



Republic of Kenya

Sessional Paper No. 3 of 1991-

International Labour Organization

Proposed Actions

by the

Republic of Kenya

on the

Conventions and Recommendations

adopted by the

International Labour Conference

at the

64th (1978) Session

***INTERNATIONAL LABOUR
ORGANIZATION***

Two Conventions and two Recommendations adopted by the International Labour Conference at its 64th Session, and the views thereon of the Government of Kenya, which it is proposed to communicate to the Director-General of the International Labour Office, are hereby presented to the National Assembly.

The texts of the Conventions and Recommendations are given in the Appendix to this Paper.

CONCERNING LABOUR ADMINISTRATION: ROLE, FUNCTIONS AND ORGANIZATION

For the purpose of this Convention the term "Labour Administration" means public administration activities in the field of national labour administration, and the term "system of labour administration" cover all public administration bodies responsible for and/or engaged in labour administration.

This Convention establishes guidelines regarding the system of labour administration. It requires ratifying member states to ensure, in a manner appropriate to national conditions, the organization and effective operation of a system of labour administration within which, arrangements may be made, at national, regional, and local levels, for consultation, co-operation and negotiations between the public authorities and the most representative organizations of employers and workers or between employers' and workers' representatives.

Taking into account relevant International Labour Standards, the competent bodies within the system should be responsible for or contribute to, among other things, the preparation of national policy concerning labour administration, the review of national and international labour policy, including the review of national laws and regulations.

Labour administration functions may be extended to cover activities and conditions of work and working life of specified categories of workers who are not, in law, employed persons.

Certain functions may, subject to national laws, be delegated to parastatal agencies or to non-governmental organizations provided that a Ministry of Labour or another comparable body shall have the means to ascertain whether such agencies are operating in accordance with the national laws and regulations.

The Convention further requires that the staff of labour administration shall be suitably qualified and independent of improper external influences and shall have the status, the material means and financial resources necessary for the effective performance of their duties.

The aims and principles envisaged by this Convention are covered by labour laws of Kenya and its requirements conform with the practices which have been developed. In view of this the Government intends to ratify the Convention.

CONCERNING PROTECTION OF THE RIGHT TO ORGANIZE AND PROCEDURES FOR DETERMINING CONDITIONS OF EMPLOYMENT IN THE PUBLIC SERVICE

This Convention applies to all persons employed by public authorities. However, a ratifying member state may, through national laws or regulations exclude its application to the armed forces and police, high level policy making employees, managerial cadres, or to employees whose duties are of a highly confidential nature.

The Convention prescribes conditions aimed at the protection of public employees and their organizations against acts of anti-union discrimination by Public Authorities, in respect of employment and particularly against acts calculated to make employment subject to non-membership of a trade Union or to cause dismissal of, or prejudice to, a worker, by reason of Union membership or participation in Union activities.

It requires public authorities to refrain from interfering in the establishment of workers' organizations and in their functioning, or administration. Public authorities are also requested to refrain from acts designed to promote the establishment of public employees' organizations under their domination in any form.

Measures appropriate to national conditions should be taken to encourage and promote the full development and utilization by the public authorities of a machinery for negotiation of terms and conditions of employment with the representatives of public employees organizations to whom facilities for the efficient and prompt conduct of their functions should be provided.

The Convention provides for the settlement of disputes through negotiations between the parties or through independent and impartial machinery and requires public employees to have civil and political rights which are essential for the normal exercise of freedom of association.

For the purpose of the Convention the term "public employees' organizations" means any organization, however composed, the purpose of which is to further and defend the interests of public employees.

The aims and principles envisaged by this Convention are covered by labour laws of Kenya and its requirements conforms with the practices which have been developed. In addition, the concept of Trade Unions' rights as envisaged by this Convention have not only been applied in Kenya in practice for a long time, but they are also provided for under the relevant provisions of the Trade Unions Act (Chapter 233) and the Trade Union Disputes Act (Chapter 234).

Ratifying member countries are expected to ensure that both their relevant national legislations and practice are in harmony with the relevant ILO instruments. By so doing, unnecessary problems and queries from the ILO regarding the countries' practical application of that particular instrument are avoided.

