manual for drafting ILO instruments*.³

Proposed Convention on the Promotional Framework for Occupational Safety and Health

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 Ninety-fifth Session on 30 May 2006,

Recalling that the protection of workers against sickness, disease and injury arising out of their employment is one of the core tasks assigned to the International Labour Organization under its Constitution, and

Noting paragraph III(g) of the Philadelphia Declaration which provides that the International Labour Organization has the solemn obligation to further among the nations of the world programmes which will achieve adequate protection for the life and health of workers in all occupations, and

Noting the Occupational Safety and Health Convention, 1981 (No. 155), and the Occupational Safety and Health Recommendation, 1981 (No. 164), and

Recalling that the promotion of occupational safety and health is part of the International Labour Organization's core objective of decent work for all, and

Recalling the Conclusions concerning occupational safety and health adopted by the 91st Session (2003) of the International Labour Conference, in particular the priority to be given to occupational safety and health in national agendas, and

Stressing the importance of the continuous promotion of a national preventative safety and health culture, and

Having decided upon the adoption of certain proposals on occupational safety and health, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

³ The *Manual for drafting ILO instruments* can be consulted at the web site of the International Labour Office at www.ilo.org/public/english/bureau/leg/man.pdf .

adopts this day of June two thousand and six the following Convention, which may be cited as the Promotional Framework for Occupational Safety and Health Convention, 2006.

I. DEFINITIONS

Article 1

For the purpose of this Convention:

- (a) the term "national policy" refers to the national policy on occupational safety and health and the working environment developed in accordance with the principles of Article 4 of the Occupational Safety and Health Convention, 1981 (No. 155);
- (b) the term "national system for occupational safety and health" refers to the infrastructure which provides the main framework for implementing national programmes on occupational safety and health;
- (c) the term "national programme on occupational safety and health" refers to any national programme that includes objectives, priorities and means of action formulated to improve occupational safety and health, to be achieved in a predetermined time frame;
- (d) the term "a national preventative safety and health culture" refers to a culture in which the right to a safe and healthy working environment is respected at all levels, where governments, employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties, and where the principle of prevention is accorded the highest priority.

II. OBJECTIVE

Article 2

Each Member which ratifies this Convention shall take active steps towards achieving progressively a safer and healthier working environment through national programmes on occupational safety and health by taking into account the principles in relevant ILO instruments on occupational safety and health.

III. NATIONAL POLICY

Article 3

1. Each Member shall promote a safe and healthy working environment by formulating a national policy.
2. Each Member shall promote continuous improvement of occupational safety and health by the development, on a tripartite basis, of a national policy, national system and national programme.
3. Each Member shall promote and advance, at all relevant levels, the right of workers to a safe and healthy working environment.

IV. NATIONAL SYSTEM

Article 4

1. Each Member shall establish, maintain, progressively develop and periodically review a national system for occupational safety and health, in consultation with representative organizations of employers and workers.
2. The national system for occupational safety and health shall include among others:
 - (a) laws, regulations, collective agreements or any other relevant instrument on occupational safety and health;
 - (b) an authority or body, or authorities or bodies responsible for occupational safety and health, designated in accordance with national law and practice;
 - (c) mechanisms for ensuring compliance with national laws and regulations, including systems of inspection; and
 - (d) arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures.
2. The national system for occupational safety and health shall include, where appropriate:
 - (a) information and advisory services on occupational safety and health;
 - (b) the provision of occupational safety and health training;
 - (c) occupational health services in accordance with national law and practice;
 - (d) research on occupational safety and health;
 - (e) a mechanism for the collection and analysis of data on occupational accidents and diseases, taking into account relevant ILO instruments;
 - (f) provisions for collaboration with relevant insurance schemes covering occupational accidents and diseases; and
 - (g) support mechanisms for a progressive improvement of occupational safety and health conditions in micro-, small and medium-sized enterprises.

