



HOW TO USE **ILO CONVENTION 176** ON SAFETY AND HEALTH IN MINES

A CAMPAIGN GUIDE

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INTRODUCTION

The first edition of this campaign guide to the ILO’s Convention on Safety and Health in Mines prepared by Stirling Smith, ILO consultant, was published in 1997, shortly after the Convention was adopted.

IndustriALL and its predecessors’ campaign for the Convention had produced 29 ratifications by 2014. This is quite a good record compared to the number of ratifications of similar ILO conventions dealing with health and safety in a particular industry. This is more than fifteen per cent of the membership of the ILO, and not every country has the mining industry so ratification would not be relevant for every state. Many of these ratifications have been the result of campaigning by miners’ trade unions.

But while miners’ lives continue to be placed at risk by poor legislation, badly enforced, we cannot relax. IndustriALL therefore continues its campaign for ratification of Convention 176 and periodically revises this guide.

Mining accounts for 0.4 per cent of the global workforce, but is responsible for over three per cent of fatal accidents at work, as many as 11,000 per year, which is 30 per day. The position in some countries is worse than this. In Turkey, for example, there are 43,389 registered workers in coal mining. Coal miners are just 0.51 % of the total number of workers registered. However, coal mining accounts for 8% of all accidents.

Now it is time to re-launch the campaign for ratification of our Convention and to make sure that the Recommendation that goes with it will be implemented.

A safety culture will only come about through strong trade unions and collective bargaining. It has been proven that a unionised workplace has half the number of accidents compared to a workplace without a trade union presence.

This fact is why IndustriALL emphasises: The stronger the union, the safer the mine

ABBREVIATIONS

ACTRAV	Bureau of Workers Activities of the International Labour Organization	MIF	Miners International Federation
C 176	ILO Safety and Health in Mines Convention, 1995 (No.176)	NAMAWU	National Mines and Allied Workers Union (Philippines)
CEACR	The Committee of Experts on the Application of Conventions and Recommendations	NUM	National Union of Mineworkers (UK and South Africa)
DGMS	Directorate General Mine Safety (India)	OH	Occupational Health
EU	European Union	OSH	Occupational Safety and Health
GUF	Global Union Federation	R 183	ILO Safety and Health in Mines Recommendation, 1995 (No.183)
ICEM	International Federation of Chemical Energy Mines and General Workers Unions	SACMS	State Administration of Coal Mine Safety (China)
ILC	International Labour Convention	SAWS	State Administration of Work Safety (China)
ILO	International Labour Organization	UK	United Kingdom
IndustriALL	IndustriALL Global Union		

HOW TO USE THIS GUIDE

You can use the guide alone, but it is best used:

- 1 as a tool on workshops for active union members;
- 2 in education workshops for Executive Committee members of the union to draw up plans for ratification; in several places in this guide, you will find learning exercises for group work;
- 3 in meetings of union safety committees;

A GUIDE TO THE GUIDE

You do not need to read through the guide from start to finish. You only need to refer to those sections which apply to your situation at the time.

CHOOSING THE RIGHT SECTION FROM THE GUIDE

If you do not know much about the ILO, or ILO Conventions...	Look at the section "Understanding the ILO"
If you need a very brief idea of why the Convention is so important and what is in it...	Read the section "Convention 176 - how could it help?"
If your government has not ratified the Convention yet...	Look at the section "Campaigning for Ratification"
If the Convention has been ratified, or you would like to work out the effect it would have on your national law...	Use the section "After ratification"
If you want to know how to make a representation to the ILO...	See section "Understanding the ILO"
To contact the ILO to assist you or organize a workshop on the Convention...	Read through the section "Promoting the convention"
If you would like to improve health and safety through collective bargaining...	Read the section "Collective Bargaining for Safety"

WHY DOES SAFETY AND HEALTH IN MINES MATTER?

The International Labour Organization estimates that 2.3 million workers, men and women, die every year from work-related accidents and diseases. Approximately 360,000 of these deaths are due to fatal accidents and there are an estimated 1.95 million fatal work related diseases. These numbers are an under-estimate, because of inadequate reporting of accidents and diseases.

Nobody can be sure how many of these deaths are caused by the mining industry. In the early 1990s, the then- Miners International Federation (MIF), one of IndustriALL Global Union's predecessor organizations, estimated that approximately 15,000 miners were killed every year in work-related accidents. There are no figures for the numbers of miners dying through work-related diseases.

ZAMBIA

"Mine work can be violent", according to the former president of the Mineworkers Union of Zambia, F.S. Kunda; writing in 1993 when the union produced a training manual on health and safety, he pointed out that between 1955 and 1992, 1,520 Zambian miners were killed in mine accidents. **"They were either crushed, electrocuted, asphyxiated or burnt while at their place of work."**

The ILO's Convention on safety and health in mining, adopted in 1995, is still needed.

Since the convention was adopted, there have been dozens of mining disasters - a disaster is defined as an accident in which more than five miners are killed. In many of these disasters more than 100 miners were killed.

The majority of these disasters took place in three countries: China, India and Ukraine.

CHINA

In China, death rates have declined from a peak in 2002, when nearly 7,000 miners died. But figures remain unacceptably high with 3,786 miners being killed in 2007, according to official figures. This is almost certainly an underestimate, as there are still reports of illegal mining taking place.

China has about 34,000 coal mines. According to government statistics, at the end of 2004, there were 23,388 small coal mines in China. These small mines produce only one third of total national coal output, producing 10,000 to 30,000 tons of coal a year. However, these mines were responsible for more than two thirds of coal mine deaths.

In August 2007, for example, over 12 million cubic metres of water from the flooded Wenhe River poured into the Huayuan coal mine in Shandong, trapping and eventually killing 172 miners.

The Chinese government is well aware of the problem. For years there has been a lack of investment in safety in Chinese coal mines. In February 2006, the State Administration of Work Safety (SAWS) acknowledged that according to the latest surveys and available figures, the “safety deficit” had reached 68.9 billion yuan. This safety deficit is particularly serious in small village-and-township coal mines. The government announced plans to inspect 12,000 mines during 2006, and closed more than 5,000 coal mines in a safety crackdown following a series of inspections during 2005.

In many parts of China, coal is a major source of income for local government, and with China’s economy growing so successfully, there is an enormous demand for energy, and therefore great pressure to produce as much coal as possible.

However, closing down small and privately owned mines is not in itself a solution. Serious accidents continue to occur at large state-owned mines. In November 2009, a gas explosion at the state-owned Xinxing Coal Mine in the northeastern Heilongjiang province which claimed 108 lives on November 21.

The only way to prevent the continued disregard of central government instructions, and to create a safety culture in China’s coal mines, would be to create a genuine trade union. Empowered safety representatives are provided for in convention 176.

China is perhaps the most dangerous country in the world to be a miner. However there are other countries where the accident rate is unacceptably high, even though the amount of coal produced is considerably less than in China (more than 2 billion tons a year).

In India, Indonesia, Kazakhstan, Mexico, Pakistan, Russia, South Africa, Turkey, Ukraine and the USA, serious accidents in mines continue to be regularly reported.

OCCUPATIONAL HEALTH

Disasters in mines usually receive plenty of publicity. But what does not get noticed is the occupational diseases that lead to miners having to leave the industry early, living out their remaining years with chronic ill-health, and dying younger.

Dust, gas, toxic chemicals, noise and vibration are just some of the threats to miners’ health. And mining unions have had to fight to prevent these occupational diseases, as well as to win compensation for miners whose lives have been ruined by callous mining companies.

In the United Kingdom, more than 500,000 miners have made claims for compensation for dust related lung diseases. The payments have been made by the government, but miners had to fight in the courts for the establishment of the compensation scheme. In the United States, United Mine Workers of America (UMWA) had to fight for many years to receive compensation for what they call “black lung”.

But coal dust is not the only threat to miners’ health. In Libby, Montana, US, more than US\$ 1.6 billion worth of vermiculite, which contains tremolite, a form of asbestos, was dug out a mine, and has caused health problems amongst miners, their families and the community.

A study carried out by researchers from the University of Transkei, in South Africa, found widespread lung disease in former gold mine workers. Out of 300 former Mineworkers selected through random sampling, 78.2 per cent suffered from dust- related lung disease.

A very high incidence rate of work-related skin diseases is found in mining.

Mining accounts for a very high percentage of cases of vasoneurosis (spasms and cramps of blood vessels that can be caused by workplace vibration): 37 per cent, according to studies carried out in the European Union.

The number of other diseases, from cardiovascular to cancer, caused by workplace exposures in mines is quite simply unknown.

REMEMBER THE DEAD, FIGHT FOR THE LIVING!

April 28th is “World Day for Safety and Health at Work”.

An international day of remembrance and action for workers killed, disabled, injured or made unwell by their work.

Trade unionists all over the world commemorate those persons killed or injured in the workplace and commit themselves to fighting for action in the workplace to prevent future deaths, injuries and disease.

The day is known by different names in different countries. In Canada it is referred to as the “Day of Mourning” for persons killed or injured in the workplace. In the USA and UK it is known as Workers’ Memorial Day.

The International Trade Union Confederation calls it International Commemoration Day (ICD) for Dead and Injured Workers.

Whatever it is called in your country, trade unionists should remember all those miners killed, injured, or made ill through their work.

MINERS FIGHT BACK

In December 2009, 1,200 workers at the Cananea mine in Mexico, one of the largest open-pit copper mines in the world, had been on strike since July 2007, in support of improved health and safety conditions and in support of their union leader. The company had tried to close the mine and dismiss all the workers.

Independent international experts, who carried out a detailed health and safety audit at the Cananea mine, found that safety and equipment standards were appalling - and that this was the fault of management at the mine, not the workers.

In Kazakhstan, a methane explosion in September 2006 killed 41 miners at an Arcelor Mittal steel mine. Six days after the disaster, coal miners struck for better working conditions and wages and were joined by 24,500 miners from eight Arcelor Mittal mines in Kazakhstan. Iron ore miners also struck in support.

On 4 December 2007, the National Union of Mineworkers (NUM) held a one-day strike to protest against working conditions in South Africa's mines. The strike was spurred on by the rise in worker fatalities from 2006 to 2007. Less than five per cent of mineworkers came to work on that day. AngloPlat, part of the Anglo-American group, responded by decreasing yearly production targets by 9,000 ounces.

In July 2009, miners refused to work in unsafe conditions until the Leinster mine, part of BHP Billiton's operations in Western Australia, had been officially declared safe - following two rockslides at the mine in a month.

A CHARTER TO PROTECT MINERS' HEALTH AND SAFETY

International Labour Convention 176 is a charter to protect miners' safety and health. Under international law, it has exactly the same status as any other international treaty that a government might sign.

So getting the government to ratify (a legal term that means an undertaking to implement the contents of the convention) Convention 176 is an important step in improving safety and health in mines.

One very detailed academic study found that "countries that have ratified occupational safety and health related ILO conventions have lower occupational fatality rates than non-ratifying countries", although the study also pointed out that action and implementation of good standards is what really drives improvements in mines.

Ratification by itself is not a solution. The Czech Republic ratified the convention in the year 2000, but the number of fatal accidents in mines increased in 2003 and 2004.

In South Africa, which also ratified the convention in 2000, there continues to be concern over the high rate of accidents. With the introduction of democratic rule, and new labour laws that guaranteed workers rights, fatalities steadily decreased after 1995, from well over 700 in the mid 1980s, during the apartheid period, to the current levels of around 200 per year.

But over recent years, the decrease in fatalities stagnated and there was even an increase of about ten per cent more deaths in 2007.

In 2007, at the Elandsrand gold mine 3,200 mine workers were trapped after an accident blocked a deep (2.2 km) shaft near the bottom. If rescuers had not been able to use an adjacent shaft, a huge death toll could have resulted. But the rescue took much longer than it needed to, because of poor design of the mine shafts.

SOUTH AFRICA: MINE DEATHS 'A NATIONAL DISGRACE'

The number of deaths in South African mines is a national disgrace, Congress of South African Trade Unions (Cosatu) General Secretary Zwelinzima Vavi has said. 'Urgent action is needed to put an end to this carnage,' Vavi told a memorial service for nine mineworkers who died in July 2009 at Impala Platinum's Rustenburg mine. The company directors must be held 'personally accountable' for the deaths, he said, adding that should an investigation find negligence or incompetence, the directors should be prosecuted and punished if found guilty.

He said: 'Such fatalities are personal tragedies for bereaved families and friends, but they are also a national disgrace. The number of accidents in our mines is still far too high. Between 1997 and 2007, the South African mining industry had an appalling average of 244 work-related deaths per year reported.' He said safety was not prioritized and mining houses should do more to end the many fatalities. Vavi added: 'We want an efficient industry that continues to create wealth for the nation but uses the profits to pay workers a living wage, pay taxes to improve the lives of the workers and the poor, in conditions that are safe, healthy and environmentally friendly.'

So ratification in itself is not the complete answer. However, a solid national legislative and regulatory framework that fulfills the requirements of ILO 176 is a good start.

Above all, there needs to be an active miners' trade union, with elected well-trained safety representatives active in the mine. IndustriALL Global Union and its affiliates know that the presence of a trade union at mines which allows workers to speak out without fear of retribution is the bedrock upon which the real implementation of the convention is possible.