However, Civil Servants in Kenya do not have a trade union and are hence not unionizable since July 1980 when the Government de-registered the then Union of Kenya Civil Servants. In view of this fact, the Government does not intend to ratify this Convention.

CONCERNING LABOUR ADMINISTRATION: ROLE, FUNCTIONS AND ORGANIZATION

This Recommendation supplements the Labour Administration Convention No. 150 of 1978. It is in the same terms but it elaborates in greater details measures to be taken to enhance public administration activities in the field of national labour policy.

It recommends, among other things, the establishment of an effective system of labour administration, the functions and responsibilities of which are properly co-ordinated.

To facilitate effective administration, the competent bodies within the system are required to take active part in the preparation, development, application and review of labour standards, including the co-ordination of employment services, employment promotion and vocational guidance and vocational training programmes. Labour Administration authorities should either be responsible for, or participate in, the functioning of manpower planning bodies; in the development of comprehensive programmes of human resources, as well as in the determination and application of measures necessary to ensure the free exercise by employers and workers of the right to organize and bargain collectively.

The Recommendation further recommends that the Ministry of Labour, or another comparable body shall take measures to ensure that it is appropriately represented in the administrative and consultation bodies in the country in which information is collected and decisions concerning social and economic policies are taken.

It also recommends the establishment of specialized units within the system to deal with each of the major programmes of labour administration, as well as the establishment of an effective organization of field services manned by suitably qualified staff.

Kenya's law and practice conforms, to a large extent, with the provisions and requirements of the Recommendation, moreover as the Recommendation is intended to give guidelines in the implementation of the Convention, which the Government proposes to ratify, the Government intends to adopt this Recommendation.

CONCERNING PROCEDURES FOR DETERMINING CONDITIONS OF EMPLOYMENT IN THE PUBLIC SERVICES

The instrument gives some guidelines to be followed when applying the provisions of the Convention. It provides that in countries where procedures exist for recognition of public employees' organizations, the determination of the organization to be granted recognition should be based on objective and pre-established criteria and the procedures should be such as not to encourage multiplication of organizations covering the same categories of employees.

It further provides procedures for determining terms and conditions of service of public employees, registration, and duration of agreements concluded between public authorities and public employees' organizations.

The guidelines contained in the recommendation are fully catered for by our laws and have been in operation for a long time.

However, Civil Servants in Kenya do not have a trade union and are hence not unionizable since July 1980 when the Government de-registered the then Union of Kenya Civil Servants. In view of this fact, the Government does not intend to ratify this Recommendation.

**INTERNATIONAL LABOUR CONFERENCE
CONVENTION CONCERNING LABOUR ADMINISTRATION:
ROLE, FUNCTIONS AND ORGANIZATION**

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 Sixty-fourth Session on 7 June 1978, and

Recalling the terms of existing international labour Conventions and Recommendations, including in particular the Labour Inspection Convention, 1947, the Labour Inspection (Agriculture) Convention, 1969, and the Employment Service Convention, 1948, which call for the exercise of particular labour administration activities, and

Considering it desirable to adopt instruments establishing guidelines regarding the over-all system of labour administration, and

Recalling the terms of the Employment Policy Convention, 1964, and of the Human Resources Development Convention, 1975; recalling also the goal of the creation of full and adequately remunerated employment and affirming the need for programmes of labour administration to work towards this goal and to give effect to the objectives of the said Conventions, and

Recognizing the necessity of fully respecting the autonomy of employers' and workers' organizations, recalling in this connection the terms of existing international labour Conventions and Recommendations guaranteeing rights of association, organization and collective bargaining—and particularly the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Right to Organize and Collective Bargaining Convention, 1949—which forbid any interference by public authorities which would restrict these rights or impede the lawful exercise thereof, and considering that employers' and workers' organizations have essential roles in attaining the objectives of economic, social and cultural progress, and

Having decided upon the adoption of certain proposals with regard to labour administration: role, functions and organization, 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 twenty-sixth day of June of the year one thousand nine hundred and seventy-eight the following Convention, which may be cited as the Labour Administration Convention, 1978:

Article 1

For the purpose of this Convention—

- (a) the term "labour administration" means public administration activities in the field of national labour policy;
- (b) the term "system of labour administration" covers all public administration bodies responsible for and/or engaged in labour administration—whether they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralized administration—and any institutional framework for the co-ordination of the activities of such bodies and for consultation with and participation by employers and workers and their organizations.

