***TEXT 43: CONSTITUTION OF THE INTERNATIONAL LABOUR ORGANIZATION***
***(AVAILABLE ON: HTTP://WWW.ILO.ORG/ILOLEX/ENGLISH/CONSTQ.HTM)***

**Text of the Constitution**

## Preamble

Whereas universal and lasting peace can be established only if it is based upon social justice;

And whereas conditions of labour exist involving such injustice hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required; as, for example, by the regulation of the hours of work including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of equal remuneration for work of equal value, recognition of the principle of freedom of association, the organization of vocational and technical education and other measures;

Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries;

The High Contracting Parties, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, and with a view to attaining the objectives set forth in this Preamble, agree to the following Constitution of the International Labour Organization:

### Chapter I - Organization

#### *Article 1*

*Establishment* 1. A permanent organization is hereby established for the promotion of the objects set forth in the Preamble to this Constitution and in the Declaration concerning the aims and purposes of the International Labour Organization adopted at Philadelphia on 10 May 1944, the text of which is annexed to this Constitution.

*Membership* 2. The Members of the International Labour Organization shall be the States which were Members of the Organization on 1 November 1945 and such other States as may become Members in pursuance of the

provisions of paragraphs 3 and 4 of this article.

3. Any original member of the United Nations and any State admitted to membership of the United Nations by a decision of the General Assembly in accordance with the provisions of the Charter may become a Member of the International Labour Organization by communicating to the Director-General of the International Labour Office its formal acceptance of the obligations of the Constitution of the International Labour Organization.

4. The General Conference of the International Labour Organization may also admit Members to the Organization by a vote concurred in by two-thirds of the delegates attending the session, including two-thirds of the Government delegates present and voting. Such admission shall take effect on the communication to the Director-General of the International Labour Office by the government of the new Member of its formal acceptance of the obligations of the Constitution of the Organization.

*Withdrawal*

5. No Member of the International Labour Organization may withdraw from the Organization without giving notice of its intention so to do to the Director-General of the International Labour Office. Such notice shall take effect two years after the date of its reception by the Director-General, subject to the Member having at that time fulfilled all financial obligations arising out of its membership. When a Member has ratified any international labour Convention, such withdrawal shall not affect the continued validity for the period provided for in the Convention of all obligations arising thereunder or relating thereto.

*Readmission*

6. In the event of any State having ceased to be a Member of the Organization, its readmission to membership shall be governed by the provisions of paragraph 3 or paragraph 4 of this article as the case may be.

***Article 2***

*Organs*

The permanent organization shall consist of:

*(a)* a General Conference of representatives of the Members;

*(b)* a Governing Body composed as described in article 7; and

*(c)* an International Labour Office controlled by the Governing Body.

*Conference*

***Article 3***

*Meetings and delegates*

1. The meetings of the General Conference of representatives of the Members shall be held from time to time as occasion may require, and at least once in every year. It shall be composed of four representatives of each of the Members, of whom two shall be Government delegates and the two others shall be delegates representing respectively the employers and the workpeople of each of the Members.

*Advisers*

2. Each delegate may be accompanied by advisers, who shall not exceed two in number for each item on the agenda of the meeting. When questions specially affecting women are to be considered by the Conference, one at least of the advisers should be a woman.

*Advisers from non-metropolitan territories*

3. Each Member which is responsible for the international relations of non-metropolitan territories may appoint as additional advisers to each of its delegates:

*(a)* persons nominated by it as representatives of any such territory in regard to matters within the self-governing powers of that territory; and

*(b)* persons nominated by it to advise its delegates in regard to matters concerning non-self-governing territories.

4. In the case of a territory under the joint authority of two or more Members, persons may be nominated to advise the delegates of such Members.

*Nomination of non-governmental representatives*

5. The Members undertake to nominate non-Government delegates and advisers chosen in agreement with the industrial organizations, if such organizations exist, which are most representative of employers or workpeople, as the case may be, in their respective countries.

*Status of advisers*

6. Advisers shall not speak except on a request made by the delegate whom they accompany and by the special authorization of the President of the Conference, and may not vote.

7. A delegate may by notice in writing addressed to the President appoint one of his advisers to act as his deputy, and the adviser, while so acting, shall be allowed to speak and vote.

8. The names of the delegates and their advisers will be communicated to the International Labour Office by the government of each of the Members.