TRADE UNIONS SAVE LIVES

The single best way of improving safety and health in a mine is to have a strong trade union. A trade union will resist pressure to produce when work is not safe. A strong trade union will push for machines that make less dust and noise.

Involving workers to improve safety is not a new idea. In the early 1970s, a major report on OSH in the United Kingdom (UK) proposed the "participation of workers in the formulation and implementation of policy". From 1978 onwards, trade union safety representatives in all economic sectors in the UK have played a vital part in protecting workers.

Miners in the UK had been able to appoint their own inspectors since the 1954 Mines and Quarries Act and at every mine there was also a safety committee. These kinds of workers representatives did not just exist in developed countries; for example, India has had workmen's inspectors for more than 20 years.

Academic research has shown that trade union safety representatives make workplaces safer. A study from the London School of Economics found that where there is a union presence in the workplace, the injury rate is 24 per cent lower than where there is no union presence. Research by the Health and Safety Executive (UK) found that when the workforce was involved in safety and health, there was a drop in accidents from 1.2 to 0.1 per 100,000 hours worked.

A comprehensive study in the UK, that also reviewed the literature and international experience, found that

- ▶ *joint arrangements, through which workers are represented and consulted on their health and safety, are likely to have better outcomes than arrangements in which management acts without consultation. However, it suggests that arrangements for worker representation and consultation are dependent upon a number of preconditions for their effectiveness. These include a strong legislative steer, effective external inspection and control, demonstrable senior management commitment and capacity towards both health and safety and a participative approach, competent hazard/risk evaluation and control, effective autonomous worker representation at the workplace and external trade union support.*

That is why the IndustriALL slogan "the stronger the union the safer the mine" is not just a slogan, but it is fact. This is why the provisions in the ILO convention on safety and health in mines for safety representatives are so important.

And, this is why, miners' unions demand that more countries ratify Convention 176.

INVOLVING WORKERS IN SAFETY WORKS

In 2004, the tripartite Health and Safety Commission in the UK, bringing together government, employers and trade unions, issued a:

COLLECTIVE DECLARATION ON WORKER INVOLVEMENT

A statement of the Principle.

All workers have a right to work in places where all risks to their health and safety are properly controlled.

Workers who are encouraged to have a voice and are given the ability to influence health and safety are safer and healthier than those who do not. A universally involved and consulted workforce would be a major achievement and contribute to getting health and safety recognised as a 'cornerstone of a civilised society.'

An actively engaged workforce is fundamental to ensuring success of all other interventions on health and safety. It provides a 'reality check' for employers from the shop floor and helps ensure activities on health and safety lead to compliance.

COAL CONFERENCE DECLARATION, KOLKATA, INDIA

16 DECEMBER 2007

"We, the representatives of coalmine workers from Australia, Belgium, Canada, Columbia, France, Germany, Mongolia, New Zealand, Poland, Russia, South Africa, Ukraine, United Kingdom and India, having met in Kolkata India, 14th – 16th December 2007 make the following declaration:

1. We note from the proud history of militant and long drawn struggle by coalminers' unions throughout the world, that when coalminers stand strong and determined significant gains have been made in the areas of safety and health, in conditions of employment and, in many cases, within the political structures of Countries. We, the attendees of this Conference, pledge to do all in our power, to strengthen and continue that proud tradition.
2. While we recognize that our members work in one of the most hazardous industries on earth, we refuse to accept that the appalling toll of death, injury and disease that prevails in the coal mining industry can be permitted to continue.
3. As a first step, we demand that all countries not only take the necessary steps to ratify ILO Convention C176, but that they also take urgent action to ensure that the commitments continued in the Convention are put into practice.
4. Acknowledging that ratification of the Convention alone will not make mines safer we call on the ILO and the United Nations, to further strengthen the regime in place to ensure that ratifying Countries are in fact complying with the commitments contained in the Convention, and to seriously consider a programme of audits and inspections.

CONVENTION 176 - HOW COULD IT HELP?

You may be thinking: “How can a treaty drawn up thousands of miles away make mines safer in our country?” This section tries to highlight the most important features of the convention - the full text of the convention is printed as an appendix.

Convention 176 creates duties and responsibilities for

- **Governments**
- **Employers**
- **Workers**

Two important overriding provisions should be noted:

The convention applies to all mines, and all types of mining - and this includes underground workings, and activities on the surface.

Safety and health should be the priority on how mines are designed, operated and maintained.

GOVERNMENT RESPONSIBILITIES

The convention imposes three key tasks upon governments:

- **to develop a coherent policy on safety and health in mines. They need to do this in consultation with employers and trade unions. They do not have to get agreement from these two parties, but they must be consulted. This is tripartism - the cornerstone of how the ILO operates, and how it expects governments to operate.**
- **to pass laws to implement the Convention’s provisions, and also codes, rules, guidelines, circulars to help employers and workers implement the law; the law shall cover the following issues:**
 - Inspections
 - Reporting of accidents, occupational diseases and dangerous occurrences
 - Compilation of statistics about health and safety in mines
 - The power of the competent authority to suspend or restrict mining for safety reasons
 - How the rights of union safety representatives can be secured
- **to create an inspectorate to enforce the law; the inspectorate’s functions are to inspect mines, investigate accidents, compile statistics and order the suspension of mining on safety grounds.**

A “competent authority” concerned with mine safety and health should be established. This would mean a single government body dealing with mine safety and health.

EMPLOYER RESPONSIBILITIES

The employer is responsible for the mine. It is therefore, the employer's job to make sure that it is safe. The convention says:

- ▶ *Employers shall take all necessary measures to eliminate or minimize the risks to safety and health in mines under their control. (Article 7)*

The employer must carefully assess all the risks mineworkers may be exposed to. This process is called risk assessment and has two stages. The first is identifying the hazard which we can define as:

the **potential to cause harm** - which can include substances or machines, methods of work or other aspects of Organization

Then the employer has to assess the risk which we can define as:

the **likelihood** that the harm from a particular hazard is realized

The assessment should identify measures to take to eliminate the hazard altogether or reduce the risk - the possibility that it will harm miners. This is the hierarchy of control mentioned at the start of this section of the guide.

Although not specifically required in ILO 176, it is a principle of good hazard and risk assessment that those facing the hazards and taking the risks must be consulted.

There are several other specific duties placed on employers by the convention.

A NEW PHILOSOPHY OF PREVENTION

The Convention adopts a refreshing new approach to health and safety, which places responsibility firmly on employers.

- ▶ *When we complain about dust, we are given masks. When we say the mine is too noisy, they give us ear protectors (if we are lucky!)*

The ILO says such Personal Protective Equipment (PPE) should be the last resort. Before giving miners PPE, they should try to eliminate the hazard altogether. Then they should 'control the risk' at source. If they cannot do that they must 'minimize the risks' through designing safe systems of work. Only if they have tried all these steps can they propose PPE.

This is called (in health and safety jargon) the 'hierarchy of control'. The top of the hierarchy - the first thing to do - is eliminate the hazard. The last thing is to offer PPE.

THE HIERARCHY OF CONTROL

(ARTICLE 6)

Eliminate the risk

- choose a different process
- isolate an existing process
- replace a dangerous substance with a less hazardous substance

Contain or control the risk at or near the source

- improve the environment, e.g. ventilation to remove the dust
- use enclosures, guards on machines to prevent contact
- modify or change equipment or tools

Minimize the risk

- design safe systems of work, such as written authority before undertaking the work process
- reduce the number of times the hazard is encountered (for example in a very hot workplace, the possibility of increased number of breaks in a cooler area)

Provide for the use of personal protective equipment

- use of personal protective equipment (PPE)

WORKERS RIGHTS!!!

The convention states very clearly that miners have several important rights and duties (Article 13 has all the detail):

- to report accidents, dangerous occurrences and hazards to employer and inspectorate;
- to ask for inspections and investigations by the employer and inspectorate;
- to get information about the hazards they face;
- to obtain relevant information from their employer and the inspectorate;
- to refuse dangerous work; in the language used in the convention, “to remove themselves from any location at the mine when circumstances arise which appear, with reasonable justification, to pose a serious danger to their safety or health”
- to elect safety representatives.

WORKERS CANNOT BE PENALIZED FOR EXERCISING THESE RIGHTS.

The convention does also impose certain duties on workers - not to do anything dangerous and to cooperate with measures which implement the convention or laws (article 14).

SAFETY REPRESENTATIVES' RIGHTS

The safety and health representatives elected by miners have the following rights (article 13.2):

- to represent workers on all aspects of workplace safety and health, including the exercise of the miner's rights
- to participate in inspections and investigations conducted by the employer and by the competent authority at the workplace
- to monitor and investigate safety and health matters;
- to use advisers and independent experts;
- to consult with the employer in a timely fashion on safety and health matters, including policies and procedures;
- to consult with the competent authority
- to receive, relevant to the area for which they have been selected, notice of accidents and dangerous occurrences.

The standards in the convention are high. Applying them properly would almost certainly make a difference. The first step in applying them is getting your government to agree to ratify the convention.

UNDERSTANDING THE ILO

Mining trade unionists do not need to be experts about the ILO and its system of conventions. But it is helpful to understand why the ILO is so important for us and how its system of international labour standards works, especially if you are discussing ratification of C 176 with your Ministry of Labour.

This next section of the guide is technical, and contains a lot of jargon. You may need to read it more than once to understand.

The International Labour Organization (ILO) is a part of the United Nations system. It is called a 'specialized agency' of the UN. Each part of the UN system is responsible for a particular area - its 'mandate', in UN jargon. The ILO's mandate is social questions - especially the world of work and employment. So industrial relations, child labour, vocational training, policy on employment creation and health and safety at work - these are the ILO's issues.

Like all UN organizations, the ILO is financed by member states. Countries have to join the ILO separately. Switzerland was a member of the ILO decades before it joined the UN. Governments can also give the ILO extra money for projects.

The ILO is actually older than the United Nations. It was set up by the Treaty of Versailles, which marked the end of the First World War, at the same time as the League of Nations, which was a weaker, earlier version of the UN.

In 1919, the leaders of the countries which had won the war met to make a treaty that would define the new boundaries and deal with other related questions, such as reparations, and how to prevent future wars.

Those politicians met in the shadow of a huge wave of strikes, revolutions and uprisings all over the world. The Russian Revolution was only two years old. Workers were demanding that one outcome of the suffering caused by the war should be social justice. So the ILO's constitution states:

► *universal and lasting peace can only be established if is based upon social justice*

They decided that something should be done for workers. This was one reason for the ILO. But the idea of international legal action for workers was not something completely new. There had been movements for such an Organization for many years.

WHAT IS TRIPARTISM?

What makes the ILO unique among international organizations is its tripartite nature. All the UN organizations, the World Bank, World Trade Organization etc, are run only by governments. In the ILO, governments, trade unions and employers are all represented at the International Labour Conference, on the ILO Governing Body, and on specialized committees. Unions do not just speak, they VOTE at ILO meetings.

This is called tripartism and it is the essence of the ILO, which has defined it as ‘sharing of power’. Quite simply, it is the idea that trade unions, employers and governments should work together and seek consensus on issues which affect them. It is an extension of collective bargaining, or bipartism, when just unions and employers are involved.

At the ILO Conference, each member state sends four delegates. Two represent the government; one represents employers and one represents trade unions. The Governing Body of the ILO which runs its affairs is constituted using the same ratio.

TRADE UNIONS AND THE ILO

The ILO has as its central aim the protection of workers and promotion of social justice. Although it has many shortcomings, just imagine if it did not exist and unions were to demand the setting up of a new UN agency, dedicated to workers rights and constituted on the basis of tripartism. It would not occur.

It is also very unlikely that unions would be able to make governments hold a conference every year, to agree to international treaties on subjects such as health and safety.

So unions can use the ILO. The MIF, which started the campaign for a convention on miners’ health and safety, showed how it can be done.

INTERNATIONAL CONVENTIONS EXPLAINED

We refer to a number of international conventions in this manual. Where do they come from?

International conventions are drawn up under international law. When a country “ratifies”, a convention, it declares with this action that it is willing to be held accountable for fulfilling the requirements of the convention. This is similar to signing a treaty with another country, and there are ‘rules’ which govern the procedure.

A convention is usually sponsored by an existing international organization, like the United Nations or ILO; or a group of countries can launch an initiative.

A conference is held to draw up the text of the convention. In the case of ILO, this is the annual conference. In other cases, a special conference is called. If a text is finally agreed, or adopted, countries can then choose to ratify. A country voting for a text at the conference is not the same as ratifying, which is a separate process. Governments ratify voluntarily. No country can be forced to sign a convention or treaty.

Once a country has ratified a convention, it must take steps, such as changes to law and practice, to apply the provisions.

► *The national law or policy must come into compliance with the convention.*

There is also some machinery for “supervising” a convention in the ILO. There is an expert committee, as well as the International Labour Conference, that can examine what governments are doing and issue reports. Complaints can be made. This is discussed later.

ILO procedures are among the best in the UN system. Over the 90 years of the ILO, its rulings that a country has not met the standard required by a convention have made many governments change their law or practice.

INTERNATIONAL LABOUR STANDARDS

The system of international labour standards takes the form of Conventions and Recommendations. They are adopted by the International Labour Conference, which meets every year in Geneva. The ILO refers to 'labour standards'. Both conventions and recommendations are standards.