V. NATIONAL PROGRAMME

Article 5

1. Each Member shall formulate, implement, monitor and periodically review a national programme on occupational safety and health in consultation with representative organizations of employers and workers.
3. The national programme shall:
 - (a) contribute to the protection of workers by minimizing work-related hazards and risks, in accordance with national law and practice, in order to reduce work-related

deaths, injuries and diseases;

(b) be formulated and reviewed on the basis of analysis of the national situation on Occupational safety and health, including the national system for occupational safety and health;

(c) promote the development of a national preventative safety and health culture;

(d) include targets and indicators of progress; and

(e) be supported, where possible, by other complementary national programmes and plans which will assist in achieving the objective of a safer and healthier working environment.

3. The national programme shall be widely publicized and, to the extent possible, endorsed and launched by the highest national authorities.

Proposed Recommendation on the Promotional Framework for Occupational Safety and Health

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 Ninety-fifth Session on 30 May 2006,

Having decided upon the adoption of certain proposals on occupational safety and health, which is the fourth item of the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Promotional Framework on Occupational Safety and Health Convention, 2006 (hereinafter referred to as “the Convention”);

adopts this day of June of the year two thousand and six the following Recommendation, which may be cited as the Promotional Framework for Occupational Safety and Health Recommendation, 2006.

I. NATIONAL SYSTEM

1. In establishing, maintaining, progressively developing and periodically reviewing the national system for occupational safety and health defined in Article 1(b) of the Convention, Members may extend the consultations provided for in Article 4 of the Convention to other interested parties.

2. With a view to reducing work-related deaths, injuries and diseases, the national system should provide appropriate measures for the protection of all workers, in particular workers in high-risk sectors and of vulnerable workers, such as those in the informal economy, migrant and young workers.

3. In promoting a national preventative safety and health culture, Members should seek:

(a) to raise awareness in the workplace and public awareness on occupational safety and health through national campaigns linked, where appropriate, with international initiatives;

(b) to promote mechanisms for delivery of occupational safety and health education and training, in particular for management, supervisors, workers and their representatives and government officials responsible for safety and health;

(c) to introduce occupational safety and health concepts in educational and vocational training programmes;

(d) to facilitate the exchange of occupational safety and health statistics and data between relevant authorities, employers, workers and their representatives;

(e) to provide information and advice to employers and workers and promote or facilitate cooperation between them and their organizations with a view to eliminating or reducing hazards;

(f) to promote, at the level of the workplace, the establishment of safety and health policies and joint safety and health committees and the designation of workers' safety representatives, in accordance with national law and practice; and

(g) to address the constraints of micro-, small and medium-sized enterprises and contractors in the implementation of occupational safety and health policies and regulations, in accordance with national law and practice.

4. Members should promote the management systems approach to occupational safety and health, such as that set out in the *Guidelines on occupational safety and health management systems (ILO-OSH 2001)*.

II. NATIONAL PROGRAMME

5. In formulating and reviewing the national programme on occupational safety and health defined in Article 1(c) of the Convention, Members may extend the consultations provided for in Article 5 of the Convention to other interested parties.

6. The national programme on occupational safety and health should be coordinated, where appropriate, with other national programmes and plans, such as those relating to public health and economic development.

7. In formulating and reviewing the national programme on occupational safety and health, and without prejudice to their obligations under Conventions which they have ratified, Members should take into account the international labour Conventions and Recommendations listed in the annex.

III. NATIONAL PROFILE

8. Members should prepare and regularly update a national profile which summarizes the existing situation on occupational safety and health and the progress that has been made in achieving a safer and healthier working environment. The profile should be used as a basis for formulating and reviewing the national programme.