*Credentials*

9. The credentials of delegates and their advisers shall be subject to scrutiny by the Conference, which may, by two-thirds of the votes cast by the delegates present, refuse to admit any delegate or adviser whom it deems not to have been nominated in accordance with this article.

*Voting rights*

***Article 4***

1. Every delegate shall be entitled to vote individually on all matters which are taken into consideration by the Conference.

2. If one of the Members fails to nominate one of the non- Government delegates whom it is entitled to nominate, the other non-Government delegate shall be allowed to sit and speak at the Conference, but not to vote.

3. If in accordance with article 3 the Conference refuses admission to a delegate of one of the Members, the provisions of the present article shall apply as if that delegate had not been nominated.

*Place of meetings of the Conference*

***Article 5***

The meetings of the Conference shall, subject to any decisions which may have been taken by the Conference itself at a previous meeting, be held at such place as may be decided by the Governing Body.

*Seat of the International Labour Office*

***Article 6***

Any change in the seat of the International Labour Office shall be decided by the Conference by a two-thirds majority of the votes cast by the delegates present.

*Governing Body*

***Article 7***

*Composition*

1. The Governing Body shall consist of fifty-six persons:

Twenty-eight representing governments,

Fourteen representing the employers, and

Fourteen representing the workers.

*Government representatives*

2. Of the twenty-eight persons representing governments, ten shall be appointed by the Members of chief industrial importance, and eighteen shall be appointed by the Members selected for that purpose by the Government delegates to the Conference, excluding the delegates of the ten Members mentioned above.

*States of chief industrial importance*

3. The Governing Body shall as occasion requires determine which are the Members of the Organization of chief industrial importance and shall make rules to ensure that all questions relating to the selection of the Members of chief industrial importance are considered by an impartial committee before being decided by the Governing Body. Any appeal made by a Member from the declaration of the Governing Body as to which are the Members of chief industrial importance shall be decided by the Conference, but an appeal to the Conference shall not suspend the application of the declaration until such time as the Conference decides the appeal.

*Employers' and Workers' representatives*

4. The persons representing the employers and the persons representing the workers shall be elected respectively by the Employers' delegates and the Workers' delegates to the Conference.

*Term of office*

5. The period of office of the Governing Body shall be three years. If for any reason the Governing Body elections do not take place on the expiry of this period, the Governing Body shall remain in office until such elections are held.

*Vacancies, substitutes, etc.*

6. The method of filling vacancies and of appointing substitutes and other similar questions may be decided by the Governing Body subject to the approval of the Conference.

*Officers*

7. The Governing Body shall, from time to time, elect from its number a chairman and two vice-chairmen, of whom one shall be a person representing a government, one a person representing the employers, and one a person representing the workers.

*Procedure*

8. The Governing Body shall regulate its own procedure and shall fix its own times of meeting. A special meeting shall be held if a written request to that effect is made by at least sixteen of the representatives on the Governing Body.

*Director-General*

***Article 8***

1. There shall be a Director-General of the International Labour Office, who shall be appointed by the Governing Body, and, subject to the instructions of the Governing Body, shall be responsible for the efficient conduct of the International Labour Office and for such other duties as may be assigned to him.

2. The Director-General or his deputy shall attend all meetings of the Governing Body.

*Staff*

***Article 9***

*Appointment*

1. The staff of the International Labour Office shall be appointed by the Director-General under regulations approved by the Governing Body.

2. So far as is possible with due regard to the efficiency of the work of the Office, the Director-General shall select persons of different nationalities.

3. A certain number of these persons shall be women.

*International character of responsibilities*

4. The responsibilities of the Director-General and the staff shall be exclusively international in character. In the performance of their duties, the Director-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

5. Each Member of the Organization undertakes to respect the exclusively international character of the responsibilities of the Director-General and the staff and not to seek to influence them in the discharge of their responsibilities.

*Functions of the Office*

***Article 10***

1. The functions of the International Labour Office shall include the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and labour, and particularly the examination of subjects which it is proposed to bring before the Conference with a view to the conclusion of international Conventions, and the conduct of such special investigations as may be ordered by the Conference or by the Governing Body.

