Trade Unions and Child Labour

Trade Union Briefing
on Convention 182

Developing National and International Trade Union Strategies
to Combat Child Labour
Project INT/96/M06/NOR

Bureau for Workers' Activities
INTERNATIONAL LABOUR OFFICE
Preface

In the ILOs eighty year history, few conventions have been adopted in such circumstances as Convention 182 on the Worst Forms of Child Labour. Normally ILO meetings are fairly quiet, technical affairs. There is certainly debate, but rarely demonstrations and campaigns. On this occasion, children from all over the world took part in the Global March Against Child Labour which culminated in Geneva at the opening session of the International Labour Conference in June 1998. ICFTU and ITS affiliates were closely involved in organizing the March. Some of the children continued the campaign during the following Conference in 1999, by entering the Conference Room giving a performance illustrating child labour.

The Convention was adopted unanimously in 1999 - a reflection of the widely held view that something must be done to put a stop to the intolerable. Since then there has been a record breaking number of ratifications. Normally, it can take several years for a convention to receive the two ratifications required for it to come into force, and become part of international law. The Convention was firstly ratified by the Seychelles on 28 September 1999, and secondly by Malawi on 19 November 1999. Nineteenth November 2000 thus emerges as the date of its coming into force.

Every trade union will want their country to ratify the Convention, and if they have ratified it, to start the implementation. This briefing booklet explains the background and significance of every clause of Convention 182 and Recommendation 190. Hopefully it will assist trade unions all over the world to understand the Convention, to campaign for its ratification and implementation, and to make full use of it in their work against child labour. The ILO/ACTRAV Project “Developing National and International Trade Union Strategies to Combat Child Labour” has produced several other technical papers such as this one, and a set of booklets under the heading “Trade Unions and Child Labour”.

Acknowledgement is given to Mr. Simon Steyne of the British Trades Union Congress, who wrote the briefing booklet in cooperation with the ILO/ACTRAV Project and IPEC. Mr. Steyne was a TUC representative in the ILO Conference Committee on Child Labour in 1998 and 1999, titular Worker member of the Drafting Committee in 1999, which finalized the Conference texts of Convention 182 and Recommendation 190, and spokesperson of the Worker Experts in the ILO Experts Meeting on Child Labour and Labour Inspection in September 1999.

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TRADE UNION ACTION
AGAINST THE WORST FORMS OF CHILD LABOUR

NATIONAL TRADE UNION CONFERENCES ON THE
TRADE UNION ROLE IN THE IMPLEMENTATION OF THE 1999
ILO CONVENTION AND RECOMMENDATION ON
THE PROHIBITION AND IMMEDIATE ACTION FOR THE
ELIMINATION OF THE WORST FORMS OF CHILD LABOUR

Background, strategies, policy proposals,
action points and capacity indicators

Introduction

The unanimous adoption by the International Labour Conference in June, 1999, of the Convention and Recommendation on the Worst Forms of Child Labour indicated strong political will by all ILO constituents to prohibit and eliminate the worst forms of child labour as a matter of urgency. Tripartite consultation lies at the heart of the instruments, and trade union organizations will need to devote resources and where, necessary, develop capacity, in order to play their full part in promoting rapid ratification and implementation of the Convention. As representative organizations of working people trade unions have a responsibility to continue to be in the leadership of the campaign against child labour; and the instruments may offer them opportunities, which they should not miss, to enhance their status and develop their organizations. Globalization and the search in some sectors for ever-lower labour costs have fed the growth of the informal sector and of child labour. Trade union action to eliminate the worst forms of child labour as the priority in the struggle to eradicate all child labour needs no justification; it is in part a moral crusade. It also forms part of the trade union response to globalization and the struggle to win respect for core labour standards for working people everywhere.

This document analyses the requirements the Convention and Recommendation place on national trade union confederations, and where appropriate, their sectoral affiliates, and suggests strategies through which they could fulfil the role allotted to them. In highlighting the tasks facing trade union organizations it also indicates areas where they may need to build their capacity. The document also provides some political background to the text, which may be useful in developing arguments to support ratification and strategies for design and implementation of national action programmes.
ILO CONVENTION 182
CONCERNING THE PROHIBITION AND
IMMEDIATE ACTION FOR THE
ELIMINATION OF THE WORST FORMS
OF CHILD LABOUR

ADOPTED BY THE CONFERENCE AT ITS
EIGHTY-SEVENTH SESSION,
GENEVA, 17 JUNE 1999

Preamble

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 87th Session on 1 June 1999, and

Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and

Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and
Recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and

Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and

Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and

Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998,

and

Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and

Having decided upon the adoption of certain proposals with regard to child labour, 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;

adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.
Comment

The Preamble states basic premises for the Convention which trade union organizations should bear in mind when campaigning:

- the prohibition and elimination of the worst forms of child labour are the main priority for national and international action in the fight against all child labour;
- the new Convention and Recommendation complement Convention 138 and Recommendation 146 (1973) on minimum age for admission to employment, which remain the fundamental ILO instruments on child labour. The new instruments do not replace Convention 138 and Recommendation 146, and the ILO remains fully committed to its aim of the total elimination of child labour as defined in the 1973 instruments. Ratification of Convention 138 is increasing steadily and appears to have enjoyed a resurgence as a result of the reconcentration of the international debate on child labour which Convention 182 has aroused. 99 member States had ratified Convention 138 by September 2000, several States have initiated the ratification process, and further more are examining the Convention with a view to possible ratification. If those ratifications are completed, Convention 138 will enjoy a ratification rate comparable with the other fundamental Conventions of the ILO;
- the importance of free basic education should be taken into account in the immediate and comprehensive action required to eliminate effectively the worst forms of child labour, as should the need to remove children from all such work, to provide for their rehabilitation and social integration while addressing the needs of their families. National trade union confederations may, where appropriate, wish to consult unions organizing teachers and those working in social services and social security to help develop their positions. They should be aware that the requirement to remove children from all such work is clarified in Article 7 of the Convention (see below);
- the Preamble quotes from the 1996 ILO Conference resolution on the elimination of child labour only one paragraph which describes child labour as being caused to a great extent by poverty and says that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education. Trade union organizations should be aware that the 1996 Resolution also explains how child labour acts as a brake on social and economic develop-
ment by restricting the skills base in the workforce and by perpetuating low incomes: “Noting that many children are put to work at a very young age or in conditions which are exploitative and hazardous and that this hinders their steady physical and mental development, depriving them of an education and thereby also constraining the social and economic development of their countries”.