International Labour Conventions are open to ratification by member States. They are international treaties which are binding on the countries which ratify them.

These countries voluntarily undertake to apply their provisions, to adapt their national law and practice to their requirements, and to accept international supervision.

Complaints about alleged non-compliance may be made by the governments of other ratifying States, or by employers or workers organizations, and procedures exist for investigation and action upon such complaints. A later section describes those procedures in more detail.

By the end of December 2009, the International Labour Conference had adopted 188 Conventions and 199 Recommendations.

The Conventions have received a total of 7,651 ratifications (as of December 2009). It is sometimes said that the standards are 'too difficult' for developing countries to adopt. It is therefore important to note that around two-thirds of these ratifications have been made by the governments of developing countries.

International Labour Recommendations are not international treaties. They set non-binding guidelines which may orient national policy and practice. Recommendations are often linked to a convention, to provide more detailed guidance. Governments do NOT ratify recommendation.

In the case of health and safety in mines, we have both a Convention - number 176, AND a Recommendation, number 183. The full texts of both standards are to be found in this guide.

SUPERVISORY MECHANISMS

An important part of the ILO standards setting system is a set of supervisory mechanisms.

REPORTING

Once a country has ratified an ILO convention, it is obliged to report regularly on measures it has taken to implement it. Every two years governments must submit reports detailing the steps they have taken in law and practice, to apply any of the eight fundamental and four priority conventions they may have ratified.

For other conventions, such as the Convention on Health and Safety in Mines, reports must be submitted every five years. Reports on the application of conventions may be requested at shorter intervals.

Governments are required to submit copies of their reports to employers' and workers' organizations. These organizations may comment on the governments' reports; they may also send comments on the application of conventions directly to the ILO. These procedures therefore provide an opportunity for trade unions to state their positions on how the government is implementing conventions.

COMMITTEE OF EXPERTS

The Committee of Experts on the Application of Conventions and Recommendations (CEACR) examines the government reports on ratified conventions. It is composed of 20 eminent lawyers appointed by the Governing Body, so it is quite independent. The experts come from different geographic regions, legal systems and cultures. The Committee's role is to provide an impartial and technical evaluation of the state of application of international labour standards.

The CEACR makes two kinds of comments: observations and direct requests. Observations contain comments on fundamental questions raised by the application of a particular convention by a state. These observations are published in the Committee's annual report. Direct requests relate to more technical questions or requests for further information. They are not published in the report but are communicated directly to the governments concerned.

The Committee produces an annual report. It is examined at the International Labour Conference by the Committee on the Application of Standards, a standing committee of the Conference that is tripartite, so it includes trade unions. The committee selects a number of observations from the report of the Committee of Experts for discussion. The governments referred to in these comments are invited to respond

before the Conference Committee and to provide information on the situation in question. In many cases the Conference Committee draws up conclusions recommending that governments take specific steps to remedy a problem or to invite ILO missions or technical assistance.

The discussions and conclusions of the situations examined by the Conference Committee are published in its report. Situations of special concern are highlighted in special paragraphs of its General Report.

COMPLAINTS

The complaint procedure is governed by articles 26 to 34 of the ILO Constitution. Under these provisions, a complaint may be filed against a member state for not complying with a ratified convention by another member state which ratified the same convention, OR a delegate to the International Labour Conference OR the Governing Body in its own capacity.

Upon receipt of a complaint, the Governing Body may form a Commission of Inquiry, consisting of three independent members, which is responsible for carrying out a full investigation of the complaint, ascertaining all the facts of the case and making recommendations on measures to be taken to address the problems raised by the complaint. A Commission of Inquiry is the ILO's highest-level investigative procedure; it is generally set up when a member state is accused of committing persistent and serious violations and has repeatedly refused to address them. To date, 11 Commissions of Inquiry have been established.

REPRESENTATIONS

The representation procedure is governed by articles 24 and 25 of the ILO Constitution. It grants an industrial association of employers or of workers (in other words, a trade union) the right to present to the ILO Governing Body a "representation" against any member state which, in its view, "has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party". A three-member tripartite committee of the Governing Body may be set up to examine the representation and the government's response. The report that the committee submits to the Governing Body states the legal and practical aspects of the case, examines the information submitted, and concludes with recommendations. Where the government's response is not considered satisfactory, the Governing Body is entitled to publish the representation and the response.

CHECKLIST FOR USING ILO PROCEDURES

Note that the term "submission" in the following checklist may refer to both a representation and a complaint

- Has your country ratified the convention concerned? You cannot make a representation if the government has not ratified the convention. An exception to this rule applies in cases concerning Freedom of Association.
- Is your submission about something which comes clearly within the scope of the convention?
- Can you get help to draft your submission in legal terms?
- Do you have exact and precise details of the violations? You need names, dates, places.
- Do you know which national laws are supposed to put the convention into effect?
- What steps have you taken in trying to resolve the issues at national level? (It is not necessary to have first used national procedures before making a submission)
- Do you know what submissions have been made by other organizations in your country, or global union federations (GUFs) about the same issue and what happened?
- Can you make a joint submission with another Organization in your country or with an international organization such as a Global Union Federation or the ITUC?

THE ILO APPROACH TO SAFETY AND HEALTH

Since its foundation, the ILO has been concerned with safety and health at work. Many of its early conventions dealt with specific hazards and indeed were similar to existing health and safety law in that they prohibited certain processes. They were prescriptive.

Starting in the late 1960s and early 1970s, many countries began revising and updating health and safety laws. In the UK, the Robens report proposed a modern approach, covering all workers in all industries, and involving trade unions in improving safety and health. A similar approach was followed in the USA, Sweden, Australia and other countries.

In parallel with this, ILO conventions have tended to promote a health and safety culture, with collaboration by governments, employers and workers, and taking a preventative approach to hazards.

The Occupational Safety and Health Convention, C 155, took this approach. A key element introduced for the first time is the provision calling upon governments to formulate, implement and review a national policy in the area of OSH. This national policy should cover all branches of economic activity and all workers in those branches of economic activity. The Convention also details the principal spheres of action to be covered by the policy. Almost all Conventions adopted since 1981 have provisions for the formulation, implementation and review of a national policy in the specific branches of activity concerned.

The aim of C 155 is a coherent national policy on occupational safety, occupational health and the working environment and to ensure communication and cooperation at all levels in this area. Governments that ratify the Convention should, in consultation with the most representative organizations of employers and workers, formulate, implement and periodically review a national policy on occupational safety, health and the working environment. The aim of the policy should be to prevent accidents and injury to health from work by minimising, so far as it is reasonably practicable, the causes of hazards and risks inherent in the working environment. Fifty-six countries have ratified this convention (as of December 2009).

- **This convention also contained a clause “A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.” This is not quite as strongly worded as the provision in Convention 176, but does represent the same idea. Convention 176 says that miners have the right “to remove themselves from any location at the mine when circumstances arise which appear, with reasonable justification, to pose a serious danger to their safety or health”**

PROMOTIONAL FRAMEWORK CONVENTION

In 2003, the ILO undertook a thorough review of all the standards in the field of occupational safety and health. As a result, in 2006, the International Labour Conference adopted the Promotional Framework for Occupational Safety and Health Convention 2006 (No.187) and an accompanying Recommendation (No. 197).

Convention 187 amplifies the provisions of Convention 155, calling for the formulation and periodical review of a national OSH policy by asking for an endorsement of the national programme at the highest level of government.

The Convention and Recommendation define provisions for countries to promote OSH through national OSH systems and programmes, the building of preventative safety and health cultures and applying of a systems approach to the management of OSH with the aim of continuously improving the safety and health of workers and the working environment.

The main purpose of Convention No. 187 is to ensure that a higher priority is given to OSH in national agendas and to foster political commitments in a tripartite context for the improvement of working conditions and environment. It has a promotional rather than prescriptive content and is based on two fundamental concepts outlined in the above Global Strategy, namely to develop a preventative safety and health culture and to apply a systems approach to managing OSH nationally. This means the continual monitoring, evaluation and improvement of all the different “building blocks” making up the national OSH system. The Convention defines in general terms the elements and function of the national policy, the national system and the national programme. Further specific areas of action, operational details and mechanisms such as the development and maintenance of a national OSH profile are provided in the Recommendation.

If a country has ratified Convention 187, then it really should not have any difficulty in ratifying Convention 176, because C 187 is working towards providing a framework for all sectors of the economy. So far, 31 countries have ratified convention 187 (as of October 2014):

Albania	Niger
Argentina	Russian Federation
Austria	Serbia
Bosnia and Herzegovina	Singapore
Canada	Slovakia
Chile	Slovenia
Cuba	Spain
Cyprus	Sweden
Czech Republic	The former Yugoslav Republic of Macedonia
Denmark	Togo
Finland	Turkey
Germany	United Kingdom
Japan	Viet Nam
Korea, Republic of	Zambia
Malaysia	(Compare this list to countries that have ratified Convention 176 on page 45).
Mauritius	
Moldova	

MINES INSPECTORS

One of the most widely ratified ILO conventions is Labour Inspection Convention No. 81 (1947). It lays down standards for the co-operation of inspectors and workers. Article 5 of the Convention states:

The competent authority shall make appropriate arrangements to promote collaboration between officials of the labour inspectorate and employers and workers or their Organization.

The accompanying Recommendation states that “Arrangements for collaboration between employers and workers for the purpose of improving conditions affecting the health and safety of the workers should be encouraged [4(1)].

Representatives of the workers and managements should be authorised to collaborate directly with officials of the labour inspectorate.

The Convention and Recommendation together means that Mines Inspectors should communicate with workers and their unions. The Convention does not go into details. But in many countries it is accepted that Inspectors should:

- **request a meeting with trade unions when visiting the mine;**
- **request a trade union leader to accompany them while inspecting;**
- **send copies of reports sent to employer, to the union(s) also;**
- **convene at least annual meetings of union leaders for the area for which the inspector is responsible to discuss the health and safety situation;**
- **encourage the establishment of safety committees in workplace.**

ESSENTIAL ELEMENTS OF A NATIONAL OSH SYSTEM

- Legislation, and any other relevant OSH instruments;
- One or more authorities or bodies responsible for OSH;
- Regulatory compliance mechanisms, including systems of inspection;
- A national tripartite advisory mechanism addressing OSH issues;
- Arrangements to promote at the enterprise level, cooperation between employers and workers;
- OSH information and advisory services;
- Systems for the provision of OSH training;
- Occupational health services;
- Research on OSH;
- A mechanism for the collection and analysis of data on occupational injuries and diseases;
- Provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases
- Support mechanisms for a progressive improvement of OSH conditions in micro, small and medium-sized enterprises, and in the informal economy

CAMPAIGNING FOR RATIFICATION

Twenty-nine countries had ratified Convention 176 by mid-2014. The ILO has 184 member states. Not all of these have mining industries, so we cannot expect them all to ratify the Convention.

Unfortunately, many governments, despite having very significant mining activities, have not ratified the convention, examples being the major mining countries of Australia, Canada, China and India. The ILO circulated information about the convention, following the conference in 1995. Many governments failed even to inform their national parliaments about the convention, even though this is an obligation of the ILO membership.

The ILO in Geneva has continued to produce reports and information about its work in occupational safety and health. There is plenty of support available for governments who wish to find out more about the convention and are interested in ratifying.

In 2003, the International Labour Office sent a questionnaire to all member states, and asked whether they intended to initiate ratification procedures for any of the conventions concerning health and safety at work.

Ghana replied that it had started ratification procedures; Costa Rica replied that it intended to start ratification procedures. Several years later, neither country has ratified the convention. How many more miners need to die in Ghana and Costa Rica for the ministries of labour in those countries to speed up the process of ratification?

So, it is up to miners' unions to campaign for ratification

HOW MINERS IN THE PHILIPPINES CAMPAIGNED FOR CONVENTION 176

One of the earliest ratifications was in the Philippines. The National Mines and Allied Workers Union (NAMAWU), the IndustriALL affiliate in the country was not very large, it has less than 10,000 members, many working in copper and gold, with one coal mine. There was and is a huge informal mining sector in the Philippines. There were two very serious mining disasters in the country in 1994.

NAMAWU started its campaign by writing to the president of the Philippines shortly after the convention was adopted. The union also wrote to members of the country's Senate.

At the same time, the union took steps to strengthen its own work on safety and health. In March 1996 at the union's conference, a national occupational safety and health committee was established; and local branches were urged to set up their own local level safety and health committees. The conference also formally endorsed the call for the Philippines to ratify the Convention.

The union had also invited the Secretary of Labour to address their conference. In his speech, he agreed to support the bid for ratification of the convention.

NAMAWU also got the support of its national centre, the Trade Union Congress of the Philippines (TUCP), which also made representations to senators. As a result, a number of them promised to support the campaign. One senator tabled a resolution urging the ratification of the convention.

One year after the union wrote to the president, in December 1996 he ordered three government departments, including the Department of Labour and Employment, to organize a tripartite conference dealing with safety and health in mines and to include the issue of ratification of the convention on the agenda.

Four months later, in April 1997, the National Tripartite Forum on Safety and Health in Mines was convened. A resolution was adopted unanimously calling for the ratification of the convention and the establishment of a tripartite council on mine safety and health.

In parallel with the lobbying process, the union had launched a public campaign, producing T-shirts, posters and handbills.