9. The national profile on occupational safety and health should include information on the following elements, where appropriate:

- (a) laws, regulations, collective agreements or any other relevant instrument on occupational safety and health;
- (b) authority or body, or authorities or bodies responsible for occupational safety and health, designated in accordance with national law and practice;
- (c) mechanisms for ensuring compliance with national laws and regulations, including systems of inspection;
- (d) arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures;
- (e) information and advisory services on occupational safety and health;
- (f) the provision of occupational safety and health training;
- (g) occupational health services in accordance with national law and practice;
- (h) research on occupational safety and health;
- (i) the mechanism for the collection and analysis of data on occupational accidents and diseases, taking into account relevant ILO instruments;
- (j) provisions for collaboration with relevant insurance schemes covering occupational accidents and diseases;
- (k) support mechanisms for a progressive improvement of occupational safety and health conditions in micro-, small and medium-sized enterprises;
- (l) coordination and collaboration mechanisms at national and enterprise levels, including national programme review mechanisms;
- (m) technical standards, codes of practice and guidelines on occupational safety and health;
- (n) educational and awareness-raising structures including promotional initiatives;
- (o) specialized technical, medical and scientific institutions with linkages to various aspects of occupational safety and health, including research institutes and laboratories concerning occupational safety and health;
- (p) persons engaged in the area of occupational safety and health, such as inspectors, officers, occupational physicians and hygienists;
- (q) occupational accident and disease statistics;
- (r) occupational safety and health policies and programmes of organizations of employers and workers;
- (s) regular or ongoing activities related to occupational safety and health, including international collaboration;

(t) financial and budgetary resources with regard to occupational safety and health; and

(u) related data addressing, for example, demography, literacy, economy and employment, as available, as well as any other relevant information.

IV. INTERNATIONAL EXCHANGE OF INFORMATION

10. The International Labour Organization should:

(a) facilitate the exchange of information on national policies, systems and programmes on occupational safety and health, including good practices and innovative approaches, and the identification of new and emerging hazards and risks in the workplace; and

(b) inform on progress made in achieving a safer and healthier working environment.

V. UPDATING OF THE ANNEX

11. The list annexed to this Recommendation should be reviewed and updated by the Governing Body of the International Labour Office. Any new list so established shall be adopted by the Governing Body and shall replace the preceding list after having been communicated to the Members of the International Labour Organization.

List of ILO instruments relevant to the promotional framework for occupational safety and health

I. CONVENTIONS

Labour Inspection Convention, 1947 (No. 81)
Radiation Protection Convention, 1960 (No. 115)
Hygiene (Commerce and Offices) Convention, 1964 (No. 120)
Employment Injury Benefits Convention, 1964 (No. 121)
Labour Inspection (Agriculture) Convention, 1969 (No. 129)
Occupational Cancer Convention, 1974 (No. 139)
Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)
Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)
Occupational Safety and Health Convention, 1981 (No. 155)
Occupational Health Services Convention, 1985 (No. 161)
Asbestos Convention, 1986 (No. 162)
Safety and Health in Construction Convention, 1988 (No. 167)
Chemicals Convention, 1990 (No. 170)
Prevention of Major Industrial Accidents Convention, 1993 (No. 174)
Safety and Health in Mines Convention, 1995 (No. 176)
Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81)
Safety and Health in Agriculture Convention, 2001 (No. 184)
Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155)

II. RECOMMENDATIONS

Labour Inspection Recommendation, 1947 (No. 81)
Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82)
Protection of Workers. Health Recommendation, 1953 (No. 97)
Welfare Facilities Recommendation, 1956 (No. 102)
Radiation Protection Recommendation, 1960 (No. 114)
Workers. Housing Recommendation, 1961 (No. 115)
Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)
Employment Injury Benefits Recommendation, 1964 (No. 121)
Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)
Occupational Cancer Recommendation, 1974 (No. 147)
Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977 (No. 156)
Occupational Safety and Health (Dock Work) Recommendation, 1979 (No. 160)
Promotional framework for occupational safety and health
Occupational Safety and Health Recommendation, 1981 (No. 164)
Occupational Health Services Recommendation, 1985 (No. 171)
Asbestos Recommendation, 1986 (No. 172)
Safety and Health in Construction Recommendation, 1988 (No. 175)
Chemicals Recommendation, 1990 (No. 177)
Prevention of Major Industrial Accidents Recommendation, 1993 (No. 181)
Safety and Health in Mines Recommendation, 1995 (No. 183)
Safety and Health in Agriculture Recommendation, 2001 (No. 192)
List of Occupational Diseases Recommendation, 2002 (No. 194)