The new Convention requires immediate action to eliminate the worst forms of child labour. Poverty is no excuse for the violation of human rights. In the words of the Agenda for Action agreed at the 1997 Oslo Conference on Child Labour, child labour is both a consequence and a cause and of poverty. Some governments may claim that while they support the aims of the new Convention in principle, poverty prevents them from putting those aims into practice. In some cases, precisely those governments will bear responsibility for the perpetuation of social injustice and poverty in their countries, either because they refuse to address the issues, or, for example, because they divert public expenditure from education, health and housing to arms expenditure. Trade union organizations should promote the new Convention as a fundamental Convention, that is, a Convention proclaiming inalienable human rights which may not be violated under any circumstances and which must be realised regardless of the economic circumstances of the member State. While sustained economic growth linked with social progress may be necessary to eliminate all child labour worldwide, it is also true that economic growth without social progress has, in some countries, led to an increase in child labour. Moreover, there are examples of poor countries or poor regions of countries where political measures have largely contributed to the successful eradication of child labour – particularly through the provision of universal basic education - even though poverty has not been eradicated.

The reference to international cooperation and assistance should also remind donor countries that the elimination of the worst forms of child labour can be accelerated through additional support, which may also take the form of capacity-building assistance, and through policies to promote support for the aims of the Convention in all relevant international institutions, including the other UN agencies, the IMF and the World Bank, and the WTO;

The Preamble recalls several other international instruments:

- the UN Convention on the Rights of the Child - which proclaims that education and protection from exploitation are human rights and that the opinions of children should be taken into account in matters which affect them;
the 1998 ILO Declaration on Fundamental Principles and Rights at Work, which obliges all ILO member States, regardless of ratification, to respect, to promote and to realize in good faith the principles embodied in the ILO’s fundamental Conventions on trade union freedoms, non-discrimination, elimination of forced labour and abolition of child labour;

- ILO Convention 29 on forced labour, on which the most extensive ILO jurisprudence regarding child labour has been developed; and

- the 1956 UN Supplementary Convention on the Abolition of Slavery, which pays attention to situations in which children are delivered into total dependency on their employer.

**Article 1**

*Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.*

**Comment**

The origins of the new Convention on the worst forms of child labour lay in the desire of ILO constituents for a focussed instrument which would require immediate action against the worst forms of child labour as the priority in the campaign for the elimination of all child labour. The total abolition of child labour is foreseen by ILO Convention 138 on minimum age for entry into employment, adopted in 1973. Convention 138, while a fundamental Convention of the ILO, envisages progressive elimination of child labour and the progressive provision of universal education. The new Convention requires ratifying governments to prohibit and take action immediately to eliminate the worst forms of child labour, which it defines clearly. The term “immediate measures” employed in Article 1 should be understood to imply an obligation with regards to the means, not to the results. That is to say, “immediate” refers not to the anticipated final result but rather to the means which must be deployed to ensure the prohibition and elimination of the
worst forms of child labour. The term “as a matter of urgency” underlines the necessity of rapid action in order to prohibit and eliminate the worst forms of child labour.

The first task of the national trade union confederation should be to develop and launch, without delay, a concerted trade union campaign for the rapid ratification of the Convention and acceptance of the Recommendation. The campaign should involve active commitment at the highest level of the organization and where possible the allocation of adequate resources to promote ratification and implementation of the Convention. National confederations should consider the nomination of a national officer or officers to act as child labour campaign contact points, to the establishment of a child-labour task force, and to ensuring that national executive committees are both involved and regularly informed of developments in the campaign. National trade union confederations should consider placing relevant motions on the agenda of their congresses and awareness raising workshops at congress. Care should be taken to encourage both ratification of the Convention and acceptance of the guidance provided by the Recommendation, inter alia because Paragraph 3 of the Recommendation includes important cross-references to guide the determination of hazardous forms of work.

Governments must, without delay, secure measures, including legal provisions, prohibiting the worst forms of child labour and take urgent action to eliminate those worst forms.

**Action:** prepare and launch campaign for ratification; maintain existing campaigns for ratification of Convention 138; nominate responsible officer or officers; consider establishing national child labour task force.
Article 2

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

Article 3

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

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and servitude and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

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

Comment

Article 2 defines “child” for the purposes of the Convention as any person under the age of 18, and Article 3 defines the “worst forms of child labour”. It should be noted that the age indicated in Article 2 does not apply to all work performed by children, but solely to the worst forms of child labour.

Forced labour is included among the worst forms of child labour defined in Article 3, (in Paragraph (a)). Convention 29, which applies to all persons regardless of their age, concerns forced labour, including that performed by children. Moreover, Article 3 of Convention 138 also refers to work which
is likely to jeopardise the health and safety of children, just as does Article 3, Paragraph (d) of Convention 182. Consequently, however, we can say that Convention 182 codifies, by defining them, the worst forms of child labour. Part of its “added value” is that it thus provides additional clear definitions of certain types of child labour which should be prohibited and eliminated as a matter of urgency. Convention 138 describes clearly the general types of work that may or may not be performed by people under the age of 18. Hazardous work is prohibited, but the new Convention and Recommendation provide clear descriptions of types of work or working conditions which, as a minimum, must be considered as hazardous. Convention 29 prohibits all forced and compulsory labour, and those exceptional circumstances which may make it permissible only apply to able-bodied males between the ages of 18 and 45. Convention 29 forbids the use of forced labour by private individuals or enterprises and for the production of traded goods. The extensive jurisprudence of the ILO’s supervisory bodies on Convention 29 has hitherto been its main source of jurisprudence on child labour. There is extensive reference in those findings inter alia to bonded and other forms of forced child labour, including work in the sex industry, domestic service, various forms of hazardous work – including soldiering, and trafficking. National trade union confederations should recognise that the primary aim of Convention 182 is the prohibition and elimination for all persons under 18 of the worst forms of child labour, including work which can harm their health, safety and morals. The Convention allows for no exceptions.

The Conference debated at length the extent to which child soldiers should be covered by the Convention. While the trade union representatives wanted the inclusion of an explicit ban on deployment in armed combat of all soldiers under the age of 18, whether volunteers or not, the Conference could only agree to an explicit reference to forced or compulsory recruitment of children for use in armed combat. That formulation would cover most of the child soldiers fighting in wars today who do not or cannot give full and free consent to their deployment in battle. It would also prohibit the deployment in armed conflict of any conscript under the age of 18. The existing jurisprudence on consent arising from Convention 29 would suggest that the children concerned must be old enough to give genuine consent and that there must be no coercion in their recruitment. The trade union movement does not believe that a destitute child who agrees to join an army in exchange for a meal and a small amount of money is a true volunteer. It is to be hoped that the Optional Protocol to the UN Convention on the Rights of the Child on involvement of children in armed conflict, adopted in April 2000, will have a
significant influence on governmental and international action to end deployment in armed conflict of children under 18 in government armed forces.

**Action:** examine existing national age regulations in these occupations.

**Article 4.1.**

The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.