On 1 May 1997, the President announced that the Philippines would ratify the Convention.

WHAT MAKES A SUCCESSFUL CAMPAIGN?

Some lessons can be drawn from the successful Philippines campaign. They are:

- **The importance of sustaining their campaign over a number of years. A short flurry of letters and meetings will not be enough**
- **The need to raise the issue at the highest possible level**
- **The importance of obtaining support from key politicians and government departments**
- **The value of a tripartite meeting, especially where the union has influence over the agenda**
- **The value of working closely with the appropriate office of the ILO**
- **The need to involve the membership in the campaign**
- **The need to keep the campaign active in the media**

INDIAN MINERS' UNIONS LAUNCH A CAMPAIGN

Indian miners unions held a three-day conference about Convention 176 in October 2009, and agreed a stirring call to action and endorsement of a campaign plan to convince the government of India to finally ratify the Convention.

In an interview given to Mint, an Indian financial newspaper, BK Das, General Secretary of the Indian National Mineworkers Federation (INMF), stated that national industrial action would be considered if the government continued its stalling tactics. Shri Jibon Roy, Secretary of the Centre of Indian Trade Unions (CITU), said that miners will lead the way in educating the public to join the campaign.

That campaign was developed by 30 rank-and-file miners from various mining regions of India. The miners pointed out that India was present at the debates in Geneva when the convention was drawn up in 1995 and the Indian delegation voted in favour of its adoption. But mining laws and regulations remain weak or unenforced in India. A declaration adopted at the conference calls for the five mining federations to reach a consensus on a plan of action and to develop national, company, area, and pit committees to educate miners and the public on the need to improve mine health and safety and the importance of ILO Convention 176.

The joint declaration by miners' trade unions adopted by the meeting noted that

- ▶ *We declare that safety and health of miners is not an issue that divides us. We say: "the stronger the union, the safer the mine!"*

WHAT EMPLOYERS SAY

Not all employers are opposed to ratification of the convention. As we have seen, in the Philippines they took part in a tripartite workshop and supported the resolution for ratification.

In United States, the Council for International Business (USCIB), which is the main voice of employers nationally and internationally, supported ratification. The United States is normally rather cautious about ratification of ILO conventions. It has not ratified many of the core conventions for example. The USCIB made a statement to the United States Senate in which it said:

- ▶ *U.S. ratification of this Convention... allows us to demonstrate global leadership on safety and health in the mine industry, and wide ratification will provide mineworkers around the world an opportunity to work in safer and healthier workplaces. ...With this in mind, the U.S. business community supports U.S. ratification of the ILO Convention on Safety and Health in Mines, adopted by the 1995 International Labour Conference in Geneva. We believe this comprehensive, multilateral approach represents the best means to strengthen safety and health in mining around the world. The U.S. business community supports ratification of this Convention for several reasons.*
- ▶ *U.S. ratification is essential to establishing global scope of understanding of the need to protect those working in mining industries. The discussion and ratification of Convention 176 will have a positive impact on extending the safety and health precautions that protect mineworkers in the United States to other countries around the world.*
- ▶ *We believe that a comprehensive, multilateral approach represents the best means to alleviate injury and fatalities in mining. ILO Convention 176 provides a well-crafted binding multilateral instrument that addresses the core problems without being so detailed that it creates barriers to ratification and implementation. The Convention will provide powerful tools to reduce injury and death to mineworkers. We urge you to take the lead in securing advice and consent of the United States Senate to ratification of ILO Convention 176.*

And indeed, in 2001, the USA did ratify the Convention.

MINING MULTINATIONALS FAIL TO SHOW LEADERSHIP

Unfortunately, the International Council on Mining and Metals (ICMM), which brings together the large multinational mining companies, has not called for ratification of the convention.

In May 2002 the ICMM Council adopted the “ICMM Toronto Declaration”. This declares that

- ▶ *successful companies will respect fundamental human rights, including workplace rights, and the need for a healthy and safe workplace;*

But there is no recognition that fundamental human rights include the right to organize and join a trade union, or the contribution that trade unions can make to a healthy and safe workplace.

It claims to be very committed to mine safety and health. For example it has a campaign “Leadership Matters: The elimination of fatalities”. Its publications contain many good statements, and stress the “hierarchy of control”, but nowhere does it mention working with miners or their union representatives, or the importance of good health and safety legislation. The impression is that safety and health is entirely a matter for mining companies. This is basically a managerial approach to health and safety.

WORKING WITH NATIONAL EMPLOYERS' ASSOCIATIONS

In most countries, there will be a national association of mining companies, even if it only covers the larger mines. Your union may not have a good relationship with this organization. There may be been problems over national bargaining or other issues.

However, you can try to work with them on the question of safety and health. Mining companies always say “The safety of our workforce is the top priority...” So it is an opportunity to have a dialogue with them.

Responsible companies will want a level playing field on health and safety. They should not want to be undercut by mining companies that are not prepared to invest in health and safety. It is always the case for strong national law, as well as international labour standards.

ARGUMENTS AGAINST RATIFICATION

As your campaign for application of the convention develops, you may have some of these arguments, and we have suggested appropriate responses.

ARGUMENTS AGAINST RATIFYING	COMMENTS AND RESPONSES
<p><i>The standard is too high; it is all right for developed countries, but in developing countries, it is too difficult.</i></p>	<p>This is a lazy argument, used by people who do not understand the ILO. There are three responses:</p> <ol style="list-style-type: none"> 1. ILO standards are not set by, or for, developed countries. Two thirds of all ratifications of International Labour Conventions are by developing countries. All ILO member states were present during the conference when the text was debated, and could make inputs. 2. There are seven developing countries that have already ratified the convention. 3. Is the argument here that a mining engineer in a developing country is not as competent as a mining engineer in a developed country that has ratified the convention? That is an insult, surely?
<p><i>The cost is too high; implementing the requirements will raise the prices of mining products, and they will become uncompetitive.</i></p>	<p>Another lazy argument -</p> <ol style="list-style-type: none"> 1. Exactly how will costs be raised? What specific provisions in the Convention will raise costs? 2. By how much will costs be raised - what sort of price increase might be necessary: 1 per cent? 2 per cent? Who has worked out these figures? 3. It is the job of government to protect the lives of miners - that does have to be balanced against the needs of companies to make a profit. But let us discuss where the balance lies. Let us see facts and figures on costs. 4. How would the increase in prices compare with the huge commodity price rises in 2000 - 2007?
<p><i>We already have very high standards, higher than the convention, so it is not relevant</i></p>	<ol style="list-style-type: none"> 1. If this argument is used in the European Union, point out that the European Commission has recommended that member states should ratify up to date ILO conventions. See box for details. 2. Clause by clause, let us see if it is true. It is very likely that the hierarchy of control and workers rights in the Convention may be areas where the statement is not true. The real problem is opposition to the trade union and workers rights parts of the convention.
<p><i>Only 29 countries have ratified the convention</i></p>	<p>This is more than 15% of the membership of the ILO.</p> <p>Not all countries need to ratify; if the country does not have a mining industry, it would not be appropriate for it.</p> <p>29 ratifications is not a bad figure, compared to other conventions dealing with a particular industry.</p>

THE EUROPEAN UNION AND ILO CONVENTIONS

In a document entitled *Renewed social agenda: Opportunities, access and solidarity in 21st century Europe*, the European Commission very strongly called for member states to ratify and implement up to date ILO conventions. The statement said:

► *The commission calls upon all Member States to set an example by ratifying and implementing the ILO Conventions classified by ILO as up to date.*

This is a very strong endorsement of the ILO and its Decent Work agenda. In the past, there had been a feeling that the overlapping jurisdiction of the ILO and the European Union meant that it was not appropriate for European Union member states to ratify ILO conventions. This statement ends that uncertainty.

All European Union member states should now ratify Convention 176.

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Brussels, 2.7.2008 COM(2008) 412 final

LEARNING EXERCISE: FOR AND AGAINST THE CONVENTION

AIM: to practice arguments about ratification

TASK: think about the different reasons you've heard against ratification of the convention and prepare an appropriate response (choose reasons not included here in this guide)

ARGUMENTS AGAINST RATIFYING	YOUR COMMENT AND RESPONSE

PROMOTING THE CONVENTION

A useful part of your campaign could be a tripartite workshop on the convention. This would be attended by equal numbers of representatives from government, employers and unions.

The ILO is interested in promoting the Convention and local offices might, for that reason, be willing to help run or organize a workshop. Besides possibly contributing funds and expertise, the ILO's prestige should ensure that government and employers will respond. IndustriALL has drawn up a model draft programme for a tripartite workshop on ILO Convention 176 on Safety and Health in Mines, which you can adapt to local circumstances.

Workshop aims:

- to inform all social partners, through the participants, of the provisions of convention 176 and recommendation 183;
- to identify the areas where national legislation would need to be changed to conform to the standards;
- to discuss the possibility of ratification;
- to identify what Technical Cooperation might be required to help comply with the standards following ratification.

DAY 1

Introduction of participants

The contents of the convention; an overview

The process of ratification (invites a speaker from the ILO to explain International Labour Standards)

Initial views: one contribution, for no more than 15 minutes each, from:

- **Government**
- **Employers**
- **Workers**

DAY 2

Working groups on different areas of the convention such as

- **Obligations on Governments;**
- **Employers' duties;**
- **Workers rights**

NOTE: Workers, employers and government could be mixed for the group work and asked to identify how far the existing law matches the standards in the Convention and where there are gaps)

Reports from working groups

DAY 3

Consolidation of reports. How practical is compliance with the Convention standards?

Working Groups: What technical assistance would be required for each of the tripartite partners to facilitate compliance with the standards.

- **Reports form working groups**
- **Future plans**
- **Evaluation of the workshop**

CAMPAIGNING IN THE MEDIA

Another step your union could take is to organize a media campaign in support of ratification. Newspapers, television and radio do often cover serious mining disasters. You can take the opportunity of the anniversary of a serious mining accident in your country to issue a press release, or hold a press conference about the convention.

EXAMPLE OF A PRESS RELEASE

Miners are demanding that the government signs up to an international treaty to improve health and safety in mines. The xyz union, which represents mineworkers in [your country], believes that signing the treaty is an essential step in reducing the number of fatal accidents and diseases in the mining industry.

[Pres/Gen Sec] of the union told reporters that “the International Labour Organization is part of the United Nations, and in 1995 it adopted a convention on health and safety in mines. Nearly 15 years later, and [your country] has still not ratified this convention. We cannot understand why they have not taken this action”

According to statistics [insert statistics] miners died last year [or mention the most recent year where you have statistics, or mention a serious recent disaster].

“Mining contributes a great deal to the economy”, continued [Pres/Gen Sec], “but this is dangerous and difficult work; the country owes it to miners to make sure that they carry out their work in conditions that are as safe and healthy as possible. Ratifying the convention will be a step forward.”

International Labour Conventions are drawn up in Geneva by a tripartite conference which includes governments, employers and trade unions. More than 20 countries have already ratified Convention 176 on health and safety in mines. Ratifying the convention commits the government to bringing national health and safety law into line with the convention.

The ABC Congress of Trade Unions [your national centre], has also backed the call for ratification of the convention. A spokesperson told reporters that “we believe that ILO conventions represent a global consensus of social partners and that we should wherever possible ratify them. This convention has been ratified by developed countries as well as developing countries. It provides for a coherent policy on health and safety in mines, proper action by employers to reduce risks and the balance of rights and responsibilities of the mineworkers. In United States, the employers who normally oppose ratification of ILO conventions supported their government in signing up to this important international treaty. We hope our government will follow suit” ENDS

APPROACHING MEMBERS OF PARLIAMENT

Getting members of your national parliament to raise the question of health and safety in mines is another way to draw attention to the issue of ratification of the convention. You may have good relationships with a number of MPs, and you can write to them. You could also ask your union members to write directly to their own members of parliament, using this example which you can alter according to the particular circumstances of your constitution.

EXAMPLE OF A LETTER TO A MEMBER OF PARLIAMENT

Dear xyz,

I'm writing to you as our local representative in parliament to ask you to support our campaign for ratification of the International Labour Convention number 176 on Safety and Health in Mines.

This convention was adopted by the ILO in 1995. Nearly 15 years later, we've not had a serious discussion in our country about this convention and how it could help improve standards in our mines.

Mining is an important industry in our country, and an important source of employment. [Insert the number] miners work in the area that you represent in parliament. Their work is hard and dangerous. International research shows that more than 70 per cent of all accidents are preventable.

If the convention was to be ratified, it will be necessary to amend our existing legislation on health and safety in mines; we will be happy to support a process of social dialogue to bring about such amendments. Twenty-three countries have already adopted the convention, including several developing countries.

May I request that you raise this question in Parliament? We will be happy to provide you with more detailed information about the convention and the issue of health and safety in mines.