2. Subject to such directions as the Governing Body may give, the Office shall:

*(a)* prepare the documents on the various items of the agenda for the meetings of the Conference;

*(b)* accord to governments at their request all appropriate assistance

within its power in connection with the framing of laws and regulations on the basis of the decisions of the Conference and the improvement of administrative practices and systems of inspection;

*(c)* carry out the duties required of it by the provisions of this Constitution in connection with the effective observance of Conventions;

*(d)* edit and issue, in such languages as the Governing Body may think desirable, publications dealing with problems of industry and employment of international interest.

3. Generally, it shall have such other powers and duties as may be assigned to it by the Conference or by the Governing Body.

*Relations with governments*

***Article 11***

The government departments of any of the Members which deal with questions of industry and employment may communicate directly with the Director-General through the representative of their government on the Governing Body of the International Labour Office or, failing any such representative, through such other qualified official as the government may nominate for the purpose.

*Relations with international organizations*

***Article 12***

1. The International Labour Organization shall cooperate within the terms of this Constitution with any general international organization entrusted with the coordination of the activities of public international organizations having specialized responsibilities and with public international organizations having specialized responsibilities in related fields.

2. The International Labour Organization may make appropriate arrangements for the representatives of public international organizations to participate without vote in its deliberations.

3. The International Labour Organization may make suitable arrangements for such consultation as it may think desirable with recognized non-governmental international organizations, including international organizations of employers, workers, agriculturists and cooperators.

*Financial and budgetary arrangements*

***Article 13***

1. The International Labour Organization may make such financial and budgetary arrangements with the United Nations as may appear appropriate.

2. Pending the conclusion of such arrangements or if at any time no such arrangements are in force:

*(a)* each of the Members will pay the travelling and subsistence expenses of its delegates and their advisers and of its representatives attending the meetings of the Conference or the Governing Body, as the case may be;

*(b)* all other expenses of the International Labour Office and of the meetings of the Conference or Governing Body shall be paid by the Director-General of the International Labour Office out of the general funds of the International Labour Organization;

*(c)* the arrangements for the approval, allocation and collection of the budget of the International Labour Organization shall be determined by the Conference by a two-thirds majority of the votes cast by the delegates present, and shall provide for the approval of the budget and of the arrangements for the allocation of expenses among the Members of the Organization by a committee of Government representatives.

3. The expenses of the International Labour Organization shall be borne by the Members in accordance with the arrangements in force in virtue of paragraph 1 or paragraph 2 *(c)* of this article.

*Arrears in payment of contributions*

4. A Member of the Organization which is in arrears in the payment of its financial contribution to the Organization shall have no vote in the Conference, in the Governing Body, in any committee, or in the elections of members of the Governing Body, if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years: Provided that the Conference may by a two-thirds majority of the votes cast by the delegates present permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

*Financial responsibility of Director-General*

5. The Director-General of the International Labour Office shall be responsible to the Governing Body for the proper expenditure of the funds of the International Labour Organization.

## Chapter II - Procedure

### *Article 14*

*Agenda for Conference*

1. The agenda for all meetings of the Conference will be settled by the Governing Body, which shall consider any suggestion as to the agenda that may be made by the government of any of the Members or by any representative organization recognized for the purpose of article 3, or by any public international organization.

*Preparation for Conference*

2. The Governing Body shall make rules to ensure thorough technical preparation and adequate consultation of the Members primarily concerned, by means of a preparatory conference or otherwise, prior to the adoption of a Convention or Recommendation by the Conference.

### *Article 15*

*Transmission of agenda and reports for Conference*

1. The Director-General shall act as the Secretary-General of the Conference, and shall transmit the agenda so as to reach the Members four months before the meeting of the Conference, and, through them, the non-Government delegates when appointed.

2. The reports on each item of the agenda shall be despatched so as to reach the Members in time to permit adequate consideration before the meeting of the Conference. The Governing Body shall make rules for the application of this provision.

### *Article 16*

*Objections to agenda*

1. Any of the governments of the Members may formally object to the inclusion of any item or items in the agenda. The grounds for such objection shall be set forth in a statement addressed to the Director-General who shall circulate it to all the Members of the Organization.

2. Items to which such objection has been made shall not, however, be excluded from the agenda, if at the Conference a majority of two-thirds of the votes cast by the delegates present is in favour of considering

them.

*Inclusion of new items by Conference*

3. If the Conference decides (otherwise than under the preceding paragraph) by two-thirds of the votes cast by the delegates present that any subject shall be considered by the Conference, that subject shall be included in the agenda for the following meeting.