Article 2

A Member which ratifies this Convention may, in accordance with national laws or regulations, or national practice, delegate or entrust certain activities of labour administration to non-governmental organizations, particularly employers' and workers' organizations, or—where appropriate—to employers' and workers' representatives.

Article 3

A Member which ratifies this Convention may regard particular activities in the field of its national labour policy as being matters which, in accordance with national laws or regulations, or national practice, are regulated by having recourse to direct negotiations between employers' and workers' organizations.

Article 4

Each Member which ratifies this Convention shall, in a manner appropriate to national conditions, ensure the organization and effective operation in its territory of a system of labour administration, the functions and responsibilities of which are properly co-ordinated.

Article 5

1. Each Member which ratifies this Convention shall make arrangements appropriate to national conditions to secure, within the system of labour administration, consultation, co-operation and negotiation between the public authorities and the most representative organizations of employers and workers, or—where appropriate—employers' and workers' representatives.

2. To the extent compatible with national laws and regulations, and national practice, such arrangements shall be made at the national, regional and local levels as well as at the level of the different sectors of economic activity.

Article 6

1. The competent bodies within the system of labour administration shall, as appropriate, be responsible for or contribute to preparation, administration, co-ordination, checking and review of national labour policy, and be the instrument within the ambit of public administration for the preparation and implementation of laws and regulations giving effect thereto.

2. In particular, these bodies, taking into account relevant international labour standards, shall—

(a) participate in the preparation, administration, co-ordination, checking and review of national employment policy, in accordance with national laws and regulations, and national practice;

(b) study and keep under review the situation of employed, un-employed and under-employed persons, taking into account national laws and regulations and national practice concerning conditions of work and working life and terms of employment, draw attention to defects and abuses in such conditions and terms and submit proposals on means to overcome them;

(c) make their services available to employers and workers, and their respective organizations, as may be appropriate under national laws or regulations, or national practice, with a view to the promotion—at national, regional and local levels as well as at the level of the different sectors of economic activity—of effective consultation and co-operation between public authorities and bodies and employers' and workers' organizations, as well as between such organizations;

(d) make technical advice available to employers and workers and their respective organizations on their request.

Article 7

When national conditions so require, with a view to meeting the needs of the largest possible number of workers, and in so far as such activities are not already covered, each Member which ratifies this Convention shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration to include activities, to be carried out in co-operation with other competent bodies, relating to the conditions of work and working life of appropriate categories of workers who are not in law employed persons, such as—

(a) tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers;

(b) self-employed workers who do not engage outside help, occupied in the informal sector as understood in national practice;

(c) members of co-operatives and worker-managed undertakings;

(d) persons working under systems established by communal customs or traditions.

Article 8

To the extent compatible with national laws and regulations and national practice the competent bodies within the system of labour administration shall contribute to the preparation of national policy concerning international labour affairs, participate in the representation of the State with respect to such affairs and contribute to the preparation of measures to be taken at the national level with respect thereto.

Article 9

With a view to the proper co-ordination of the functions and responsibilities of the system of labour administration, in a manner determined by national laws or regulations, or national practice, a ministry of labour or another comparable body shall have the means to ascertain whether any parastatal agencies which may be responsible for particular labour administration activities, and any regional or local agencies to which particular labour administration activities may have been delegated, are operating in accordance with national laws and regulations and are adhering to the objectives assigned to them.

Article 10

1. The staff of the labour administration system shall be composed of persons who are suitably qualified for the activities to which they are assigned, who have access to training necessary for such activities and who are independent of improper external influences.

2. Such staff shall have the status, the material means and the financial resources necessary for the effective performance of their duties.

Article 11

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

Article 12

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 13

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 14

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 denunciations communicated to him by the Members of the Organization.

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

Article 15

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 him in accordance with the provisions of the preceding Articles.

Article 16

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.

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 13 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 18

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

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organization during its Sixty-fourth Session which was held at Geneva and declared closed the twenty-eighth day of June 1978.