Yours sincerely,

xyz, General Secretary/President, [miners union, ----- branch]

CHECKLIST ON RATIFICATION

- Contact the relevant ministry (it is usually the Ministry of Labour) and ask for a discussion on the convention and reasons for non-ratification
- Contact "friendly" Members of Parliament and discuss the matter with them; try to obtain written support
- Ask a member of parliament to sponsor a motion for debate about the convention
- Many parliaments have a standing committee dealing with a Labour and employment issues. These committees hold enquiries from time to time. You could seek to have a special enquiry into occupational safety and the mines.
- Local union branches should write to their local MP
- Talk to other mining unions and national centres to get agreement
- Talk to the employers and see if their Organization has a view on ratification of the convention. Even if the answer is negative, then at least you are prepared
- Ask the Ministry of Labour to organize a tripartite meeting to discuss ratification. Or call for an ILO tripartite workshop
- Launch a public campaign, using the news media
- Your area ILO office and ACTRAV specialist on Workers Activities can help you

AFTER RATIFICATION

When a country ratifies the convention that is a great victory for mineworkers. Well done!

But the task is not over yet. The government now has to make sure that legislation or practice conforms to the convention. Thus discussions must be held on amendments to any Mines Safety laws or legal codes, or instructions to/ terms of reference of the Mines Inspectorate.

From a study of the records of the ILO, it is clear that many governments that have ratified the convention have not yet made the necessary changes to the law on health and safety in mines.

For example, in the 2006 report of the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR), there is a discussion on how Portugal, which ratified the convention in 2002, has modified its law. Portugal had submitted its first report on the steps taken to implement the convention.

The General Confederation of Portuguese workers (CGTP) made a number of observations. The CGTP considered that the government had failed to implement the provisions in the convention including:

- **Evacuation of workers to a safe place**
- **Insuring the workplace is our healthy and safe**
- **Rules for health and safety representatives and their rights**
- **Measures to maintain the stability of the ground**
- **Regular inspection of mines**

The Committee, using very diplomatic language, requests the government for more information, or reminds the government of a particular provision in the convention. For example, on the question of evacuation of workers, the report noted that the committee "reminds the Government that according to Article 10, paragraph (c), of the Convention, a system must be established so that the names of all persons who are underground can be accurately known at any time, as well as their probable location. The Committee requests the Government to indicate the measures taken or envisaged to ensure that this Article of the Convention is fully applied."

There is no question that this process is slow, but over the years the committee will press the government to bring its legislation into line with the convention.

WHAT THE ILO EXPERTS THINK

The report by the CEACR (and remember, these are independent legal experts) also refers to a number of requests for information from governments where it sought clarification. Although the wording of the request is specific to each instance, we can recognize that from a review of the reports, some main areas exist, where governments seem to experience difficulties in providing enough evidence that their laws are in line with the convention. These are:

- **the provision of technical standards, guidelines and codes of practice to supplement national laws and regulations (article 4 (2));**
- **the safe storage, transportation and disposal of hazardous substances used in the mining process and waste produced at the mine; (article 5 (4) (d));**
- **article 5, clause 5, on the preparation of plans of workings before the start of operations, and their regular revision;**
- **article 7, especially clauses a and b: “that the mine is designed, constructed and provided with electrical, mechanical and other equipment, including a communication system, to provide conditions for safe operation and a healthy working environment; and ensure that the mine is commissioned, operated, maintained and decommissioned in such a way that workers can perform the work assigned to them without endangering their safety and health or that of other persons;”**
- **article 13, which is about the rights of workers and the rights of workers safety representatives.**

TECHNICAL ASSISTANCE: COULD IT HELP WITH COMPLIANCE?

One argument that the government may use for NOT ratifying the convention is that it would be ‘too difficult’, that it would take too much time of inspectors or ministry staff to draft the legislation, to do all the necessary training, to buy equipment.

This may be a genuine concern on the part of the government. One answer to this is that the procedure does give governments some time to comply. The convention comes into force only one year after ratification by member state. So this allows time for the process of changing law. Another point is that the union can help with the drafting.

The ILO will consider offering help to member states to assist in meeting the standards laid down in the convention. This is called technical assistance in the ILO (and United Nations system as a whole). Technical Assistance can take several forms, for example:

- **a short term assignment (say a few months) of an experienced inspector or ILO consultant to help with drafting national laws or regulations;**
- **a longer term project which would help with training or equipment;**
- **finance to run workshops on the convention / new national laws;**
- **finance to send a team from our country to others to study the operation of the convention / laws there.**

To get ILO support, a request will have to be made. Such requests are typically submitted by the government and ideally backed by a tripartite agreement.

Before engaging in this procedure, it might be important for you to talk to IndustriALL HQ or your regional IndustriALL coordinator; they will be able to help you on how best to approach the ILO and the steps ideally to be taken to ensure that your government and the employers will back you.

LEARNING EXERCISE: PLANNING A TECHNICAL CO-OPERATION PROJECT

AIMS: To think about the design of a project to meet the standards of convention 176.

TASK: In your group, decide what should be the main components of a project which would help the mining industry in your country conform to the Convention 176.

Think about:

- assistance in drafting new law
- training for inspectors, employers safety officers, workers representatives
- equipment for testing. What already exists, what more is needed?
- building up institutions and capacity - e.g. mines research, mines rescue, testing of equipment

Some helpful pointers:

- **A tripartite committee should draw up and approve any project proposal to the ILO.**
- **Make sure the project has a proper tripartite committee to administer it. The committee must meet regularly. Appoint people to the committee from the union who really will be able to attend and play an active part in the proceedings. When choosing a representative, that person does not need to be a mining engineer. The ideal spokesperson is a union member that will fight for his/her union and understand the OSH issues to be addressed.**
- **The project should include a component on training for workers' safety representatives. Demand clear agreement that this will be carried out by a trade union specialist and that the union will have to approve the person asked to do this work. (What will happen otherwise is that a person who is not a trade union educator will be appointed to train the workers safety representatives.)**
- **The project should have as a clear aim the ratification of the convention or, as second best, the modification of laws to comply with the convention.**
- **The project should not involve sending large numbers of Ministry officials or senior members of the mines inspectorate abroad; there should be no visits to countries which have not ratified the convention. Again, you can check with the IndustriALL about which countries might be suitable for a study visit.**

Try to give as much detail as you can.

THE CONVENTION AND NATIONAL LAW

At this point, the following exercise should be useful. It should show what changes should be made to national legislation on safety and health in mines. It looks long and complicated. In fact, it is simple, though it may take some time. Divide up the work amongst several groups. This exercise should also be done on the tripartite workshop, if you are successful in getting one organized.

LEARNING EXERCISE: COMPARING THE CONVENTION AND THE LAW

AIM: To help you compare the standards in the convention and your present law.

TASK: You will be asked to work in small groups. Each group will take one part of the convention. The main provisions are restated in the boxes, but you should refer to the actual text in the convention if you can. Compare what the convention states with your current law. Quote the exact section or part of the law which corresponds, if any. It is possible that there will be no corresponding part of your national law. In the final box, suggest the wording for a clause to be added or amended in your national law.

Note: SH is an abbreviation for "Safety and Health" in the boxes

**PART I:
COVERS DEFINITIONS**

ARTICLE 1: DEFINITIONS. DEFINITION OF MINE INCLUDES....

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
1(a)(i) surface or underground site where there is exploration for minerals including oil and gas, that involves disturbance of ground;		
1(a)(ii) extraction of minerals (gas and oil included)		
1(a)(iii) preparation, including crushing, grinding concentration or washing of extracted material		
1(b) All machinery equipment, appliances, civil engineering structures used		
2 Employer defined as any physical or legal person who employs one or more workers in a mine; can include contractors, or 'the operator'		

**PART II:
OF THE CONVENTION (ARTICLES 2-5)
COVERS THE SCOPE AND MEANS OF APPLICATION**

ARTICLE 2: EXCLUSIONS. GOVERNMENT CAN EXCLUDE CERTAIN MINES WHEN IT RATIFIES CONVENTION (BUT MUST CONSULT WITH UNIONS AND EMPLOYERS)

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
2 (a) Certain categories of mine can be excluded if law provides same or higher level of protection than convention if applied in full.		
2 (b) But must make plans for progressively covering all mines excluded		
3 Government must report to the ILO on categories of mine it excludes		

ARTICLE 3: COHERENT NATIONAL POLICY

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
In the light of national conditions, and after consulting unions and employers, <i>Gov't must formulate, carry out and periodically review a coherent national policy on safety and health in mines, especially with regard to measures to give effect to the Convention</i>		

ARTICLE 4: MEASURES FOR ENFORCING CONVENTION

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
1 measures for ensuring application of convention shall be prescribed by national laws and regulations		
2 (a) Laws and regulations shall be supplemented by technical standards, guideline or codes		
2 (b) Laws and regulations shall be supplemented by other means of application		

ARTICLE 5: NATIONAL LAWS: WHAT SHOULD BE INCLUDED

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
1 Law shall designate a competent authority to monitor and regulate SH in mines. The law shall provide for....		
2 (a) the supervision of SH in mines		
2 (b) mines inspection		
2 (c) procedures for reporting accidents, dangerous occurrences and disasters		
2 (d) compilation and publication of statistics		
2 (e) power of competent authority to suspend or restrict mining activities		
2 (f) effective procedures for implementation of rights of workers and their representatives to be consulted and participate in measures relating to SH.		
3 Authorised and competent persons shall directly supervise the manufacture, storage, use of explosives and initiating devices at mines.		
4 (a) Laws shall specify mines rescue, first aid and medical facilities		
4 (b) Self rescuers must be provided in underground coal mines and if necessary other u/ground mines.		
4 (c) Abandoned mine workings must be protected to eliminate or minimise risks to SH		
4 (d) Hazardous substances used in them mines and waste produced in them shall be safely stored, transported and disposed of.		
4 (e) Sanitary conveniences, and facilities to wash, change and eat shall be provide an maintained in hygienic condition.		
5 Employers shall ensure plans of workings are prepared before start of operations and are updated and are kept available at the site.		

**PART III A:
OF THE CONVENTION (ARTICLES 6-12)
COVERS THE PREVENTATIVE AND PROTECTIVE MEASURES AT THE MINE -
RESPONSIBILITIES OF EMPLOYERS**

ARTICLE 6: EMPLOYER MUST ASSESS RISKS AND USE AN ORDER OF PRIORITY OF CONTROL MEASURES.

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
Employers must assess risks in the mine and deal with them in the following order		
(a) eliminate the risk		
(b) control the risk at source		
(c) minimise the risk by means including design of safe working systems		
(d) provision of PPE, if any risk remains		

ARTICLE 7: EMPLOYERS MUST TAKE ALL NECESSARY MEASURES TO ELIMINATE OR REDUCE RISKS, IN PARTICULAR.....

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
(a) mine must be designed, constructed and provided with electrical, mechanical & other equipment, including communications to provide safe conditions		
(b) the mine must be commissioned, operated, maintained and decommissioned in such a way that workers can work without endangering themselves or other workers		
(c) maintain the stability of the ground in areas to which persons have access		
(d) provide two exits from underground workplaces, each connected to separate means of escape (if practicable)		
(e) ensure monitoring, assessment and regular inspection of the working environment to identify hazards and assess workers level of exposure		
(f) ensure adequate ventilation of underground workings		
(g) where there may be particular hazards, draw up and implement an operating plan to ensure a safe system of work		
(h) prevent, detect and combat the start and spread of fires an explosions		
(l) where there is serious danger to workers, stop operations and evacuate workers to a safe place		

ARTICLE 8: EMPLOYER MUST PREPARE EMERGENCY PLAN

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
The employer shall prepare an emergency response plan, specific to the mine, for reasonable industrial and natural disasters		

ARTICLE 9: EMPLOYERS DUTY TOWARDS WORKERS. WHERE WORKERS ARE EXPOSED TO PHYSICAL, CHEMICAL OR BIOLOGICAL HAZARDS, EMPLOYERS SHALL...

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
(a) Inform the workers of the hazards, health risk involved and relevant measures for prevention an protection		
(b) take appropriate measures to eliminate or minimise the risks		
(c) where there in no alternative provide and maintain suitable PPE at no cost to workers		
(d) provide first aid, appropriate transportation and medical treatment to injured workers		

ARTICLE 10: THE EMPLOYER SHALL ENSURE THAT....

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
(a) adequate training and retraining is provided, and understandable instructions to workers		
(b) adequate supervision and control on each shift to ensure safe operation of the mine		
(c) there is a system so names of all persons who are underground can be known at any time, as well as their probable location;		
(d) all accidents and dangerous occurrences, as defined by national law, are investigated, and appropriate action taken;		
(e) reports to be made to the competent authority on accidents and dangerous occurrences		

ARTICLE 11: HEALTH SURVEILLANCE

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
Following good principles of occupational health, there shall be regular health surveillance of workers		

ARTICLE 12: TWO EMPLOYERS AT THE SAME MINE

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
If two or more employers undertake activities at the same mine, one of them shall coordinate implementation of measures concerning SH and be 'primarily responsible' for safety. This does not relieve employers of their legal responsibility		

**PART III B:
(ARTICLES 13-14) COVERS THE PREVENTATIVE AND PROTECTIVE MEASURES AT THE MINE - RIGHTS AND DUTIES OF WORKERS AND THEIR REPRESENTATIVES**

ARTICLE 13: WORKERS RIGHTS

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
(a) to report accidents, dangerous occurrences and hazards to the employer and competent authority		
(b) to ask for inspections and investigations to be conducted by the employer or competent authority		
(c) to know and be informed of workplace hazards that may effect their safety or health		
(d) to obtain information, relevant to their safety or health, held by the employer or competent authority		
(e) to remove themselves if there is a serious risk to their SH		
(f) to elect safety and health representatives		

ARTICLE 13: SAFETY REPRESENTATIVES RIGHTS...