*Officers of Conference, procedure and committees*

**Article 17**

1. The Conference shall elect a president and three vice-presidents. One of the vice-presidents shall be a Government delegate, one an Employers' delegate and one a Workers' delegate. The Conference shall regulate its own procedure and may appoint committees to consider and report on any matter.

*Voting*

2. Except as otherwise expressly provided in this Constitution or by the terms of any Convention or other instrument conferring powers on the Conference or of the financial and budgetary arrangements adopted in virtue of article 13, all matters shall be decided by a simple majority of the votes cast by the delegates present.

*Quorum*

3. The voting is void unless the total number of votes cast is equal to half the number of the delegates attending the Conference.

*Technical experts*

**Article 18**

The Conference may add to any committees which it appoints technical experts without power to vote.

*Conventions and Recommendations*

**Article 19**

*Decisions of the Conference*

1. When the Conference has decided on the adoption of proposals with regard to an item on the agenda, it will rest with the Conference to determine whether these proposals should take the form: *(a)* of an international Convention, or *(b)* of a Recommendation to meet circumstances where the subject, or aspect of it, dealt with is not considered suitable or appropriate at that time for a Convention.

*Vote required*

2. In either case a majority of two-thirds of the votes cast by the delegates present shall be necessary on the final vote for the adoption of the Convention or Recommendation, as the case may be, by the Conference.

*Modifications for special local conditions*

3. In framing any Convention or Recommendation of general application the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of industrial organization, or other special circumstances make the industrial conditions substantially different and shall suggest the modifications, if any, which it considers may be required to meet the case of such countries.

*Authentic texts*

4. Two copies of the Convention or Recommendation shall be authenticated by the signatures of the President of the Conference and of the Director-General. Of these copies one shall be deposited in the archives of the International Labour Office and the other with the Secretary-General of the United Nations. The Director-General will communicate a certified copy of the Convention or Recommendation to each of the Members.

*Obligations of Members in respect of Conventions*

5. In the case of a Convention:

*(a)* the Convention will be communicated to all Members for ratification;

*(b)* each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months from the closing of the session of the Conference, bring the Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action;

*(c)* Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Convention before the said competent authority or authorities, with particulars of the authority or authorities regarded as competent, and of the action taken by them;

*(d)* if the Member obtains the consent of the authority or authorities within whose competence the matter lies, it will communicate the formal ratification of the Convention to the Director-General and will take such action as may be necessary to make effective the provisions of such Convention;

*(e)* if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further

obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

*Obligations of Members in respect of Recommendations*

6. In the case of a Recommendation:

*(a)* the Recommendation will be communicated to all Members for their consideration with a view to effect being given to it by national legislation or otherwise;

*(b)* each of the Members undertakes that it will, within a period of one year at most from the closing of the session of the Conference or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months after the closing of the Conference, bring the Recommendation before the authority or authorities within whose competence the matter lies for the enactment of legislation or other action;

*(c)* the Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Recommendation before the said competent authority or authorities with particulars of the authority or authorities regarded as competent, and of the action taken by them;

*(d)* apart from bringing the Recommendation before the said competent authority or authorities, no further obligation shall rest upon the Members, except that they shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.

*Obligations of federal States*

7. In the case of a federal State, the following provisions shall apply:

*(a)* in respect of Conventions and Recommendations which the federal government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall

be the same as those of Members which are not federal States;

*(b)* in respect of Conventions and Recommendations which the federal government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces, or cantons rather than for federal action, the federal government shall:

(i) make, in accordance with its Constitution and the Constitutions of the states, provinces or cantons concerned, effective arrangements for the reference of such Conventions and Recommendations not later than 18 months from the closing of the session of the Conference to the appropriate federal, state, provincial or cantonal authorities for the enactment of legislation or other action;

(ii) arrange, subject to the concurrence of the state, provincial or cantonal governments concerned, for periodical consultations between the federal and the state, provincial or cantonal authorities with a view to promoting within the federal State coordinated action to give effect to the provisions of such Conventions and Recommendations;

(iii) inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring such Conventions and Recommendations before the appropriate federal state, provincial or cantonal authorities with particulars of the authorities regarded as appropriate and of the action taken by them;

(iv) in respect of each such Convention which it has not ratified, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent States, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise;

(v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these

provisions as have been found or may be found necessary in adopting or applying them.