**Comment**

National trade union confederations should, while developing their ratification campaigns, recognise the urgent need to undertake preparatory work for such consultations so that they are fully able to take part in them. Using as a minimum the criteria listed in Paragraph 3 of the Recommendation, they should engage their own officers with health and safety knowledge and expertise, and those of their sectoral affiliates, in preparing a list of occupations in which such hazards exist. One possible way to collate such information would be to draft and circulate a questionnaire based on those criteria and to follow up with sectoral and/or national workshops to engage sectoral affiliates more closely in the process. It may be appropriate to enlist the involvement of the national coordinators of the international trade secretariats (ITSs), and where necessary to seek the capacity-building support of the ITSs for their national affiliates in this regard. The list to be used as a resource for trade union input into tripartite consultations should be suitable both for submission in writing and as an aide memoire in negotiations and should be suffi-
ciently detailed to provide incontrovertible evidence. While the types of work so determined should be periodically examined, trade union organizations should do their utmost to ensure that the initial list is as accurate and comprehensive as possible.

**Action:** prepare list of occupations in which the hazards referred to in the Convention and Recommendation exist.

**Article 4.2**

*The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.*

**Comment**

National trade union confederations should ensure that, in their preparation for such consultations, they should also ascertain where in the labour market such hazardous forms of work are being performed by persons under 18. That should include, to the greatest extent possible, not just an indication of the branches of economic activity, but give consideration to the most precise geographical location possible including the identification of enterprises and workplaces. Such information can play an invaluable role in speeding implementation. Trade union organizations might consider whether sympathetic NGOs may be able to provide supplementary information about the existence of the worst forms of child labour, for example in the informal sector.
**Action:** identify where such hazardous forms of work are being performed by children under 18.

**Article 4.3**

The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

**Comment**

National trade union confederations should be aware that this aspect of implementation will be ongoing. It may therefore be another good reason to establish a national child labour task group for which the coordination of review input could be a standing responsibility. Trade union organization should also do their utmost to ensure that the initial list is as accurate and comprehensive as possible, bearing in mind that the review process could be slow.

Information collated for the purposes of Article 4 should be communicated also to the ITs and to the relevant international trade union confederation which will be able to disseminate information and examples of good practice through its website.

**Action:** ensure initial list is as accurate and comprehensive as possible; keep list under regular review; communicate information to relevant international trade union organizations.
Article 5

Each Member shall, after consultation with employers’ and workers’ organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

Comment

Effective and authoritative monitoring is essential for the implementation of the Convention. Without it, the extent to which the worst forms of child labour exist cannot be established, nor can progress in eradication be verified.

Many member States will have already allocated responsibility for the elimination of child labour to the labour ministry or to the labour inspectorate. In others, for example where elimination of child labour has been closely linked to compulsory school attendance, such responsibility may lie with ministries and authorities responsible for education or social services. Certainly, school attendance records are a key tool in monitoring the extent of child labour in all its forms. In most cases a combined approach is required, and while the labour ministry may remain the lead department, other departments with an interest and competence might be included in such a mechanism. While the prime responsibility for monitoring implementation of government policy should remain with the public authorities, trade unions and employers’ organizations can also play a role in monitoring. Trade unions are uniquely qualified to expose abuse and exploitation of children in the workplace and the Convention should be a spur to them to develop organization in the informal and semi-informal sector where child labour, and in particular its worst forms, are most prevalent. Tripartite involvement in a national monitoring mechanism would have the advantage of encouraging wider public ownership of the campaign to eradicate the worst forms of child labour. It could also facilitate access for trade unions to workplaces which have hitherto been inaccessible to them.

National trade union confederations should also consider establishing training programmes, for example in collaboration with the labour inspectorate and, where appropriate, including others experts in monitoring and verifi-
cation of labour practices, which would familiarise key trade union officers with monitoring techniques, and permit the development of expertise and capacity sufficient for trade unions to play the role of "watchdog" to ensure that official monitoring is effective.

National trade union organisations should consider establishing communications networks which will allow violations of the Convention to be collated nationally and presented to the competent authority.

**Action:** build monitoring capacity of trade union organizations - to include capacity to monitor the application of both Conventions 182 and 138; explore how involvement in monitoring can open access to hitherto unorganised workplaces; ask teachers unions to provide information on school attendance patterns.

**Article 6. 1 & 2**

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.
Comment

Trade union organizations should note that Members are required to design and implement programmes of action to eliminate as a priority the worst forms of child labour in consultation with relevant government institutions, trade unions and employers’ organizations, taking into consideration the views of other concerned groups as appropriate.

Tripartism lies at the heart of the new Convention. For trade union involvement, this is the most important Article in the Convention, and it presents trade unions with both an opportunity and a challenge. The formulation in means that trade unions should be involved in every stage of the process. A national trade union task force on child labour or a national officer or officers reporting to the national executive, will need to have the capacity to fulfil this demanding role. Article 6 highlights the need for national trade union organizations to allocate the necessary resources to participate fully in this task. In countries where freedom of association is not fully respected but in which the government ratifies the Convention, new opportunities should arise for unions to take part in decision-making at the national level and in implementation. For all national trade union confederations, regardless of their strength or status, the tripartite consultation required to design and implement the Convention offers opportunities either to enhance their already-established legitimacy with government, employers, members and the general public, or to support the development of such legitimacy.

Tripartite consultations may also offer the opportunity for trade unions to encourage bipartite negotiations with employers with a view to developing company policies, which may be based on a social partnership approach, to eradicate the worst forms of child labour in production chains. In any case, where it is not already the case, removal of children from the labour market and into school, and their replacement, wherever possible with unemployed adults from their extended families, should be part of the bargaining agenda.

The formulation of Article 6 places clear emphasis of tripartite cooperation with the social partners. National trade union confederations may also consider consulting with civil society organizations committed to the aim of the Convention, for example those which are member organizations of the Global March against Child Labour. Such consultations may strengthen that broad social alliance without weakening tripartism, and may lead to a valuable exchange of information. Increasing understanding amongst those NGOs
committed to the aims of the Convention and sympathetic to the trade union movement of the central importance of core labour standards, including trade union rights and freedoms, in the struggle against child labour can strengthen civil society support for freedom of association, and can help delineate the unique representative capacity of trade unions and the advocacy role played by NGOs. In some cases, friendly and well-resourced NGOs may be able to offer material support to trade union campaigns.

**Action:** develop capacity to take full part in tripartite consultations on the design and implementation of national programmes of action; take advantage of opportunities offered by such consultation to strengthen tripartism and social dialogue; consider consulting friendly NGOs committed to the aims of the Convention.

**Article 7.1**

*Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.*

**Comment**

National trade union confederations should use their own networks to collate information about violations and should inform the relevant authorities of violations so that appropriate measures, including sanctions if necessary,
can be applied. Collection of such information will be vital to the submission of effective Article 22 reports to the ILO Committee of Experts.

**Action:** use union networks to collate information about violations.

**Article 7.2**

*Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:*

(a) prevent the engagement of children in the worst forms of child labour;

(b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;

(c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;

(d) identify and reach out to children at special risk; and

(e) take account of the special situation of girls.