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
(a) to represent workers on all aspects of workplace safety and health, including exercise of all the workers rights in part 1 of Article 13		
(b) (i) to participate in inspections and investigations conducted by employer and competent authority		
(b) (ii) monitor and investigate safety and health matters		
(c) to have recourse to advisers and independent experts		
(d) to consult with the employer on safety and health, including policies and procedures		
(e) to consult with the competent authority		
(f) to receive notice of accidents and dangerous occurrences		

ARTICLE 13: IMPLEMENTATION OF THE WORKERS AND SAFETY REPRESENTATIVES' RIGHTS. PROCEDURES FOR IMPLEMENTING THE RIGHTS...

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
(a) shall be specified by laws and regulations		
(b) through consultation between employers workers and unions		
(4) Law shall ensure that rights can be exercise without discrimination or retaliation		

ARTICLE 14: WORKERS DUTIES...

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
(a) to comply with prescribed SH measures		
(b) to take reasonable care for their own SH and other persons who may be effected by their actions (or non actions) including care and use of PPE		
(c) to report to their supervisor any situation which could present a risk to their SH or any other person's SH, which they cannot deal with themselves		
(d) to co-operate with the employer to permit compliance with the convention.		

ARTICLE 15: CO-OPERATION

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
Measures shall be taken to encourage co-operation between employers, workers and their unions.		

**PART IV:
IMPLEMENTATION**

ARTICLE 16: IMPLEMENTATION. THE GOVERNMENT SHALL...

WHAT THE CONVENTION SAYS	WHAT THE LAW SAYS	CHANGE NEEDED
(a) take all measures, including penalties and corrective measures, to ensure effective enforcement of the convention		
(b) provide inspection services to supervise the measures and to give the inspectorate enough resources.		

COLLECTIVE BARGAINING FOR SAFETY

In situations where a government has not yet ratified the Convention 176, miners' unions can still use collective-bargaining as a means to achieve the same standards. There is no reason why a mining company cannot agree to follow the provisions of the convention and recommendation.

IndustriALL has negotiated framework agreements with a number of companies. They cover good human and industrial relations as well as health and safety.

In common with many other framework agreements between the global union federations and multinational companies, there are specific references to the eight core ILO conventions. They contain a joint commitment to respect the following principles and values:

- the provision of a safe and healthy working environment by the application of industry best practice;
- the conduct of mining operations with proper regard for the environment and for the health and safety of all those involved, and the public at large

This will be a good basis for national level unions to negotiate with any company on the provisions of ILO convention 176.

At the national level, particularly in situations where national level bargaining exists, a direct commitment to implement ILO conventions can also be written into collective agreements. An example is the national Memorandum of Agreement for the steel industry in India. It has a section on health and safety. Note especially paragraph 7.2 h (see box).

7. HEALTH AND SAFETY AT WORK

7.1 Both management and unions are committed to create a healthy and safe working environment for all employees in the Steel Industry and jointly promote effective functioning of bipartite forums and statutory committees.

7.2 DUTIES OF MANAGEMENT

The management will provide the necessary environment for the health and safety of all the employees at their work place and agrees to:-

- a) provide and maintain a safe plant and healthy working atmosphere and to take appropriate measures to improve quality of work and work life of all employees;
- b) train and supervise employees with respect to safe working procedures and health care;
- c) provide all information to employees and the unions regarding hazards to health and safety at work;
- d) provide health assessment and surveillance of all employees on a continuing basis;
- e) provide safe systems of work;
- f) provide safe place of work;
- g) provide required safety appliances; and
- h) ensure implementation and compliance of the statutory provisions on the safety, health and environment and with ILO Health and Safety recommendations.

FUTURE PLANS

You should now be ready to start planning for a campaign of ratification.

ACTIVITY:
PLANNING YOUR CAMPAIGN:
THE NEXT STEPS

AIMS: To plan your ratification campaign.

TASK: In your group, draw up a report on how the union can campaign for ratification. It should cover these stages:

The situation now: has the government taken any steps, as obliged under the ILO Constitution? Has the ILO in your country taken any action?

What action should the union now take? What allies exist who may join in the demands for ratification?

What about other unions in mining in your country? Has there been any co-operation on this question? If not, is it possible? A joint union campaign will be much more effective.

APPENDIX 1: RATIFICATIONS OF ILO CONVENTION 176

SOURCE: ILO NORMLEX 19.12.2017

COUNTRY	RATIFICATION DATE
Albania	03:03:2003
Armenia	27:04:1999
Austria	26:05:1999
Belgium	02:10:2012
Bosnia and Herzegovina	04:02:2010
Botswana	05:06:1997
Brazil	18:05:2006
Czech Republic	09:10:2000
Finland	09:06:1997
Germany	06:09:1998
Guinea	25:04:2018
Ireland	09:06:1998
Lebanon	23:02:2000
Luxembourg	08:04:2008
Mongolia	26:11:2015
Morocco	04:06:2013
Norway	11:06:1999
Peru	19:06:2008
Philippines	27:02:1998
Poland	25:06:2001
Portugal	25:03:2002
Russian Federation	19:07:2013
Slovakia	03:06:1998
South Africa	09:06:2000
Spain	22:05:1997
Sweden	09:06:1997
Turkey	23:03:2015
Ukraine	15:06:2011
United States	09:02:2001
Uruguay	05:06:2014
Zambia	04:01:1999
Zimbabwe	09:04:2003

APPENDIX 2: FURTHER INFORMATION

For more detailed information on International Labour Standards, read *Rules of the Game: A brief introduction to International Labour Standards* (Geneva 2005).

CODES OF PRACTICE

Although they are not international standards, it is useful to know about codes of practice. The ILO Governing Body can decide to set up a team of experts to develop a code of practice in certain fields. The texts of codes of practice are approved by the Governing Body, so they carry great weight, but they are not binding. Codes of practice provide guidance for government, employers and workers in the field of occupational safety and health. Some ILO Codes of practice especially relevant to mining are:

- **Guide to the prevention and suppression of dust in mining, tunnelling and quarrying. Geneva 1965.**
- **Model code of safety regulations for underground work in coal mines for the guidance of governments and of the coal-mining industry. Geneva. 1950.**
- **Prevention of accidents due to electricity underground in coal mines. Geneva 1959.**
- **Prevention of accidents due to fires underground in coal mines. Geneva 1959.**
- **Prevention of accidents due to explosions underground in coal mines. Geneva 1974.**
- **Protection of workers against noise and vibration in the working environment. Geneva 1977.**
- **Safety and health in coal mines. Geneva 1986.**
- **Safety and health in opencast mines. Geneva 1991**
- **Code of practice on safety and health in underground coal mines. Geneva, 2006**

APPENDIX 3: THE COMPLETE TEXT OF CONVENTION 176

C176 SAFETY AND HEALTH IN MINES CONVENTION, 1995

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 Eighty-Second Session on 6 June 1995, and

Noting the relevant International Labour Conventions and Recommendations and, in particular, the Abolition of Forced Labour Convention, 1957; the Radiation Protection Convention and Recommendation, 1960; the Guarding of Machinery Convention and Recommendation, 1963; the Employment Injury Benefits Convention and Recommendation, 1964; the Minimum Age (Underground Work) Convention and Recommendation, 1965; the Medical Examination of Young Persons (Underground Work) Convention, 1965; the Working Environment (Air Pollution, Noise and Vibration) Convention and Recommendation, 1977; the Occupational Safety and Health Convention and Recommendation, 1981; the Occupational Health Services Convention and Recommendation, 1985; the Asbestos Convention and Recommendation, 1986; the Safety and Health in Construction Convention and Recommendation, 1988; the Chemicals Convention and Recommendation, 1990; and the Prevention of Major Industrial Accidents Convention and Recommendation, 1993, and

Considering that workers have a need for, and a right to, information, training and genuine consultation on and participation in the preparation and implementation of safety and health measures concerning the hazards and risks they face in the mining industry, and

Recognizing that it is desirable to prevent any fatalities, injuries or ill health affecting workers or members of the public, or damage to the environment arising from mining operations, and

Having regard to the need for cooperation between the International Labour Organization, the World Health Organization, the International Atomic Energy Agency and other relevant institutions and noting the relevant instruments, codes of practice, codes and guidelines issued by these organizations, and

Having decided upon the adoption of certain proposals with regard to safety and health in mines, 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-second day of June of the year one thousand nine hundred and ninety-five the following Convention, which may be cited as the Safety and Health in Mines Convention, 1995:

PART I. DEFINITIONS

ARTICLE 1

1. For the purpose of this Convention, the term mine covers -
 - (a) surface or underground sites where the following activities, in particular, take place:
 - (i) exploration for minerals, excluding oil and gas, that involves the mechanical disturbance of the ground;
 - (ii) extraction of minerals, excluding oil and gas;
 - (iii) preparation, including crushing, grinding, concentration or washing of the extracted material; and
 - (b) all machinery, equipment, appliances, plant, buildings and civil engineering structures used in conjunction with the activities referred to in (a) above.
2. For the purpose of this Convention, the term employer means any physical or legal person who employs one or more workers in a mine and, as the context requires, the operator, the principal contractor, contractor or subcontractor.

PART II. SCOPE AND MEANS OF APPLICATION

ARTICLE 2

1. This Convention applies to all mines.
2. After consultations with the most representative organizations of employers and workers concerned, the competent authority of a Member which ratifies the Convention:
 - (a) may exclude certain categories of mines from the application of the Convention, or certain provisions thereof, if the overall protection afforded at these mines under national law and practice is not inferior to that which would result from the full application of the provisions of the Convention;
 - (b) shall, in the case of exclusion of certain categories of mines pursuant to clause (a) above, make plans for progressively covering all mines.
3. A Member which ratifies the Convention and avails itself of the possibility afforded in paragraph 2(a) above shall indicate, in its reports on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organization, any particular category of mines thus excluded and the reasons for the exclusion.

ARTICLE 3

In the light of national conditions and practice and after consultations with the most representative organizations of employers and workers concerned, the Member shall formulate, carry out and periodically review a coherent policy on safety and health in mines, particularly with regard to the measures to give effect to the provisions of the Convention.

ARTICLE 4

1. The measures for ensuring application of the Convention shall be prescribed by national laws and regulations.
2. Where appropriate, these national laws and regulations shall be supplemented by:
 - (a) technical standards, guidelines or codes of practice; or
 - (b) other means of application consistent with national practice, as identified by the competent authority.

ARTICLE 5

1. National laws and regulations pursuant to Article 4, paragraph 1, shall designate the competent authority that is to monitor and regulate the various aspects of safety and health in mines.
2. Such national laws and regulations shall provide for:
 - (a) the supervision of safety and health in mines;
 - (b) the inspection of mines by inspectors designated for the purpose by the competent authority;
 - (c) the procedures for reporting and investigating fatal and serious accidents, dangerous occurrences and mine disasters, each as defined by national laws or regulations;
 - (d) the compilation and publication of statistics on accidents, occupational diseases and dangerous occurrences, each as defined by national laws or regulations;
 - (e) the power of the competent authority to suspend or restrict mining activities on safety and health grounds, until the condition giving rise to the suspension or restriction has been corrected; and
 - (f) the establishment of effective procedures to ensure the implementation of the rights of workers and their representatives to be consulted on matters and to participate in measures relating to safety and health at the workplace.
3. Such national laws and regulations shall provide that the manufacture, storage, transport and use of explosives and initiating devices at the mine shall be carried out by or under the direct supervision of competent and authorized persons.
4. Such national laws and regulations shall specify:
 - (a) requirements relating to mine rescue, first aid and appropriate medical facilities;
 - (b) an obligation to provide and maintain adequate self-rescue respiratory devices for workers in underground coal mines and, where necessary, in other underground mines;
 - (c) protective measures to secure abandoned mine workings so as to eliminate or minimize risks to safety and health;
 - (d) requirements for the safe storage, transportation and disposal of hazardous substances used in the mining process and waste produced at the mine; and
 - (e) where appropriate, an obligation to supply sufficient sanitary conveniences and facilities to wash, change and eat, and to maintain them in hygienic condition.
5. Such national laws and regulations shall provide that the employer in charge of the mine shall ensure that appropriate plans of workings are prepared before the start of operation and, in the event of any significant modification, that such plans are brought up to date periodically and kept available at the mine site.

PART III. PREVENTIVE AND PROTECTIVE MEASURES AT THE MINE

A. RESPONSIBILITIES OF EMPLOYERS

ARTICLE 6

In taking preventive and protective measures under this Part of the Convention the employer shall assess the risk and deal with it in the following order of priority:

- (a) eliminate the risk;
- (b) control the risk at source;
- (c) minimize the risk by means that include the design of safe work systems; and
- (d) in so far as the risk remains, provide for the use of personal protective equipment,

having regard to what is reasonable, practicable and feasible, and to good practice and the exercise of due diligence.