Convention No. 151

**INTERNATIONAL LABOUR CONFERENCE
CONVENTION CONCERNING PROTECTION OF THE
RIGHT TO ORGANIZE AND PROCEDURES FOR
DETERMINING CONDITIONS OF EMPLOYMENT IN
THE PUBLIC SERVICE**

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 Sixty-fourth Session on 7 June 1978, and

Noting the terms of the Freedom of Association and Protection of the Right to Organize Convention, 1948, the Right to Organize and Collective Bargaining Convention, 1949, and the Workers' Representatives Convention and Recommendation, 1971, and

Recalling that the Right to Organize and Collective Bargaining Convention, 1949, does not cover certain categories of public employees and that the Workers' Representatives Convention and Recommendation, 1971, apply to workers' representatives in the undertaking, and

Noting the considerable expansion of public service activities in many countries and the need for sound labour relations between public authorities and public employees' organization, and

Having regard to the great diversity of political, social and economic systems among member States and the differences in practice among them, (e.g. as to the respective functions of central and local government, of federal, state and provincial authorities, and of state-owned undertakings and various types of autonomous or semi-autonomous public bodies, as well as to the nature of employment relationships), and

Taking into account the particular problems arising as to the scope of, and definitions for the purpose of, any international instrument, owing to the differences in many countries between

private and public employment, as well as the difficulties of interpretation which have arisen in respect of the application of relevant provisions of the Right to Organize and Collective Bargaining Convention, 1949, to public servants, and the observations of the supervisory bodies of the ILO on a number of occasions that some governments have applied these provisions in a manner which excludes large groups of public employees from coverage by that Convention, and

Having decided upon the adoption of certain proposals with regard to freedom of association and procedures for determining conditions of employment in the public service, which is the fifth item on the agenda of the session, and

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

adopts this twenty-seventh day of June of the year one thousand nine hundred and seventy-eight the following Convention, which may be cited as the Labour Relations (Public Service) Convention, 1978:

PART I. SCOPE AND DEFINITIONS

Article 1

1. This Convention applies to all persons employed by public authorities, to the extent that more favourable provisions in other international labour Conventions are not applicable to them.

2. The extent to which the guarantees provided for in this Convention shall apply to high-level employees whose functions are normally considered as policy-making or managerial, or to employees whose duties are of a highly confidential nature, shall be determined by national laws or regulations.

3. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

Article 2

For the purpose of this Convention, the term "public employee" means any person covered by the Convention in accordance with Article 1 thereof.

Article 3

For the purpose of this Convention, the term "public employees' organization" means any organization, however composed, the purpose of which is to further and defend the interests of public employees.

PART II. PROTECTION OF THE RIGHT TO ORGANIZE

Article 4

1. Public employees shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

2. Such protection shall apply more particularly in respect of acts calculated to—

(a) make the employment of public employees subject to the condition that they shall not join or shall relinquish membership of a public employees' organization;

(b) cause the dismissal of or otherwise prejudice a public employee by reason of membership of a public employees' organization or because of participation in the normal activities of such an organization.

Article 5

1. Public employees' organizations shall enjoy complete independence from public authorities.

2. Public employees' organizations shall enjoy adequate protection against any acts of interference by a public authority in their establishment, functioning or administration.

3. In particular, acts which are designed to promote the establishment of public employees' organizations under the domination of a public authority, or to support public employees' organizations by financial or other means, with the object of placing such organizations under the control of a public authority, shall be deemed to constitute acts of interference within the meaning of this Article.

PART III. FACILITIES TO BE AFFORDED TO PUBLIC EMPLOYEES'
ORGANIZATIONS

Article 6

1. Such facilities shall be afforded to the representatives of recognized public employees' organizations as may be appropriate in order to enable them to carry out their functions promptly and efficiently, both during and outside their hours of work.

2. The granting of such facilities shall not impair the efficient operation of the administration or service concerned.

3. The nature and scope of these facilities shall be determined in accordance with the methods referred to in Article 7 of this Convention, or by other appropriate means.