**Comment**

The phrase "time-bound" implies that, while all parties accept that the worst forms of child labour will not be eliminated the moment ratification takes place, governments must accept the urgency of the task at hand. They must not seek excuses for inaction, and they must set clear time-bound targets for the implementation of the Convention. The test of reasonableness would apply. Given that the Convention proclaims inalienable human rights, implementation must be secured within the shortest period possible. While a
five-year programme might be considered reasonable in some countries, a
thirty-year programme would not. If present rates are left unchecked, in
thirty years almost one billion children will have become child labourers, a sig-
nificant proportion of whom will be engaged in the worst forms of child la-
bour. Conversely, if recruitment of child labourers into the labour market
were to be ended immediately, child labour would be eradicated in little over
a decade.

Great emphasis should be placed on preventive measures, but they
have to be part of a balanced programme. Children engaged now in the worst
forms of child labour need immediate relief and immediate action should be
taken to move them from work and into education as required by the Con-
vention. Even within the terms of the Convention, action programmes must
start somewhere. Trade union organizations may consider that, if necessary,
initial priority could be given to those children suffering the greatest abuse and
harm, while bearing in mind that, once legislation is in place, that engagement
of children in certain types of the worst forms of child labour will be a criminal
offence. Assistance, rehabilitation and social integration are essential, and
there should be immediate efforts to remove children, wherever possible, to
a place of safety - for example, those working in the sex industry.

The Convention does not require provision of universal basic educa-
tion, but the importance placed on education as both a preventive and reme-
dial measure and the clear obligation to ensure access to free basic education
for all children removed from the worst forms of child labour is central to im-
plementation of the Convention. National trade union confederations may
wish to consult teachers' unions in order to develop their proposals for how
such access should be provided and the nature of the provision. ILO Conven-
ton 182 does not provide an explicit definition of basic education. However,
during the ILO Conference discussion in 1998 on the Preamble of the draft
Convention about whether the appropriate reference was to “basic”, or “pri-
mary” education, the Worker members preferred the term “basic education”
as it was commonly used by the United Nations and said it could include not
only primary education, but also up to three years of secondary education.
This reflected a common understanding of those working in education that to
reach basic education levels generally required primary education plus two
years, making a total of 8 or 9 years. The reference to “basic” was retained in
the text. For an older child removed from a worst form of child labour, the re-
quirement might not be 9 actual years of education, but rather intensive re-
medial education so that the child can reach the educational standards that
would normally be achieved after such time.
Although the Convention requires the removal of children from the worst forms of child labour, the simultaneous requirement to provide those removed with basic education means they should not be moved to other, non-hazardous, occupations until they are past the age at which basic education would normally be concluded. That age would normally be the age set in Convention 138 for entry into full-time, non-hazardous work (which ages should apply in any case in a country which had also ratified Convention 138). Children above that age who are removed from the worst forms of child labour could be provided with a combination of remedial basic education, appropriate vocational training, and, insofar as it did not interfere with their education and training, could be permitted to perform non-hazardous work.

National trade union confederations should argue for the rapid establishment of basic education provision, where it does not already exist, for children who would be at risk of entering the worst forms of child labour. They may recall that the 1997 Oslo Child Labour Conference emphasized the need for time-bound programmes for universal compulsory education, ensuring the necessary quality and relevance, as a central component of national plans of action, taking into consideration gender-specific needs and the needs of particularly vulnerable groups. In countries which have ratified Convention 138 national trade union confederations should argue for provision for all children of primary school entry age, and they should consider doing so also in countries which have not ratified Convention 138 because the clearest way to prevent children being engaged in the worst forms of child labour is to prevent their entry into the workforce at all. They should bear in mind that, where the age of entry into primary school is late, pre-school provision will be necessary to prevent the recruitment of younger children. Trade union organizations should bring their own expertise to bear in discussions of provision of vocational training for children for whom it would be appropriate.

Ratifying member States are also required to allocate resources to remove children from the worst forms of child labour and provide for rehabilitation and social integration. National trade union confederation may wish to consult the relevant trade unions which organize workers with expertise in these fields in order to increase their capacity to take part in tripartite discussions on these aspects of programmes of action.

They may also wish to seek advice from such affiliates and from those organizing labour inspectors to increase their capacity in discussions on action for children at special risk, and discussions which take into account the special situation of girls. Special attention must be paid to identifying where children are performing hidden work. The guidance given by the ILO Meeting of Ex-
erts on Labour Inspection and Child Labour in September 1999 is helpful in that regard, and unions should press, wherever possible, in alliance with labour inspectorates, for the extension, where necessary, of the powers of labour inspectors so that no workplace or employment relationship, whether in the informal or formal economy, is beyond the reach of labour inspection.

It would be appropriate to involve trade union confederation women’s committees and unions in sectors where the workforce is predominantly female in discussions about the special situation of girls, while bearing in mind that the gender issues in question are an integral part of a human rights instrument which are the concern of the entire trade union movement. Care should be taken not to imply that trade union leaderships see child labour as a "women’s issue".

**Action:** remember that "time-bound programmes" require immediate action and clear target-setting; seek advice from teachers’ unions on campaign to ensure that ratifying governments meets their obligation to provide basic education for all children at risk of being recruited into, and for all those removed from the worst forms of child labour; seek advice from relevant public service unions about rehabilitation programmes; do not forget the obligations of governments which have ratified Convention 138; always bear in mind the special situation of girls and children performing hidden work; seek to build appropriate alliances with labour inspectorates; develop campaigns and alliances to sensitize parents to the problem and dangers of child labour,
organizing in the workplace as the best protection, emphasizing the benefits of trade union membership for working parents and the central role of basic education in breaking cycles of poverty and deprivation; gather information about enterprises which have used the worst forms of child labour or which continue to do so.

Article 7.3

Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

Comment

The competent authority referred to in the Convention is the body with ultimate responsibility for implementation and enforcement. That means the responsibility lies with the Government – the executive power - of a ratifying member State.

A first step in implementing those provisions must be the alignment, where necessary, of national legislation or regulations. It is the responsibility of Government to ensure that such legislation is placed before the national or federal assembly or parliament, or, where appropriate, that the necessary legal provisions are made by ministerial regulation.

The competent authority may designate, for example, a branch of the executive, possibly the labour ministry, or several ministries which should work together to ensure a multi-disciplinary approach to implementation.
A tripartite national committee may be a suitable mechanism to ensure the widest input into and oversight of such programmes. In the final analysis, however, legislative provisions should be enforceable and enforced. See also the comments on Article 5 above with regard to monitoring mechanisms.

**Action:**

the Convention foresees the competent authority as the government, but national trade union confederations may still wish to express a view, in discussions about draft legislation, as to which ministries or public authorities are best placed to ensure the implementation of such legislation.