ARTICLE 7

Employers shall take all necessary measures to eliminate or minimize the risks to safety and health in mines under their control, and in particular:

- (a) ensure that the mine is designed, constructed and provided with electrical, mechanical and other equipment, including a communication system, to provide conditions for safe operation and a healthy working environment;
- (b) ensure that the mine is commissioned, operated, maintained and decommissioned in such a way that workers can perform the work assigned to them without endangering their safety and health or that of other persons;
- (c) take steps to maintain the stability of the ground in areas to which persons have access in the context of their work;
- (d) whenever practicable, provide, from every underground workplace, two exits, each of which is connected to separate means of egress to the surface;
- (e) ensure the monitoring, assessment and regular inspection of the working environment to identify the various hazards to which the workers may be exposed and to assess their level of exposure;
- (f) ensure adequate ventilation for all underground workings to which access is permitted;
- (g) in respect of zones susceptible to particular hazards, draw up and implement an operating plan and procedures to ensure a safe system of work and the protection of workers;
- (h) take measures and precautions appropriate to the nature of a mine operation to prevent, detect and combat the start and spread of fires and explosions; and

- (l) ensure that when there is serious danger to the safety and health of workers, operations are stopped and workers are evacuated to a safe location.

ARTICLE 8

The employer shall prepare an emergency response plan, specific to each mine, for reasonably foreseeable industrial and natural disasters.

ARTICLE 9

Where workers are exposed to physical, chemical or biological hazards the employer shall:

- (a) inform the workers, in a comprehensible manner, of the hazards associated with their work, the health risks involved and relevant preventive and protective measures;
- (b) take appropriate measures to eliminate or minimize the risks resulting from exposure to those hazards;
- (c) where adequate protection against risk of accident or injury to health including exposure to adverse conditions, cannot be ensured by other means, provide and maintain at no cost to the worker suitable protective equipment, clothing as necessary and other facilities defined by national laws or regulations; and
- (d) provide workers who have suffered from an injury or illness at the workplace with first aid, appropriate transportation from the workplace and access to appropriate medical facilities.

ARTICLE 10

The employer shall ensure that:

- (a) adequate training and retraining programmes and comprehensible instructions are provided for workers at no cost to them on safety and health matters as well as on the work assigned;
- (b) in accordance with national laws and regulations, adequate supervision and control are provided on each shift to secure the safe operation of the mine;
- (c) a system is established so that the names of all persons who are underground can be accurately known at any time, as well as their probable location;
- (d) all accidents and dangerous occurrences, as defined by national laws or regulations, are investigated and appropriate remedial action is taken; and
- (e) a report, as specified by national laws and regulations, is made to the competent authority on accidents and dangerous occurrences.

ARTICLE 11

On the basis of general principles of occupational health and in accordance with national laws and regulations, the employer shall ensure the provision of regular health surveillance of workers exposed to occupational health hazards specific to mining.

ARTICLE 12

Whenever two or more employers undertake activities at the same mine, the employer in charge of the mine shall coordinate the implementation of all measures concerning the safety and health of workers and shall be held primarily responsible for the safety of the operations. This shall not relieve individual employers from responsibility for the implementation of all measures concerning the safety and health of their workers.

B. RIGHTS AND DUTIES OF WORKERS AND THEIR REPRESENTATIVES**ARTICLE 13**

1. Under the national laws and regulations referred to in Article 4, workers shall have the following rights:
 - (a) to report accidents, dangerous occurrences and hazards to the employer and to the competent authority;
 - (b) to request and obtain, where there is cause for concern on safety and health grounds, inspections and investigations to be conducted by the employer and the competent authority;
 - (c) to know and be informed of workplace hazards that may affect their safety or health;
 - (d) to obtain information relevant to their safety or health, held by the employer or the competent authority;
 - (e) to remove themselves from any location at the mine when circumstances arise which appear, with reasonable justification, to pose a serious danger to their safety or health; and
 - (f) to collectively select safety and health representatives.
2. The safety and health representatives referred to in paragraph 1(f) above shall, in accordance with national laws and regulations, have the following rights:
 - (a) to represent workers on all aspects of workplace safety and health, including where applicable, the exercise of the rights provided in paragraph 1 above;
 - (b) to:
 - (i) participate in inspections and investigations conducted by the employer and by the competent authority at the workplace; and
 - (ii) monitor and investigate safety and health matters;
 - (c) to have recourse to advisers and independent experts;
 - (d) to consult with the employer in a timely fashion on safety and health matters, including policies and procedures;

- (e) to consult with the competent authority; and
- (f) to receive, relevant to the area for which they have been selected, notice of accidents and dangerous occurrences.

3. Procedures for the exercise of the rights referred to in paragraphs 1 and 2 above shall be specified:
 - (a) by national laws and regulations; and
 - (b) through consultations between employers and workers and their representatives.
4. National laws and regulations shall ensure that the rights referred to in paragraphs 1 and 2 above can be exercised without discrimination or retaliation.

ARTICLE 14

Under national laws and regulations workers shall have the duty, in accordance with their training:

- (a) to comply with prescribed safety and health measures;
- (b) to take reasonable care for their own safety and health and that of other persons who may be affected by their acts or omissions at work, including the proper care and use of protective clothing, facilities and equipment placed at their disposal for this purpose;
- (c) to report forthwith to their immediate supervisor any situation which they believe could present a risk to their safety or health or that of other persons, and which they cannot properly deal with themselves; and
- (d) to cooperate with the employer to permit compliance with the duties and responsibilities placed on the employer pursuant to the Convention.

C. COOPERATION**ARTICLE 15**

Measures shall be taken, in accordance with national laws and regulations, to encourage cooperation between employers and workers and their representatives to promote safety and health in mines.

PART IV. IMPLEMENTATION**ARTICLE 16**

The Member shall:

- (a) take all necessary measures, including the provision of appropriate penalties and corrective measures, to ensure the effective enforcement of the provisions of the Convention; and
- (b) provide appropriate inspection services to supervise the application of the measures to be taken in pursuance of the Convention and provide these services with the resources necessary for the accomplishment of their tasks.

PART V. FINAL PROVISIONS

ARTICLE 17

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

ARTICLE 18

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.
2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

ARTICLE 19

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 20

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

ARTICLE 21

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

ARTICLE 22

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 23

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 19 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 24

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

APPENDIX 4: THE COMPLETE TEXT OF RECOMMENDATION 183

RECOMMENDATION CONCERNING SAFETY AND HEALTH IN MINES

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 Eighty-second Session on 6 June 1995, and

Noting the relevant international labour Conventions and Recommendations and, in particular, the Abolition of Forced Labour Convention, 1957; the Radiation Protection Convention and Recommendation, 1960; the Guarding of Machinery Convention and Recommendation, 1963; the Employment Injury Benefits Convention and Recommendation, 1964; the Minimum Age (Underground Work) Convention and Recommendation, 1965; the Medical Examination of Young Persons (Underground Work) Convention, 1965; the Working Environment (Air Pollution, Noise and Vibration) Convention and Recommendation, 1977; the Occupational Safety and Health Convention and Recommendation, 1981; the Occupational Health Services Convention and Recommendation, 1985; the Asbestos Convention and Recommendation, 1986; the Safety and Health in Construction Convention and Recommendation, 1988; the Chemicals Convention and Recommendation, 1990; and the Prevention of Major Industrial Accidents Convention and Recommendation, 1993, and

Considering that workers have a need for, and a right to, information, training and genuine consultation on and participation in the preparation and implementation of safety and health measures concerning the hazards and risks they face in the mining industry, and

Recognizing that it is desirable to prevent any fatalities, injuries or ill health affecting workers or members of the public or damage to the environment arising from mining operations, and

Having regard to the need for cooperation between the International Labour Organization, the World Health Organization, the International Atomic Energy Agency and other relevant institutions and noting the relevant instruments, codes of practice, codes and guidelines issued by these organizations, and

Having decided upon the adoption of certain proposals with regard to safety and health in mines, 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 Safety and Health in Mines Convention;

adopts this twenty-second day of June of the year one thousand nine hundred and ninety-five the following Recommendation, which may be cited as the Safety and Health in Mines Recommendation, 1995:

I. GENERAL PROVISIONS

1. The provisions of this Recommendation supplement those of the Safety and Health in Mines Convention, 1995 (hereafter referred to as "the Convention"), and should be applied in conjunction with them.
2. This Recommendation applies to all mines.
3. (1) In the light of national conditions and practice and after consultation with the most representative organizations of employers and workers concerned, a Member should formulate, carry out and periodically review a coherent policy on safety and health in mines.

(2) The consultations provided for by Article 3 of the Convention should include consultations with the most representative organizations of employers and workers on the effect of the length of working hours, night work and shift work on workers' safety and health. After such consultations, the Member should take the necessary measures in relation to working time and, in particular, to maximum daily working hours and minimum daily rest periods.
4. The competent authority should have properly qualified and trained staff with the appropriate skills, and sufficient technical and professional support, to inspect, investigate, assess and advise on the matters dealt with in the Convention and to ensure compliance with national laws and regulations.

5. Measures should be taken to encourage and promote:
 - (a) research into and exchange of information on safety and health in mines at the national and international level;
 - (b) specific assistance by the competent authority to small mines with a view to:
 - (i) assisting in transfer of technical know-how;
 - (ii) establishing preventive safety and health programmes; and
 - (iii) encouraging cooperation and consultation between employers and workers and their representatives; and
 - (c) programmes or systems for the rehabilitation and reintegration of workers who have sustained occupational injuries or illnesses.
6. Requirements relating to the supervision of safety and health in mines pursuant to Article 5, paragraph 2, of the Convention should, where appropriate, include those concerning:
 - (a) certification and training;
 - (b) inspection of the mine, mining equipment and installations;
 - (c) supervision of the handling, transportation, storage and use of explosives and of hazardous substances used or produced in the mining process;
 - (d) performance of work on electrical equipment and installations; and
 - (e) supervision of workers.
7. Requirements pursuant to Article 5, paragraph 4, of the Convention, could provide that the suppliers of equipment, appliances, hazardous products and substances to the mine should ensure their compliance with national standards on safety and health, label products clearly and provide comprehensible information and instructions.
8. Requirements relating to mine rescue and first aid pursuant to Article 5, paragraph 4(a), of the Convention and to appropriate medical facilities for emergency care could cover:
 - (a) organizational arrangements;
 - (b) equipment to be provided;
 - (c) standards for training;
 - (d) training of workers and participation in drills;
 - (e) the appropriate number of trained persons to be available;
 - (f) an appropriate communication system;
 - (g) an effective system to give warning of danger;
 - (h) provision and maintenance of means of escape and rescue;
 - (i) establishment of a mine rescue team or teams;
 - (j) periodic medical assessment of suitability of, and regular training for, the persons on the mine rescue team or teams;
 - (k) medical attention and transportation to receive medical attention, both at no cost to workers who have suffered an injury or illness at the workplace;
 - (l) coordination with local authorities;
 - (m) measures to promote international cooperation in this field.
9. Requirements pursuant to Article 5, paragraph 4(b), of the Convention, could cover the specifications and standards of the type of self-rescuers to be provided and, in particular, in the case of mines susceptible to gas outbursts and other mines where appropriate, the provision of self-contained respiratory devices.
10. National laws and regulations should prescribe measures for the safe use and maintenance of remote control equipment.
11. National laws and regulations should specify that the employer should take appropriate measures for the protection of workers working alone or in isolation.

II. PREVENTIVE AND PROTECTIVE MEASURES AT THE MINE

12. Employers should undertake hazard assessment and risk analysis and then develop and implement, where appropriate, systems to manage the risk.
13. In order to maintain the stability of the ground, in accordance with Article 7(c) of the Convention, the employer should take all appropriate measures to:
- monitor and control the movement of strata;
 - as may be necessary, provide effective support of the roof, sides and floor of the mine workings, except for those areas where the mining methods selected allow for the controlled collapse of the ground;
 - monitor and control the sides of surface mines to prevent material from falling or sliding into the pit and endangering workers; and
 - ensure that dams, lagoons, tailings and other such impoundments are adequately designed, constructed and controlled to prevent dangers from sliding material or collapse.
14. Pursuant to Article 7(d) of the Convention, separate means of egress should be as independent of each other as possible; arrangements should be made and equipment provided for the safe evacuation of workers in case of danger.
15. Pursuant to Article 7(f) of the Convention, all underground mine workings to which workers have access, and other areas as necessary, should be ventilated in an appropriate manner to maintain an atmosphere:
- in which the risk of explosions is eliminated or minimized;
 - in which working conditions are adequate, having regard to the working method being used and the physical demands placed on the workers; and
 - that complies with national standards on dusts, gases, radiation and climatic conditions; where national standards do not exist, the employer should give consideration to international standards.
16. The particular hazards referred to in Article 7(g) of the Convention requiring an operating plan and procedures might include:
- mine fires and explosions;
 - gas outbursts;
 - rockbursts;
 - an inrush of water or semi-solids;
 - rockfalls;
 - susceptibility of areas to seismic movements;
 - hazards related to work carried out near dangerous openings or under particularly difficult geological circumstances;
 - loss of ventilation.
17. Measures that employers could take pursuant to Article 7(h) of the Convention should include, where applicable, prohibiting persons from carrying underground any item, object or substance which could initiate a fire, explosion or dangerous occurrence.
18. Pursuant to Article 7(l) of the Convention, mine facilities should include, where appropriate, sufficient fireproof and self-contained chambers to provide refuge for workers in the event of an emergency. The self-contained chambers should be easily identifiable and accessible, particularly when visibility is poor.
19. The emergency response plan referred to in Article 8 of the Convention might include:
- effective site emergency plans;
 - provision for the cessation of work and evacuation of the workers in an emergency;
 - adequate training in emergency procedures and in the use of equipment;
 - adequate protection of the public and the environment;
 - provision of information to, and consultation with, appropriate bodies and organizations.