PART IV. PROCEDURES FOR DETERMINING TERMS AND
CONDITIONS OF EMPLOYMENT

Article 7

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for negotiation of terms and conditions of employment between the public authorities concerned and public employees' organizations, or of such other methods as will allow representatives of public employees to participate in the determination of these matters.

PART V. SETTLEMENT OF DISPUTES

Article 8

The settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought, as may be appropriate to national conditions, through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation and arbitration, established in such a manner as to ensure the confidence of the parties involved.

PART VI. CIVIL AND POLITICAL RIGHTS

Article 9

Public employees shall have, as other workers, the civil and political rights which are essential for the normal exercise of free-

dom of association, subject only to the obligations arising from their status and the nature of their functions.

PART VII. FINAL PROVISIONS

Article 10

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

Article 11

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 12

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 13

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 denunciations communicated to him by the Members of the Organization.

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

Article 14

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 him in accordance with provisions of the preceding Articles.

Article 15

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 16

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 12 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 17

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

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organization during its Sixty-fourth Session which was held at Geneva and declared closed the twenty-eight day of June 1978.

Recommendation No. 158

**INTERNATIONAL LABOUR CONFERENCE
RECOMMENDATION CONCERNING LABOUR
ADMINISTRATION: ROLE, FUNCTIONS AND
ORGANIZATION**

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 Sixty-fourth Session on 7 June 1978, and

Recalling the terms of existing international labour Conventions and Recommendations, including in particular the Labour Inspection Convention, 1947, the Labour Inspection (Agriculture) Convention, 1969, and the Employment Service Convention, 1948, which call for the exercise of particular labour administration activities, and

Considering it desirable to adopt instruments establishing guidelines regarding the over-all system of labour administration, and

Recalling the terms of the Employment Policy Convention, 1964, and of the Human Resources Development Convention, 1975; recalling also the goal of the creation of full and adequately remunerated employment and affirming the need for programmes of labour administration to work towards this goal and to give effect to the objectives of the said Conventions, and

Recognizing the necessity of fully respecting the autonomy of employers' and workers' organizations, recalling in this connection the terms of existing international labour Conventions and Recommendations guaranteeing rights of association, organization and collective bargaining—and particularly the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Right to Organize and Collective Bargaining Convention, 1949—which forbid any interference by public authorities which would restrict these rights or impede the lawful exercise thereof, and considering

that employers' and workers' organizations have essential roles in attaining the objectives of economic, social and cultural progress, and

Having decided upon the adoption of certain proposals with regard to labour administration: role, functions and organization, 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 Labour Administration Convention, 1978,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-eight the following Recommendation, which may be cited as the Labour Administration Recommendation, 1978:

I. GENERAL PROVISIONS

1. For the purpose of this Recommendation—

(a) the term "labour administration" means public administration activities in the field of national labour policy;

(b) the term "system of labour administration" covers all public administration bodies responsible for and/or engaged in labour administration—whether they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralized administration—and any institutional framework for the co-ordination of the activities of such bodies and for consultation with and participation by employers and workers and their organizations.

2. A Member may, in accordance with national laws or regulations, or national practice, delegate or entrust certain activities of labour administration to non-governmental organizations, particularly employers' and workers' organizations, or—where appropriate—to employers' and workers' representatives.

3. A Member may regard particular activities in the field of its national labour policy as being matters which, in accordance with national laws or regulations, or national practice, are regulated by having recourse to direct negotiations between employers' and workers' organizations.

4. Each Member should, in a manner appropriate to national conditions, ensure the organization and effective operation in its territory of a system of labour administration, the functions and responsibilities of which are properly co-ordinated.

II. FUNCTIONS OF THE NATIONAL SYSTEM OF LABOUR ADMINISTRATION

Labour Standards

5. (1) The competent bodies within the system of labour administration should—in consultation with organizations of employers and workers and in a manner and under conditions determined by national laws or regulations, or national practice—take an active part in the preparation, development, adoption, application and review of labour standards, including relevant laws and regulations.

(2) They should make their services available to employers' and workers' organizations, as may be appropriate under national laws or regulations, or national practice, with a view to promoting the regulation of terms and conditions of employment by means of collective bargaining.