**Article 8**

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

**Comment**

When Article 8 was discussed by the Conference Committee, it was indicated that the term “enhanced” in the Convention did not simply mean that more funds should be allocated for aid from donor countries, but also that it could mean the better targeting and use of resources, including for capacity building. Nonetheless, donor governments which do not presently meet the UN target for international development assistance should be reminded both of their obligations and that the international community,
through the ILO Conference, has agreed that the achievement of the aims of the Convention are a priority for both national and international action.

Particular attention may be paid in trade union campaigns to the 20/20 principle, recalled in the Agenda for Action of the Oslo Conference on Child Labour in 1997, according to which donors and developing countries are urged to allocate on average twenty per cent of overseas development assistance and national budgets respectively to basic social services including basic education and primary health care.

National and international trade union organizations may wish to emphasise the need for support for the development of universal, free, basic education, and in particular recalling the importance of girls’ education, as a crucial lever in breaking the cycles of social deprivation which recreate generations of child labourers. They may wish to emphasise that the development of a greater skills base in the workforce is essential to the development of a competitive economy, to social development and to poverty eradication. They should also recall that the Convention places clear obligations on ratifying member States to provide basic education for all children removed from the worst forms of child labour, and that levels of international assistance may therefore not be cited by the governments of those Members as an excuse not to meet that obligation.

A separate Article on international cooperation within the international institutions was not included in the Convention. However, national trade union confederations may wish to promote such intergovernmental and international institutional cooperation within the terms of Article 8. It is particularly important that government members of the IMF, the World Bank and the WTO, as well as other UN agencies should promote policies and programmes by those agencies and organizations which support the aims of the Convention and do not detract from them. The international trade union campaign to promote the recognition by all UN agencies of the 1998 ILO Declaration on Fundamental Principles and Rights at Work as a basic guide to policy and programme development is complementary to such efforts.

Trade union organizations can also pursue greater cooperation and assistance in their own activities by sharing good practice and, in cases where they receive government funds for trade union development projects, consider how such projects can support the aims of the Convention.
**Action:** encourage more and better international cooperation and development assistance to support the aims of the Convention also by recalling the obligations on all ILO member States arising from the 1998 ILO Declaration; press governments to pursue intergovernmental and international institutional policies to support the aims of the Convention; examine how international trade union cooperation can support the aims of the Convention.

**Articles 9-16**

are standard concluding Articles in ILO Conventions. They are nonetheless important and are commented on below.

**Article 9**

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

**Article 10**

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 12 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 12 months after the date on which its ratification has been registered.

**Article 11**

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.

**Article 12**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.
Article 13

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 and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

Article 14

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.

Article 15

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 11 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 16

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

Comment

It should be noted that formal ratifications must be notified to the Director General of the ILO. The Convention will come into force 12 months after two Members have ratified, and will then come into force for any member State 12 months after its own ratification has been registered. (Annex 1)

National trade union organizations should urge governments to ratify the Convention as rapidly as possible, taking the opportunity to build on the declarations of political will made by governments at the 1999 ILO Conference. There is however no need to wait for ratification before taking action against the worst forms of child labour. Measures may be taken as soon as the capacity do so is in place. In most countries that means that some action can be taken immediately, in particular the removal of children from work which is already prohibited for them - for example in the sex industry - or from types of employment which are illegal - for example slavery - and the prosecution, where the law already permits of those responsible for such crimes against children. Trade unions may themselves begin rehabilitation projects, involve themselves in promoting education provision, and gather evidence and support prosecutions of those who violate existing child labour legislation.

Action: ratification campaigns should be a main and immediate priority for trade union action; where action can be taken now to remove children from worst forms of child labour, do not wait for ratification; conversely, governments do not have to wait until programmes of action are in place before ratifying the Convention.
ILO RECOMMENDATION 190
CONCERNING THE PROHIBITION AND
IMMEDIATE ACTION FOR THE
ELIMINATION OF THE WORST FORMS
OF CHILD LABOUR

ADOPTED BY THE CONFERENCE AT ITS
EIGHTY-SEVENTH SESSION,
GENEVA, 17 JUNE 1999

Preamble

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 87th Session on 1 June 1999, and

Having adopted the Worst Forms of Child Labour Convention, 1999, and

Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Worst Forms of Child Labour Convention, 1999;

adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Recommendation, which may be cited as the Worst Forms of Child Labour Recommendation, 1999.
1. The provisions of this Recommendation supplement those of the Worst Forms of Child Labour Convention, 1999 (hereafter referred to as "the Convention"), and should be applied in conjunction with them.

Comment

Paragraph 1:

Member States cannot ratify ILO Recommendations and so they place no legal obligations on them. They may give effect to their provisions as they see fit. The provisions in Recommendations adopted by the International Labour Conference are those which the Conference does not consider ripe for inclusion in a Convention. However, when Recommendations are adopted by the ILO Conference in conjunction with a Convention, they supplement the provisions of the Convention concerned and provide additional guidance for its application. A Recommendation may have an intrinsic value in a number of cases. In several cases the Conference has decided to adopt only a Recommendation on a certain subject rather than a Convention supplemented by a Recommendation.

In recent years, the responsibility of a government to apply, in good faith, the provisions of a Recommendation has been emphasised by the requirement that those provisions should be applied in conjunction with the provisions of the Convention, if the Convention has been ratified. Nonetheless, a member State which does not ratify a Convention accompanied by a Recommendation can guide its own action by the provisions of that Recommendation. Thus a Recommendation may not only supplement the provisions of a Convention, it commonly repeats the provisions of the Convention so that it can stand as an independent, non-binding, instrument which can still guide government action.

Action: encourage the Government to guide its actions by the provisions of the Recommendation.
I. PROGRAMMES OF ACTION

2. The programmes of action referred to in Article 6 of the Convention should be designed and implemented as a matter of urgency, in consultation with relevant government institutions and employers’ and workers’ organizations, taking into consideration the views of the children directly affected by the worst forms of child labour, their families and, as appropriate, other concerned groups committed to the aims of the Convention and this Recommendation. Such programmes should aim at, inter alia:

(a) identifying and denouncing the worst forms of child labour;

(b) preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals and providing for their rehabilitation and social integration through measures which address their educational, physical and psychological needs;

(c) giving special attention to:
   (i) younger children;
   (ii) the girl child;
   (iii) the problem of hidden work situations, in which girls are at special risk;
   (iv) other groups of children with special vulnerabilities or needs;

(d) identifying, reaching out to and working with communities where children are at special risk;

(e) informing, sensitizing and mobilizing public opinion and concerned groups, including children and their families.
Comment:

I. PROGRAMMES OF ACTION

Paragraph 2:

Paragraph 2 supplements the provisions of Article 6 of the Convention about the design and implementation of programmes of action, which, it repeats, should be done in consultation with relevant government institutions, and employers’ and workers’ organizations, taking into consideration the views of the children concerned, their families, and, as appropriate, other concerned groups committed to the aims of the Convention and Recommendation. This latter phrase “other concerned groups committed to the aims of the Convention and this Recommendation” was part of an amendment proposed by the Worker members at the Conference. Its purpose was to make clear that the reference was to groups committed to abolishing the worst forms of child labour. A prime example of such groups are those which built, with the trade union movement, the great alliance of the Global March against Child Labour, which had a profound effect on the deliberations of the ILO Conference. There are, however, non-governmental organizations and individuals who campaign for children’s so-called “right to work”, or who propose improving children’s working conditions rather than their removal from the worst forms of child labour to education as required by the Convention. Trade union organizations may take the view, expressed at the Conference, that such organizations are therefore not committed to the aims of the Convention and may consider it inappropriate for their views to be taken into consideration.