*Effect of Conventions and Recommendations on more favourable existing provisions*

8. In no case shall the adoption of any Convention or Recommendation by the Conference, or the ratification of any Convention by any Member, be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation.

*Registration with the United Nations*

***Article 20***

Any Convention so ratified shall be communicated by the Director-General of the International Labour Office to the Secretary-General of the United Nations for registration in accordance with the provisions of article 102 of the Charter of the United Nations but shall only be binding upon the Members which ratify it.

*Conventions not adopted by the Conference*

***Article 21***

1. If any Convention coming before the Conference for final consideration fails to secure the support of two-thirds of the votes cast by the delegates present, it shall nevertheless be within the right of any of the Members of the Organization to agree to such Convention among themselves.

2. Any Convention so agreed to shall be communicated by the governments concerned to the Director-General of the International Labour Office and to the Secretary-General of the United Nations for registration in accordance with the provisions of article 102 of the Charter of the United Nations.

*Annual reports on ratified Conventions*

***Article 22***

Each of the Members agrees to make an annual report to the

International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request.

*Examination and communication of reports*

**Article 23**

1. The Director-General shall lay before the next meeting of the Conference a summary of the information and reports communicated to him by Members in pursuance of articles 19 and 22.

2. Each Member shall communicate to the representative organizations recognized for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22.

*Representations of non-observance of Conventions*

**Article 24**

In the event of any representation being made to the International Labour Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party, the Governing Body may communicate this representation to the government against which it is made, and may invite that government to make such statement on the subject as it may think fit.

*Publication of representation*

**Article 25**

If no statement is received within a reasonable time from the government in question, or if the statement when received is not deemed to be satisfactory by the Governing Body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.

*Complaints of non-observance*

***Article 26***

1. Any of the Members shall have the right to file a complaint with the International Labour Office if it is not satisfied that any other Member is securing the effective observance of any Convention which both have ratified in accordance with the foregoing articles.

2. The Governing Body may, if it thinks fit, before referring such a complaint to a Commission of Inquiry, as hereinafter provided for, communicate with the government in question in the manner described in article 24.

3. If the Governing Body does not think it necessary to communicate the complaint to the government in question, or if, when it has made such communication, no statement in reply has been received within a reasonable time which the Governing Body considers to be satisfactory, the Governing Body may appoint a Commission of Inquiry to consider the complaint and to report thereon.

4. The Governing Body may adopt the same procedure either of its own motion or on receipt of a complaint from a delegate to the Conference.

5. When any matter arising out of article 25 or 26 is being considered by the Governing Body, the government in question shall, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the Governing Body while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the government in question.

*Cooperation with Commission of Inquiry*

***Article 27***

The Members agree that, in the event of the reference of a complaint to a Commission of Inquiry under article 26, they will each, whether directly concerned in the complaint or not, place at the disposal of the Commission all the information in their possession which bears upon the subject-matter of the complaint.

*Report of Commission of Inquiry*

***Article 28***

When the Commission of Inquiry has fully considered the complaint, it shall prepare a report embodying its findings on all questions of fact relevant to determining the issue between the parties and containing such recommendations as it may think proper as to the steps which should be taken to meet the complaint and the time within which they should be taken.

*Action on report of Commission of Inquiry*

***Article 29***

1. The Director-General of the International Labour Office shall communicate the report of the Commission of Inquiry to the Governing Body and to each of the governments concerned in the complaint, and shall cause it to be published.

2. Each of these governments shall within three months inform the Director-General of the International Labour Office whether or not it accepts the recommendations contained in the report of the Commission; and if not, whether it proposes to refer the complaint to the International Court of Justice.

*Failure to submit Conventions or Recommendations to competent authorities*

***Article 30***

In the event of any Member failing to take the action required by paragraphs 5 *(b)*, 6 *(b)* or 7 *(b)* (i) of article 19 with regard to a Convention or Recommendation, any other Member shall be entitled to refer the matter to the Governing Body. In the event of the Governing Body finding that there has been such a failure, it shall report the matter to the Conference.

*Decisions of International*

***Article 31***

*Court of Justice*

The decision of the International Court of Justice in regard to a complaint or matter which has been referred to it in pursuance of article 29 shall be final.