6. The system of labour administration should include a system of labour inspection.

Labour Relations

7. The competent bodies within the system of labour administration should participate in the determination and application of such measures as may be necessary to ensure the free exercise of employers' and workers' right of association.

8. (1) There should be labour administration programmes aimed at the promotion, establishment and pursuit of labour relations which encourage progressively better conditions of work and working life and which respect the right to organize and bargain collectively.

(2) The competent bodies within the system of labour administration should assist in the improvement of labour relations by providing or strengthening advisory services to undertakings, employers' organizations and workers' organizations requesting such services, in accordance with programmes established on the basis of consultation with such organizations.

9. The competent bodies within the system of labour administration should promote the full development and utilization of machinery for voluntary negotiation.

10. The competent bodies within the system of labour administration should be in a position to provide, in agreement with the employers' and workers' organizations concerned, conciliation and mediation facilities, appropriate to national conditions, in case of collective disputes.

Employment

11. (1) The competent bodies within the system of labour administration should be responsible for or participate in the preparation, administration, co-ordination, checking and review of national employment policy.

(2) A central body of the system of labour administration, to be determined in accordance with national laws or regulations, or national practice, should be closely associated with, or responsible for taking, appropriate institutional measures to co-ordinate the activities of the various authorities and bodies which are concerned with particular aspects of employment policy.

12. The competent bodies within the system of labour administration should co-ordinate, or participate in the co-ordination of, employment services, employment promotion and creation programmes, vocational guidance and vocational training programmes and unemployment benefit schemes, and they should co-ordinate, or participate in the co-ordination of, these various services, programmes and schemes with the implementation of general employment policy measures.

13. The competent bodies within the system of labour administration should be responsible for establishing, or promoting the establishment of, methods and procedures for ensuring consultation of employers' and workers' organizations, or—where appropriate—employers' and workers' representatives, on employment policies, and promotion of their co-operation in the implementation of such policies.

14. (1) The competent bodies within the system of labour administration should be responsible for manpower planning or where this is not possible should participate in the functioning of manpower planning bodies through both institutional representation and the provision of technical information and advice.

(2) They should participate in the co-ordination and integration of manpower plans with economic plans.

(3) They should promote joint action of employers and workers, with the assistance as appropriate of public authorities and bodies, regarding both short- and long-term employment policies.

15. The system of labour administration should include a free public employment service and operate such a service effectively.

16. The competent bodies within the system of labour administration should, wherever national laws and regulations, or national practice, so permit, have or share responsibility for the management of public funds made available for such purposes as countering under-employment and unemployment, regulating the regional distribution of employment, or promoting and assisting the employment of particular categories of workers, including sheltered employment schemes.

17. The competent bodies within the system of labour administration should, in a manner and under conditions determined by national laws or regulations, or national practice, participate in the development of comprehensive and concerted policies and programmes of human resources development including vocational guidance and vocational training.

Research in Labour Matters

18. For the fulfilment of its social objectives, the system of labour administration should carry out research as one of its important functions and encourage research by others.

III. ORGANIZATION OF THE NATIONAL SYSTEM OF LABOUR ADMINISTRATION

Co-ordination

19. The ministry of labour or another comparable body determined by national laws or regulations, or national practice, should

take or initiate measures ensuring appropriate representation of the system of labour administration in the administrative and consultative bodies in which information is collected, opinions are considered, decisions are prepared and taken and measures of implementation are devised with respect to social and economic policies.

20. (1) Each of the principal labour administration services competent with respect to the matters referred to in Paragraphs 5 to 18 above should provide periodic information or reports on its activities to the ministry of labour or the other comparable body referred to in Paragraph 19, as well as to employers' and workers' organizations.

(2) Such information or reports should be of a technical nature, include appropriate statistics, and indicate the problems encountered and if possible the results achieved in such a manner as to permit an evaluation of present trends and foreseeable future developments in area of major concern to the system of labour administration.

(3) The system of labour administration should evaluate, publish and disseminate such information of general interest on labour matters as it is able to derive from its operation.

(4) Members, in consultation with the International Labour Office, should seek to promote the establishment of suitable models for the publication of such information, with a view to improving its international comparability.

21. The structures of the national system of labour administration should be kept constantly under review, in consultation with the most representative organizations of employers and workers.