Action: consolidate alliances with NGOs which support the aims of the Convention and trade union freedoms.
The Paragraph supplements the aims for programmes of action, including:

(a) the identification and denunciation of the worst forms of child labour (cf the notes on Articles 4 and 5 of the Convention); and

(b) preventing the engagement of children in or removing them from the worst forms of child labour; and providing for rehabilitation and social integration through measures which address their educational, physical and psychological needs (cf in particular the notes on Article 7 of the Convention).

Paragraph 2 (b) also refers explicitly to the need to protect children from reprisals. Children must benefit and not suffer as a result of their removal from the worst forms of child labour. National trade union organizations should do their best to collate information on any reprisals and bear them in mind when commenting on Article 22 reports by governments to the ILO Committee of Experts. They may wish to propose that reprisals by employers against children should be offences punishable by law.

**Action:** where possible, gather information about any reprisals against children removed from the worst forms of child labour or against children or adults campaigning in support of the aims of the Convention.

Paragraph 2 (c) advises that special attention should be paid to younger children. That is not defined, but national trade union organizations will wish to ensure that the needs of pre-adolescent children are addressed by programmes of action, taking into account their particular physical and emotional vulnerability. They may consider seeking the advice of unions which represent professionals in child development, education and health. They may wish to pay special attention in their own research to ensuring that branches of economic activity where the engagement of younger children in the worst forms of child labour is prevalent are identified for the purposes of designing national programmes of action.
Action: pay special attention to needs of younger children in research and consultations.

Paragraph 2(c) repeats the need for special attention to be paid to girls; and to hidden work situations in which they are at special risk. It is most important in countries where hidden work is prevalent - for example in domestic service or in agriculture, including family farms, as well as illicit work in the sex industry - that such work is made visible so that the needs of the children concerned, especially girls, can be addressed.

Action: pay special attention to girls and hidden work situations.

The Paragraph also calls for special attention to be paid to other groups of children with special vulnerabilities and needs. Trade union organizations should be advocates for all working children and should bear in mind the needs of street-dwelling children, orphaned children, children with physical or learning disabilities, and those suffering from disease.

Action: pay special attention to children with special vulnerabilities and needs.

The Paragraph calls on member States to identify, reach out and work with communities where children are at special risk. In many cases, discrimination in employment or occupation against adults on grounds of gender, ethnicity – including indigenous peoples, religion or caste may increase the likelihood that children in those communities will become child labourers engaged in the worst forms of child labour. Other types of discrimination, such as the failure to provide appropriate education for all children - for example, failure to provide education which is acceptable to communities practising a
particular religion - may actively encourage children into work rather than school. The needs of communities of migrant workers and their children should also be included and national trade union confederations should press strongly for equal protection under the law for such children. Trade unions may be among the best placed organizations to have contact and work with such communities. They should recognise the advantage of being able to communicate in those communities' languages of daily use, and remember that many in those communities may not be literate. Therefore, both traditional and innovative methods such as street theatre, puppet shows, or music, dance and drama may be appropriate media for communication.

**Action:** pay special attention to communities which suffer discrimination in occupation and employment; use both traditional and innovative methods to communicate with them.

Paragraph 2 calls, finally, for the informing, sensitizing and mobilizing of public opinion and concerned groups, including children and their families. National trade union confederations should not only consider traditional methods such as those mentioned above. They should also endeavour to launch high-profile media and publicity campaigns, encouraging the mass media to report on the issues, and should use their own communications networks and journals, congresses and meetings to engage the widest audience.

**Action:** launch trade union and mass media publicity campaign, encourage media coverage.
II. HAZARDOUS WORK

3. In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to:

(a) work which exposes children to physical, psychological or sexual abuse;

(b) work underground, under water, at dangerous heights or in confined spaces;

(c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;

(d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;

(e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

Comment:

II. HAZARDOUS WORK

Paragraph 3:

Paragraph 3 is of paramount importance to trade union organizations. It lists hazards which should be considered as a minimum when determining any type of work referred to under Article 3(d) of the Convention, which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. The importance of this paragraph is re-
flected in the reference to it in Article 4 of the Convention. A member State which has ratified the Convention, must, therefore, take this list into consideration, which means that types of work in which these hazards occur must be examined to see whether or not they fall within the purview of the Convention and in order to determine the extent to which children are exposed to them.

Again, it may be appropriate to involve the health and safety officers of sectoral affiliates in this work (see notes on Article 4.1 of the Convention). The list would indicate that advice might be sought, for example, from unions in the mining, construction, fishing, chemical, manufacturing, transport, and service sectors. Attention should also be paid to hazardous work in the informal sector, for example in domestic service and agriculture, where children may also use dangerous tools and processes, be exposed to hazardous substances, work excessive hours, be confined to the premises of the employer, and subject to psychological and physical, including sexual, abuse.

Action: in drafting the list, consult national and sectoral trade union health and safety officers and other trade union professionals; do not forget hidden work in the informal sector.

4. For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent authority could, after consultation with the workers’ and employers’ organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.
Paragraph 4:

This paragraph suggests that, after tripartite consultations, employment may be authorized in potentially hazardous work from age 16, on condition that the health, safety and morals of the children concerned are fully protected, and that they have received adequate specific instruction or vocational training. Trade union organizations should be aware that this is not a derogation from the Convention, nor can an ILO Recommendation make such a derogation, and that the terms of Paragraph 4 have been imported from the little-used Article 3.3 of Convention 138.

Work which is hazardous remains banned despite this Paragraph. Work in which potential hazards cannot be completely removed but can be managed sufficiently so that, with full protection and training, health, safety and moral welfare is assured could be performed by those over 16, with the agreement of the trade unions and employers' organizations concerned. For example, it could be acceptable for a child of this age to be a carpenter's apprentice, although the tools used are potentially dangerous, as long as the safeguards were applied. National trade union confederations should proceed with caution in consultations about the implementation of the guidance in this Paragraph. In the Conference discussion some governments tried to have the age benchmark of 18 in the Convention reduced to 16 or even 14. They were not successful, and the Convention covers all children under the age of 18. While it could be helpful to include relevant sectoral unions in such consultations, national trade union confederations must be involved, because the result of such consultations would probably be embodied in national law or regulations.