***Article 32***

The International Court of Justice may affirm, vary or reverse any of the findings or recommendations of the Commission of Inquiry, if any.

*Failure to carry out recommendations of Commission of Inquiry or ICJ*

***Article 33***

In the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, or in the decision of the International Court of Justice, as the case may be, the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith.

*Compliance with recommendations of Commission of Inquiry or ICJ*

***Article 34***

The defaulting government may at any time inform the Governing Body that it has taken the steps necessary to comply with the recommendations of the Commission of Inquiry or with those in the decision of the International Court of Justice, as the case may be, and may request it to constitute a Commission of Inquiry to verify its contention. In this case the provisions of articles 27, 28, 29, 31 and 32 shall apply, and if the report of the Commission of Inquiry or the decision of the International Court of Justice is in favour of the defaulting government, the Governing Body shall forthwith recommend the discontinuance of any action taken in pursuance of article 33.

## Chapter III - General

*Application of Conventions to non-metropolitan territories*

***Article 35***

1. The Members undertake that Conventions which they have ratified in accordance with the provisions of this Constitution shall be applied to the non-metropolitan territories for whose international relations they are responsible, including any trust territories for which they are the administering authority, except where the subject-matter of the Convention is within the self-governing powers of the territory or the Convention is inapplicable owing to the local conditions or subject to such modifications as may be necessary to adapt the Convention to local conditions.

2. Each Member which ratifies a Convention shall as soon as possible after ratification communicate to the Director-General of the International Labour Office a declaration stating in respect of the territories other than those referred to in paragraphs 4 and 5 below the extent to which it undertakes that the provisions of the Convention shall be applied and giving such particulars as may be prescribed by the Convention.

3. Each Member which has communicated a declaration in virtue of the preceding paragraph may from time to time, in accordance with the terms of the Convention, communicate a further declaration modifying the terms of any former declaration and stating the present position in respect of such territories.

4. Where the subject-matter of the Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory shall bring the Convention to the notice of the government of the territory as soon as possible with a view to the enactment of legislation or other action by such government. Thereafter the Member, in agreement with the government of the territory, may communicate to the Director-General of the International Labour Office a declaration accepting the obligations of the Convention on behalf of such territory.

5. A declaration accepting the obligations of any Convention may be communicated to the Director-General of the International Labour Office:

*(a)* by two or more Members of the Organization in respect of any

territory which is under their joint authority; or

*(b)* by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

6. Acceptance of the obligations of a Convention in virtue of paragraph 4 or paragraph 5 shall involve the acceptance on behalf of the territory concerned of the obligations stipulated by the terms of the Convention and the obligations under the Constitution of the Organization which apply to ratified Conventions. A declaration of acceptance may specify such modification of the provisions of the Conventions as may be necessary to adapt the Convention to local conditions.

7. Each Member or international authority which has communicated a declaration in virtue of paragraph 4 or paragraph 5 of this article may from time to time, in accordance with the terms of the Convention, communicate a further declaration modifying the terms of any former declaration or terminating the acceptance of the obligations of the Convention on behalf of the territory concerned.

8. If the obligations of a Convention are not accepted on behalf of a territory to which paragraph 4 or paragraph 5 of this article relates, the Member or Members or international authority concerned shall report to the Director-General of the International Labour Office the position of the law and practice of that territory in regard to the matters dealt with in the Convention and the report shall show the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and shall state the difficulties which prevent or delay the acceptance of such Convention.

*Amendments to Constitution*

***Article 36***

Amendments to this Constitution which are adopted by the Conference by a majority of two-thirds of the votes cast by the delegates present shall take effect when ratified or accepted by two-thirds of the Members of the Organization including five of the ten Members which are represented on the Governing Body as Members of chief industrial importance in accordance with the provisions of paragraph 3 of article 7 of this Constitution.

*Interpretation of Constitution and Conventions*

***Article 37***

1. Any question or dispute relating to the interpretation of this Constitution or of any subsequent Convention concluded by the Members in pursuance of the provisions of this Constitution shall be referred for decision to the International Court of Justice.