The TUC's Comments and Response to The Questions posed in ILO Report IV (1)

General Comments:

- Title of the Convention: the title of both instruments should include "promotional framework for occupational safety and health. "
- Article 4, clause 2 (a) of the Convention: the standard formulation "laws and regulations, or collective agreements or any other relevant instruments" should be preferred.
- Paragraph 9 of the Recommendation: it is fine to list the elements of the national system described in the Convention.
- Annex: it is acceptable to add the Employment Injury Benefits Convention 121 and its Recommendation 121. The title added in the Annex is also fine.

Question 1 The articulation of the link between the proposed instruments and relevant existing instruments in the area of occupational safety and health: How can this be best achieved with a view to the promotion of relevant existing instruments? Please comment.

TUC Response: An instrument establishing a promotional framework on occupational safety and health should help promote the ratification and effective implementation of relevant ILO instruments in the area of OSH as a strategy to promote an improvement of the OSH situation at national level. This would represent a clear added value and would be consistent with the integrated approach. Failing to articulate such a link and only focus on processes would undermine existing ILO instruments on OSH.

This approach is fully in line with paragraph 6 of the 2003 Conclusions on a Global Strategy on Occupational Safety and Health adopted by ILO constituents that stated that the new instrument should "(...) contribute to increasing the impact of existing up-to-date ILO instruments (...)". In order to achieve this, one of the key objectives of the proposed instruments should be to promote the ratification and effective implementation of ILO occupational safety and health instruments, in particular: C. 155, C. 161, C. 81, C.167, C. 170, C. 176 and C. 184. It is worth recalling that all these conventions were declared up-to-date by the Working Party regarding the Revision of Standards.

To make this objective operational, the policy section of the Convention should call for the ratification on a priority basis of Convention 155 and the conventions listed above. The ratification of the other ILO Conventions listed in the Annex should be similarly considered. To this effect, the Annex currently included in the Recommendation should also appear as an Annex to the Convention.

Question 2: Should the basic principles governing a national policy on occupational safety and health be included? If so, please specify.

TUC Response: The basic principles governing a national policy on occupational safety and health should be specified. If you want member states to adopt good health and safety practices at national and enterprise levels you need to indicate what these practices are. This is particularly important for developing countries that often do not have a strong legislative framework. An instrument failing to provide guidance on the basic principles that should govern good occupational safety and health practices will do little to achieve a safer and healthier working environment.

Principles should be specified in the national policy section and should be linked to the national system and programme. They should be consistent with the principles of the national policy defined in the Occupational Safety and Health Convention, 1981 (No. 155) and its protocol, 2002.

Question 3: Concerning workplace measures, should any specific issues of prevention, such as indication of rights, duties and responsibilities, information and training, and workplace safety and health committees, be included? If so, please specify.

TUC Response: If one wants to reduce the level of occupational death, diseases and accidents in the workplaces, active measures of prevention have to be promoted and implemented. In order to achieve this objective, workers' rights and duties as well as employers' and government responsibilities should be addressed.

A more detailed reference to workers' rights needs to be made in the context of the right of workers to a safe and healthy working environment (article 3.3 of the proposed convention). In particular workers and their representatives should have the right to:

- participation and representation at all levels in the area of occupational safety and health, in particular participation in the development and assessment of prevention initiatives;
- training and education;
- information and consultations on safety and health issues;
- information on hazards and risks and the means to prevent them;
- access to occupational health services; and
- remove themselves from work situations that represent a danger to their life or health.