Action: remember - Paragraph 4 is not a derogation from the minimum age of 18 set in the Convention; work from 16 can only be authorised if potential hazards are removed or, if it is impossible to remove them completely, if full
protection and training is assured; ensure involvement of national trade union confederations in consultations as the results may be set in law or regulation.

III. IMPLEMENTATION

5. (1) Detailed information and statistical data on the nature and extent of child labour should be compiled and kept up to date to serve as a basis for determining priorities for national action for the abolition of child labour, in particular for the prohibition and elimination of its worst forms as a matter of urgency.

(2) As far as possible, such information and statistical data should include data disaggregated by sex, age group, occupation, branch of economic activity, status in employment, school attendance and geographical location. The importance of an effective system of birth registration, including the issuing of birth certificates, should be taken into account.

(3) Relevant data concerning violations of national provisions for the prohibition and elimination of the worst forms of child labour should be compiled and kept up to date.
Comment:

III. IMPLEMENTATION

Paragraph 5:

Paragraph 5 (1&2) suggests that detailed information and disaggregated statistical data on the nature and extent of child labour should be compiled and kept up to date to serve as a basis for determining priorities for national action for the abolition of child labour, in particular of its worst forms as a matter of urgency.

Clearly, such disaggregated statistics are a vital resource for determining priorities in a national programme of action. National trade union confederations should press, where necessary, for the adoption of a national system of birth registration, including the issuing of birth certificates, so that age groups can be determined. With the help of their sectoral affiliates, national confederations can also help by indicating to those responsible for data collection where, and bearing in mind the manner in which the statistics should be broken down, they know child labour is prevalent. It is worth recalling that Article 3 of Convention 160 on labour statistics (1985) requires that, in designing or revising the concepts, definitions and methodology used in the collection and publication of the statistics required under that Convention, the representative organizations of employers and workers should be consulted with a view to taking into account their needs and to ensuring their cooperation.

Action: where possible, support accurate collection of data; where governments have ratified Convention 160 on labour statistics, bear in mind their obligations in this regard; campaign, where necessary, for the adoption of a national system of birth registration as a key tool in determining the age of working children.
Paragraph 5 (3) calls for the compilation of data on violations of the provisions giving effect to the Convention and that they should be kept up to date. Trade union organizations should use their own networks to compile information which can be passed to the relevant public authorities for action under national law and regulations and should monitor, as far as possible, the response of the public authorities so as to ascertain that it is appropriate.

**Action:** where possible, compile information on violations, pass it to the relevant public authorities, monitor the response of the public authorities.

6. The compilation and processing of the information and data referred to in Paragraph 5 above should be carried out with due regard for the right to privacy.

7. The information compiled under Paragraph 5 above should be communicated to the International Labour Office on a regular basis.

**Comment**

**Paragraph 7:**

Trade union organizations should be prepared to supplement government reports to the ILO, or where governments do not fulfil their reporting obligations, to provide the ILO independently with relevant information.

**Action:** remember and act upon reporting obligations to the ILO.
8. Members should establish or designate appropriate national mechanisms to monitor the implementation of national provisions for the prohibition and elimination of the worst forms of child labour, after consultation with employers’ and workers’ organizations.

Comment

Paragraph 8:

See observations on Article 5 of the Convention.

9. Members should ensure that the competent authorities which have responsibilities for implementing national provisions for the prohibition and elimination of the worst forms of child labour cooperate with each other and coordinate their activities.

Comment

Paragraph 9:

Paragraph 9 refers to bodies which have a direct responsibility for implementation and enforcement. That could mean a combination of the judiciary, relevant ministries and public authorities. The importance of cooperation and coordination between them should be stressed. There is no place for wasteful duplication or rivalry in the struggle against child labour in which every resource is precious. Trade union organizations could encourage cooperation between such public bodies by articles in relevant trade union journals targeted at civil and public servant trade union members.
10. National laws or regulations or the competent authority should determine the persons to be held responsible in the event of non-compliance with national provisions for the prohibition and elimination of the worst forms of child labour.

Comment

Paragraph 10:

This paragraph calls, for example, for clear legal responsibility to be attributed to persons, whether legal or natural (i.e. individuals or companies) who break laws or regulations aimed at eliminating the worst forms of child labour. Existing law on the responsibility of employers for health and safety in the workplace or the upholding of other legally required labour practices might provide indications of how new legislation or regulations might be framed.

Action: support clarity in legal provisions so that those responsible for the abuse and exploitation of children in the worst forms of child labour can be brought to justice.

11. Members should, in so far as it is compatible with national law, cooperate with international efforts aimed at the
prohibition and elimination of the worst forms of child labour as a matter of urgency by:

(a) gathering and exchanging information concerning criminal offences, including those involving international networks;

(b) detecting and prosecuting those involved in the sale and trafficking of children, or in the use, procuring or offering of children for illicit activities, for prostitution, for the production of pornography or for pornographic performances;

(c) registering perpetrators of such offences.

Comment

**Paragraph 11:**

Trade union organizations, where they are able to do so, might pass information in their possession to the relevant public authorities and monitor their response. Where companies operating internationally are committing crimes against children or causing crimes to be committed - most obviously, for example, in promoting paedophile sex tourism - national trade union organizations should also consider sharing information with international trade union organizations.

**Action:** where possible pass relevant information to the relevant public authorities and monitor their response; share information with international trade union organizations; where appropriate, use the strong deterrent effect of publicity.
12. Members should provide that the following worst forms of child labour are criminal offences:

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and servitude and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; and

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties, or for activities which involve the unlawful carrying or use of firearms or other weapons.

13. Members should ensure that penalties including, where appropriate, criminal penalties are applied for violations of the national provisions for the prohibition and elimination of any type of work referred to in Article 5(d) of the Convention.

Comment

Paragraph 13:

Judicial and penal cultures vary from country to country. Trade union organizations may wish to encourage the application of penalties which deter as well as punish.

Action: remember reporting obligations to the ILO.
14. Members should also provide as a matter of urgency for other criminal, civil or administrative remedies, where appropriate, to ensure the effective enforcement of national provisions for the prohibition and elimination of the worst forms of child labour, such as special supervision of enterprises which have used the worst forms of child labour, and, in cases of persistent violation, consideration of temporary or permanent revoking of permits to operate.

Comment

Paragraph 14:

Trade union organizations can play a role in gathering information about enterprises which have used the worst forms of child labour or are guilty of persistent violation. They may be well placed to identify employers who transfer their undertakings to other sites in order to continue operations despite the revoking of a permit to operate. The most direct monitoring can be performed by trade unions organizations with membership in the relevant workplaces and their presence is the best protection against continued violations. Appropriate remedies to violations could also include compensation for the children concerned and support for their rehabilitation and education.