2. Notwithstanding the provisions of paragraph 1 of this article the Governing Body may make and submit to the Conference for approval rules providing for the appointment of a tribunal for the expeditious determination of any dispute or question relating to the interpretation of a Convention which may be referred thereto by the Governing Body or in accordance with the terms of the Convention. Any applicable judgement or advisory opinion of the International Court of Justice shall be binding upon any tribunal established in virtue of this paragraph. Any award made by such a tribunal shall be circulated to the Members of the Organization and any observations which they may make thereon shall be brought before the Conference.

*Regional Conferences*

***Article 38***

1. The International Labour Organization may convene such regional conferences and establish such regional agencies as may be desirable to promote the aims and purposes of the Organization.

2. The powers, functions and procedure of regional conferences shall be governed by rules drawn up by the Governing Body and submitted to the General Conference for confirmation.

**Chapter IV - Miscellaneous provisions**

*Legal status of Organization*

***Article 39***

The International Labour Organization shall possess full juridical personality and in particular the capacity:

*(a)* to contract;

*(b)* to acquire and dispose of immovable and movable property;

*(c)* to institute legal proceedings.

*Privileges and immunities*

***Article 40***

1. The International Labour Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Delegates to the Conference, members of the Governing Body and the Director-General and officials of the Office shall likewise enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. Such privileges and immunities shall be defined in a separate agreement to be prepared by the Organization with a view to its acceptance by the States Members.

**Annex**

**Declaration concerning the aims and purposes of the International Labour Organisation (DECLARATION OF PHILADELPHIA)**

The General Conference of the International Labour Organization, meeting in its Twenty-sixth Session in Philadelphia, hereby adopts, this tenth day of May in the year nineteen hundred and forty-four, the present Declaration of the aims and purposes of the International Labour Organization and of the principles which should inspire the policy of its Members.

**I**

The Conference reaffirms the fundamental principles on which the Organization is based and, in particular, that:

*(a)* labour is not a commodity;

*(b)* freedom of expression and of association are essential to sustained progress;

*(c)* poverty anywhere constitutes a danger to prosperity everywhere;

*(d)* the war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

## II

Believing that experience has fully demonstrated the truth of the statement in the Constitution of the International Labour Organisation that lasting peace can be established only if it is based on social justice, the Conference affirms that:

*(a)* all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;

*(b)* the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy;

*(c)* all national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective;

*(d)* it is a responsibility of the International Labour Organization to examine and consider all international economic and financial policies and measures in the light of this fundamental objective;

*(e)* in discharging the tasks entrusted to it the International Labour Organization, having considered all relevant economic and financial factors, may include in its decisions and recommendations any provisions which it considers appropriate.

## III

The Conference recognizes the solemn obligation of the International Labour Organization to further among the nations of the world programmes which will achieve:

*(a)* full employment and the raising of standards of living;

*(b)* the employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;

*(c)* the provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement;

*(d)* policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;

*(e)* the effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;

*(f)* the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;

*(g)* adequate protection for the life and health of workers in all occupations;

*(h)* provision for child welfare and maternity protection;

*(i)* the provision of adequate nutrition, housing and facilities for recreation and culture;

*(j)* the assurance of equality of educational and vocational opportunity.

## IV

Confident that the fuller and broader utilization of the world's productive resources necessary for the achievement of the objectives set forth in this Declaration can be secured by effective international and national action, including measures to expand production and consumption, to avoid severe economic fluctuations to promote the economic and social advancement of the less developed regions of the world, to assure greater stability in world prices of primary products, and to promote a high and steady volume of international trade, the Conference pledges the full cooperation of the International Labour Organization with such international bodies as may be entrusted with a share of the responsibility for this great task and for the promotion of the health, education and well-being of all peoples.

## V

The conference affirms that the principles set forth in this Declaration are fully applicable to all peoples everywhere and that, while the manner of their application must be determined with due regard to the stage of social and economic development reached by each people, their progressive application to peoples who are still dependent, as well as to those who have already achieved self-government, is a matter of concern to the whole civilized world.

**Amendments to the Constitution**

The original text of the Constitution, established in 1919, has been modified by the amendment of 1922 which entered into force on 4 June 1934; the Instrument of Amendment of 1945 which entered into force on 26 September 1946; the Instrument of Amendment of 1946 which entered into force on 20 April 1948; the Instrument of Amendment of 1953 which entered into force on 20 May 1954; the Instrument of Amendment of 1962 which entered into force on 22 May 1963; and the Instrument of Amendment of 1972 which entered into force on 1 November 1974.