Resources and Staff

22. (1) Appropriate arrangements should be made to provide the system of labour administration with the necessary financial resources and an adequate number of suitably qualified staff to promote its effectiveness.

(2) In this connection, due account should be taken of—

(a) the importance of the duties to be performed;

(b) the material means placed at the disposal of the staff;

(c) the practical conditions under which the various functions must be carried out in order to be effective.

23. (1) The staff of the labour administration system should receive initial and further training at levels suitable for their work; there should be permanent arrangements to ensure that such training is available to them throughout their careers.

(2) Staff in particular services should have the special qualifications required for such services, ascertained in a manner determined by the appropriate body.

24. Consideration should be given to supplementing national programmes and facilities for the training envisaged in Paragraph 23 above by international co-operation in the form of exchanges of experience and information and of common initial and further training programmes and facilities, particularly at the regional level.

Internal Organization

25. (1) The system of labour administration should normally comprise specialized units to deal with each of the major programmes of labour administration the management of which is entrusted to it by national laws or regulations.

(2) For example, there might be units for such matters as the formulation of standards relating to working conditions and terms of employment; labour inspection; labour relations; employment, manpower planning and human resources development; international labour affairs; and, as appropriate, social security, minimum wage legislation and questions relating to specific categories of workers.

Field Services

26. (1) There should be appropriate arrangements for the effective organization and operation of the field services of the system of labour administration.

(2) In particular, these arrangements should—

(a) ensure that the placing of field services corresponds to the needs of the various areas, the representative organizations of employers and workers concerned being consulted thereon;

(b) provide field services with adequate staff, equipment and transport facilities for the effective performance of their duties;

(c) ensure that field services have sufficient and clear instructions to preclude the possibility of laws and regulations being differently interpreted in different areas.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the International Labour Organization during its Sixty-Fourth Session which was held at Geneva and declared closed the twenty-eighth day of June 1978.

Recommendation No. 159

**INTERNATIONAL LABOUR CONFERENCE
RECOMMENDATION CONCERNING PROCEDURES FOR
DETERMINING CONDITIONS OF EMPLOYMENT IN THE
PUBLIC SERVICE**

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 Sixty-fourth Session on 7 June 1978, and

Having decided upon the adoption of certain proposals with regard to freedom of association and procedures for determining conditions of employment in the public service, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Labour Relations (Public Service) Convention, 1978,

adopts this twenty-seventh day of June of the year one thousand nine hundred and seventy-eight the following Recommendation, which may be cited as the Labour Relations (Public Service) Recommendation, 1978:

1. (1) In countries in which procedures for recognition of public employees' organizations apply with a view to determining the organizations to be granted, on a preferential or exclusive basis, the rights provided for under Parts III, IV or V of the Labour Relations (Public Service) Convention, 1978, such determination should be based on objective and pre-established criteria with regard to the organizations' representative character.

(2) The procedures referred to in subparagraph (1) of this Paragraph should be such as not to encourage the proliferation of organizations covering the same categories of employees.

2. (1) In the case of negotiation of terms and conditions of employment in accordance with Part IV of the Labour Relations (Public Service) Convention, 1978, the persons or bodies competent to negotiate on behalf of the public authority concerned and the

procedure for giving effect to the agreed terms and conditions of employment should be determined by national laws or regulations or other appropriate means.

(2) Where methods other than negotiation are followed to allow representatives of public employees to participate in the determination of terms and conditions of employment, the procedure for such participation and for final determination of these matters should be determined by national laws or regulations or other appropriate means.

3. Where an agreement is concluded between a public authority and a public employees' organization in pursuance of Paragraph 2, subparagraph (1), of this Recommendation, the period during which it is to operate and/or the procedure whereby it may be terminated, renewed or revised should normally be specified.

4. In determining the nature and scope of the facilities which should be afforded to representatives of public employees' organizations in accordance with Article 6, paragraph 3, of the Labour Relations (Public Service) Convention, 1978, regard should be had to the Workers' Representatives Recommendation, 1971.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the International Labour Organization during its Sixty-fourth Session which was held at Geneva and declared closed the twenty-eighth day of June 1978.