Workers' duties should include to comply with health and safety measures and to cooperate with employers in order for employers to comply with their duties and responsibilities.

Employers' responsibilities should include the following:

- to ensure a safe and healthy working environment;
- to carry out risk assessment in relation to safety and health;
- to ensure adequate and appropriate training; and
- to stop operations when there is an imminent and serious danger to workers' safety and health.

Government responsibilities should include the enactment and enforcement of legislation.

Other comments

The ILO also invites comments on how the draft instruments could be further improved, including whether text should be modified, added to or deleted and in which of the instruments the proposed text should best be placed. The TUC proposes that:

- The preamble of the Convention should refer to ILO core conventions.
- The preamble should also include a reference to Convention 161 and Recommendation 171 on Occupational Health Services, Convention 81 (Labour Inspection), Convention 167 (OSH in Construction), Convention 184 (OSH in agriculture), Convention 176 (OSH in Mines) and their accompanying Recommendations.
- There should also be a section on scope indicating that the Convention should apply to all branches of economic activity in which workers are employed.
- One of the objectives of the Convention should be to promote the development of a national preventative safety and health culture based on principles of assessment and management of hazards in the workplace.
- In the policy section of the convention, reference should be made to the setting up of tripartite bodies whose function should be to provide advice to the competent authorities on OSH, to review national laws and regulations on OSH, to assess the progress in achieving a safer and healthier working environment and the promotion of a preventative safety and health culture. This is fully in line with paragraph 6 of the 2003 Conclusions on a Global Strategy on Occupational Safety and Health that called for "the establishment of tripartite consultation mechanisms on OSH".
- The national programme section of the Convention should also promote the development of prevention measures based on principles of assessment and management of hazards/risks in the workplace.
- The Recommendation should include a national policy section to mirror the one in the Convention. Such a section should include provisions providing for the participation of employers, workers and their representatives in the promotion of occupational safety and health at workplace level. Consultation and participation of employers, workers and their representatives and relevant government authorities should also be ensured in order to give effect to the measures included in the Convention national policy section.
- In the Recommendation, it should be indicated that the national programme should promote prevention activities at workplace level. Such activities might include the matters set out in the Recommendation concerning occupational safety and health and the working environment, 1981 (N° 164), in particular:
 - i. the formulation and review of a prevention policy;
 - ii. the definition of employers' responsibilities and workers' duties and rights;

- iii. the establishment of safety and health committees or safety representatives whose functions should include, inter alia, to carry out workplace investigations, keep records and investigate the causes of ill-health in order to prevent their re-occurrence and provide training and information regarding matters of safety and health;
- National system section of the Recommendation: in paragraph 1, in the third line, the text after Members should be deleted and the following text should be added:
 - a) consult and promote the active participation of employers, workers and their representatives and relevant governmental institutions, including public health authorities;
 - b) ensure compliance with national laws and regulations including adequate and appropriate systems of inspection;
 - c) take steps to ratify and effectively implement the Occupational Safety and Health Convention, 1981 (No. 155) and other relevant ILO Conventions listed in the Annex;
 - d) periodically review and update on a tripartite basis, national laws and regulations on occupational safety and health giving priority to emerging hazards such as ergonomic, biological and work-related psychosocial hazards
- In paragraph 3 of the national system section of the Recommendation the following clauses should be added after "Members should seek":
 - a) to promote the establishment of health and safety policies and of joint safety and health committees and workers' safety representatives at workplace level;
 - b) to address the constraints of micro, small and medium-sized enterprises and contractors in the implementation of OSH policies and regulations by establishing a system of regional safety representatives
- In the National profile section of the Recommendation: Paragraph 9 (p): add "safety and health representatives and officers" to the list
- Add a new clause in Paragraph 9: "mechanisms for the provision of occupational health services and the coverage of workers by such services"

END