Action: gather information about enterprises which have used the worst forms of child labour or which continue to do so; organizing in the workplace is the best protection.

15. Other measures aimed at the prohibition and elimination of the worst forms of child labour might include the following:
(a) informing, sensitizing and mobilizing the general public, including national and local political leaders, parliamentarians and the judiciary;

Comment

Paragraph 15 (a):

See observations on Paragraph 2 above.

(b) involving and training employers’ and workers’ organizations and civic organizations;

Comment:

Trade union organizations should consider developing training modules for officers and members about the campaign against the worst forms of child labour, which can be informed also by the practical contribution made by trade unions to the implementation of the provisions of the Convention and Recommendation.

Action: develop trade union education and training on the worst forms of child labour.

(c) providing appropriate training for the government officials concerned, especially inspectors and law enforcement officials, and for other relevant professionals;
(d) providing for the prosecution in their own country of the Member’s nationals who commit offences under its national provisions for the prohibition and immediate elimination of the worst forms of child labour even when these offences are committed in another country;

(e) simplifying legal and administrative procedures and ensuring that they are appropriate and prompt;

(f) encouraging the development of policies by undertakings to promote the aims of the Convention;

Comment:

For trade union organizations, Paragraph 15 (f) may be used to encourage, inter alia, the adoption of voluntary codes of labour practice by multinational companies and others sourcing goods and services through global supply chains. Such codes should include, as a minimum, clear commitments to uphold core labour standards; their content and the method of implementation should be negotiated with trade unions that represent the workers they are meant to protect - which is why the role of relevant ITS is important; they must be applied, and monitored through systems which are open to independent verification; they should not be used by employers as alternatives to normal collective bargaining.

It may also be used to encourage enterprises to give practical and financial support to prevention and rehabilitation programmes.

Action: where appropriate, seek to engage companies in discussions about codes of labour practice; seek information about best practice on codes from international trade union organizations.
(g) monitoring and giving publicity to best practices on the elimination of child labour;

(h) giving publicity to legal or other provisions on child labour in the different languages or dialects;

Comment:

Trade union organizations can use their own information networks and journals to this end. The importance of publicity materials in relevant languages should always be borne in mind. Trade union organizations should share resources in this regard.

Action: give publicity to the campaign through trade union networks, remembering the need for communication in appropriate languages.

(i) establishing special complaints procedures and making provisions to protect from discrimination and reprisals those who legitimately expose violations of the provisions of the Convention, as well as establishing helplines or points of contact and ombudspersons;

Comment:

Trade union organizations should, where possible, contribute to such measures.
Action: consider establishing a trade union telephone helpline; ensure that the trade union organization can be contacted.

(10) adopting appropriate measures to improve the educational infrastructure and the training of teachers to meet the needs of boys and girls;

Comment: Teacher trade unions should seek to contribute to the development of public policy in this regard.

Action: consult teachers’ trade unions.

(11) as far as possible, taking into account in national programmes of action:

(i) the need for job creation and vocational training for the parents and adults in the families of children working in the conditions covered by the Convention; and

(ii) the need for sensitizing parents to the problem of children working in such conditions.
Comment:

Job creation and skills enhancement for adults in the families of children working in the worst forms of child labour, or in other forms of child labour, are central tools for the removal of children from the workplace and ensuring that they are able to benefit from access to education. Wherever possible and appropriate family incomes may be enhanced by replacing child labourers with unemployed adult from their extended families. The 1998 ILO Declaration on Fundamental Principles and Rights at Work obliges member States to uphold fundamental labour standards, and adult workers in employment, protected by fundamental labour standards and with training to improve their skills are the best defence against the recruitment and perpetuation of child labour.

The Recommendation refers to the need to sensitize parents to the problem of children working in these conditions. Apart from the importance of raising awareness about the negative effect of child labour, including its worst forms, on social and economic development and long-term prospects for the child and the family, great attention should also be paid to sensitizing parents to the specific physical, psychological and moral hazards and occupational consequences facing children engaged in the worst forms of child labour. Parents may simply not be aware of the nature and gravity of certain occupational hazards, especially long-term health hazards whose effects may not be immediately apparent. Again, the Recommendations of the September 1999 ILO Meeting of Experts on Labour Inspection and Child Labour, provide helpful guidance in that regard.

Action: support the creation of decent jobs for adults, and replacement of child labourers by adults from their extended family; develop awareness raising campaigns targeted at parents to appraise them of the problem of child labour and the immediate and long-term hazards facing children in specific occupations.
16. Enhanced international cooperation and/or assistance among Members for the prohibition and effective elimination of the worst forms of child labour should complement national efforts and may, as appropriate, be developed and implemented in consultation with employers’ and workers’ organizations. Such international cooperation and/or assistance should include:

(1) mobilizing resources for national or international programmes;

(2) mutual legal assistance;

(3) technical assistance including the exchange of information;

(4) support for social and economic development, poverty eradication programmes and universal education.

Comment

**Paragraph 16:**

Paragraph 16 gives an opportunity to trade union organizations to be involved in consultations about the development and implementation of international cooperation and assistance to support the aims of the Convention. In donor countries, national trade union confederations should seek to influence the nature of such enhanced cooperation and assistance, encouraging, where appropriate, trade union capacity building projects and other projects which include trade union participation, and coordinating their efforts, as far as possible through or with the international trade union organizations to ensure the best result and to avoid wasteful duplication and competition. In all countries whether donors or not, trade unions may encourage international cooperation through the sharing of good practice and other forms of technical assistance.

International assistance should complement national efforts through active partnership approaches, but ratifying governments must understand
that failure to gain international assistance does not relieve them of their obligations under the Convention.

Mutual legal assistance could take the form of sharing good practice in legislation and enforcement, and should include sharing of information about persons and enterprises which commit offences against children, including multinational enterprises if they are responsible for abuse and exploitation of children in international supply chains.

The final provision for support for social and economic development, poverty eradication and universal education should be pursued not only in international organizations such as the ILO where trade unions have a constitutional role, but also in their efforts to influence government members of, for example, the IMF, the World Bank and the WTO. See the comments on Article 8 of the Convention. Trade union organisations should use the Convention and Recommendation to remind ratifying governments (and all others when the Convention is integrated into the ILO Declaration) that they have a responsibility to pursue policies which support the aims of the Convention. It would be against the spirit and aims of the Convention, for example, to continue to support structural adjustment programmes which lead to an increase in child labour and its worst forms - for example programmes which required the closure of schools or the weakening of public enforcement of labour legislation.

**Action:** seek to influence, through consultations and campaigning, the international development policies of governments, and the policies pursued in and by the international and intergovernmental institutions.
Annex I

List of member States which have ratified the Worst Forms of Child Labour Convention, 1999 (No. 182)

73 ratifications by April 2001

Date of entry into force: 19.11.2000

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<tr>
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