20. The hazards referred to in Article 9 of the Convention might include:

- (a) airborne dusts;
- (b) flammable, toxic, noxious and other mine gases;
- (c) fumes and hazardous substances;
- (d) exhaust fumes from diesel engines;
- (e) oxygen deficiency;
- (f) radiation from rock strata, equipment or other sources;
- (g) noise and vibration;
- (h) extreme temperatures;
- (i) high levels of humidity;
- (j) insufficient lighting or ventilation;
- (k) hazards related to work carried out at high altitudes or extreme depths, or in confined spaces;
- (l) hazards associated with manual handling;
- (m) hazards related to mechanical equipment and electrical installations;
- (n) hazards resulting from a combination of any of the above.

21. The measures referred to in Article 9 of the Convention might include:

- (a) technical and organizational measures applied to relevant mining activities, or to the plant, machinery, equipment, appliances or structures;
- (b) where it is not possible to have recourse to the measures referred to in (a) above, other effective measures, including the use of personal protective equipment and protective clothing at no cost to the worker;
- (c) where reproductive health hazards and risks have been identified, training and special technical and organizational measures, including the right to alternative work, where appropriate, without any loss of salary, especially during health risk periods such as pregnancy and breast-feeding;
- (d) regular monitoring and inspection of areas where hazards are present or likely to be present.

22. The types of protective equipment and facilities referred to in Article 9c) of the Convention could include:

- (a) roll-over and falling object protective structures;
- (b) equipment seat belts and harnesses;
- (c) fully enclosed pressurized cabins;
- (d) self-contained rescue chambers;
- (e) emergency showers and eye wash stations.

23. In implementing Article 10(b) of the Convention, employers should:

- (a) ensure appropriate inspections of each workplace at the mine, and in particular, of the atmosphere, ground conditions, machinery, equipment and appliances therein, including where necessary pre-shift inspections; and
- (b) keep written records of inspections, defects and corrective measures and make such records available at the mine.

24. Where appropriate, the health surveillance referred to in Article 11 of the Convention should, at no cost to the worker and without any discrimination or retaliation whatsoever:

- (a) provide the opportunity to undergo medical examination related to the requirements of the tasks to be performed, prior to or just after commencing employment and thereafter on a continuing basis; and
- (b) provide, where possible, for reintegration or rehabilitation of workers unable to undertake their normal duties due to occupational injury or illness.

25. Pursuant to Article 5, paragraph 4(e), of the Convention, employers should, where appropriate, provide and maintain at no cost to the worker:

- (a) sufficient and suitable toilets, showers, wash-basins and changing facilities which are, where appropriate, gender-specific;
- (b) adequate facilities for the storage, laundering and drying of clothes;
- (c) adequate supplies of potable drinking-water in suitable places; and
- (d) adequate and hygienic facilities for taking meals.

III. RIGHTS AND DUTIES OF WORKERS AND THEIR REPRESENTATIVES

26. Pursuant to Article 13 of the Convention, workers and their safety and health representatives should receive or have access to, where appropriate, information which should include:
- (a) where practicable, notice of any safety or health related visit to the mine by the competent authority;
 - (b) reports of inspections conducted by the competent authority or the employer, including inspections of machinery or equipment;
 - (c) copies of orders or instructions issued by the competent authority in respect of safety and health matters;
 - (d) reports of accidents, injuries, instances of ill health and other occurrences affecting safety and health prepared by the competent authority or the employer;
 - (e) information and notices on all hazards at work including hazardous, toxic or harmful materials, agents or substances used at the mine;
 - (f) any other documentation concerning safety and health that the employer is required to maintain;
 - (g) immediate notification of accidents and dangerous occurrences; and
 - (h) any health studies conducted in respect of hazards present in the workplace.
27. Provisions to be made pursuant to Article 13, paragraph 1(e), of the Convention could include requirements for:
- (a) notification of supervisors and safety and health representatives of the danger referred to in that provision;
 - (b) participation by senior representatives of the employer and representatives of the workers in endeavouring to resolve the issue;
 - (c) participation, where necessary, by a representative of the competent authority to assist in resolution of the issue;
 - (d) non-loss of pay for the worker and, where appropriate, assignment to suitable alternative work;
 - (e) notification, to be given to any worker who is requested to perform work in the area concerned, of the fact that another worker has refused to work there and of the reasons therefore.
28. Pursuant to Article 13, paragraph 2, of the Convention, the rights of safety and health representatives should include, where appropriate, the right:
- (a) to appropriate training during working time, without loss of pay, on their rights and functions as safety and health representatives and on safety and health matters;
 - (b) of access to appropriate facilities necessary to perform their functions;
 - (c) to receive their normal pay for all time spent exercising their rights and performing their functions as safety and health representatives; and
 - (d) to assist and advise workers who have removed themselves from a workplace because they believe their safety or health has been endangered.
29. Safety and health representatives should, where appropriate, give reasonable notice to the employer of their intention to monitor or investigate safety and health matters, as provided for in Article 13, paragraph 2(b)(ii), of the Convention.
30. (1) All persons should have a duty to:
- (a) refrain from arbitrarily disconnecting, changing or removing safety devices fitted to machinery, equipment, appliances, tools, plant and buildings; and
 - (b) use such safety devices correctly.
- (2) Employers should have a duty to provide workers with appropriate training and instructions so as to enable them to comply with the duties described in subparagraph (1) above.

IV. COOPERATION

31. Measures to encourage cooperation as provided for in Article 15 of the Convention should include:

- (a) the establishment of cooperative mechanisms such as safety and health committees, with equal representation of employers and workers, and having such powers and functions as may be prescribed, including powers to conduct joint inspections;
- (b) the appointment by the employer of suitably qualified and experienced persons to promote safety and health;
- (c) the training of workers and their safety and health representatives;
- (d) the provision of ongoing safety and health awareness programmes for workers;
- (e) the ongoing exchange of information and experience on safety and health in mines;
- (f) the consultation of workers and their representatives by the employer in establishing safety and health policy and procedures; and
- (g) the inclusion, by the employer, of workers' representatives in the investigation of accidents and dangerous occurrences, as provided in Article 10(d) of the Convention.

V. OTHER PROVISIONS

32. There should be no discrimination or retaliation against any worker who exercises rights provided by national laws and regulations or agreed upon by the employers, workers and their representatives.

33. Due regard should be given to the possible impact of mining activity on the surrounding environment and on the safety of the public. In particular, this should include the control of subsidence, vibration, fly-rock, harmful contaminants in the water, air or soil, the safe and effective management of waste tips and the rehabilitation of mine sites.

APPENDIX 5: THE CORE LABOUR STANDARDS

There are some ILO conventions that are regarded as basic human rights. A Declaration of Fundamental Rights was adopted at the International Labour Conference in 1998. This said that all states, by the very fact of their membership of the ILO, should abide by the rights and principles contained in the eight core conventions.

KEY POINTS OF THE ILO'S CORE CONVENTIONS

FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANIZE, 1948 (NO. 87)

Guarantees the removal of acts of discrimination against Trade unions; the protection of employers' and workers' organizations against mutual interference; and calls for measures to promote collective bargaining. Article 2 is vital: Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the Organization concerned, to join organizations of their own choosing without previous authorisation.

RIGHT TO ORGANIZE AND COLLECTIVE BARGAINING, 1949 (NO. 98)

Protects workers who are exercising the right to organize; upholds the principle of non-interference between workers and employers organizations; and promotes voluntary collective bargaining.

FORCED LABOUR CONVENTION 1930 (NO. 29)

Aims at the immediate suppression of all forms of forced or compulsory labour, with exceptions such a military service, convict labour, and during emergencies such as war, fires and earthquakes.

ABOLITION OF FORCED LABOUR CONVENTION, 1957 (NO. 105)

Provides for the abolition of all forms of forced or compulsory labour as a means of political coercion or education; as sanctions against the free expressions of political and ideological opinions; as workforce mobilization; as labour discipline; as a punishment for taking part in strikes; and as measure of discrimination.

EQUAL REMUNERATION CONVENTION, 1951 (NO. 100)

Underscores the principle of equal pay between men and women for work of equal value.

DISCRIMINATION (EMPLOYMENT AND OCCUPATION) CONVENTION 1958 (NO. 111)

Provides for a national policy designed to eliminate, in respect of employment and occupation, all discrimination based on race, colour, sex, religion, political opinion, national extraction or social origin.

MINIMUM AGE CONVENTION 1973 (NO. 138)

Applies to all sectors of economic activity; states must declare a national minimum age for admission to employment; all children are covered whether or not they are employed for wages; states must pursue a national policy to ensure the effective abolition of child labour; the minimum age for entry into work shall not less than the completion of compulsory schooling, although a lower age than 14 years may be adopted for light work, for countries which are less developed; an age level of 18 is set for hazardous work.

PROHIBITION AND IMMEDIATE ELIMINATION OF THE WORST FORMS OF CHILD LABOUR CONVENTION 1999 (NO 182)

States to draw up a time bound programme for the elimination of the worst forms of child labour; while the convention itself gives a list, states shall also draw up their own list of the worst forms.

APPENDIX 6: ILO CONVENTIONS ON OCCUPATIONAL SAFETY AND HEALTH

(*only up to date conventions are included)

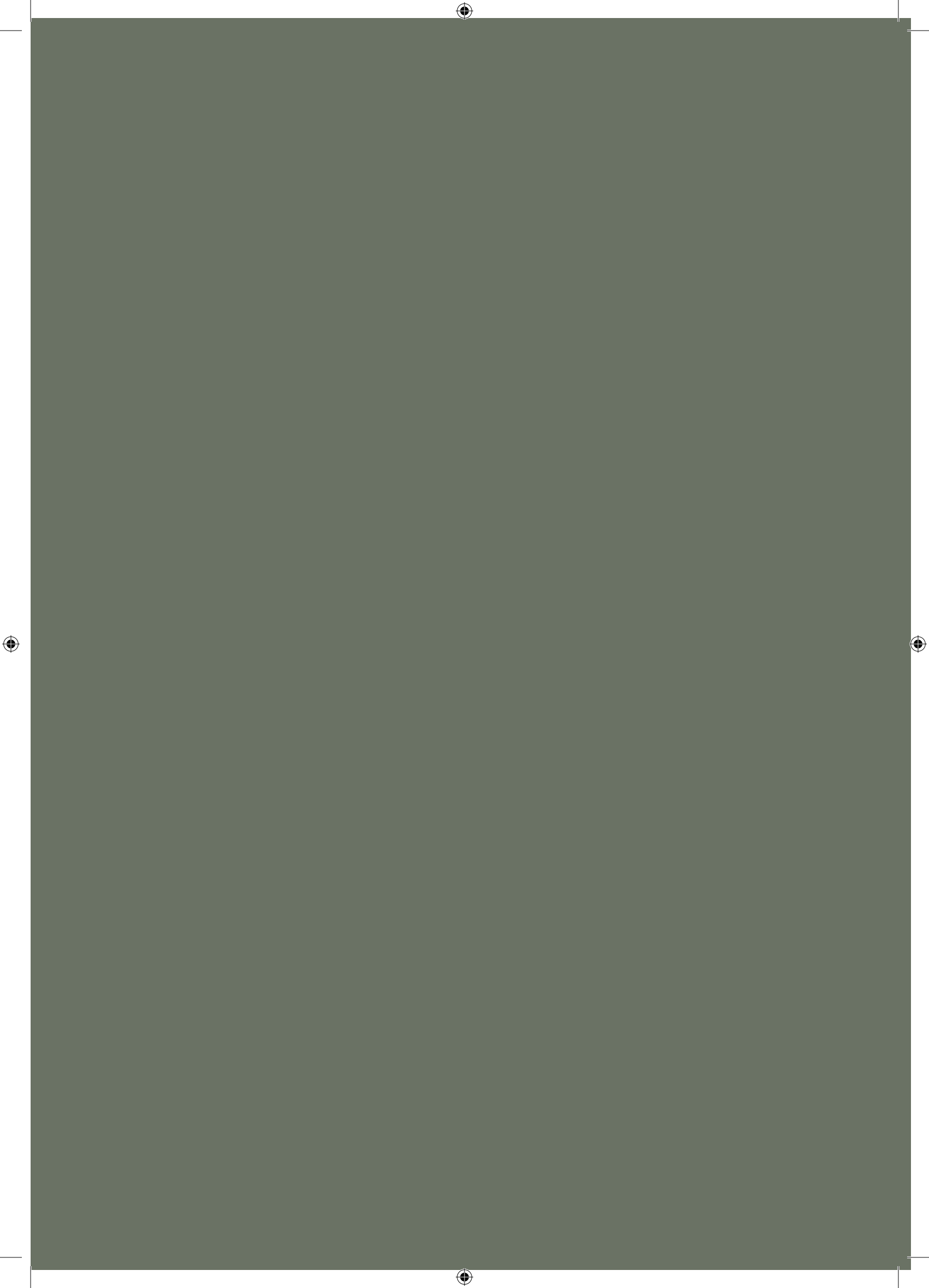
ILO STANDARDS ON SAFETY AND HEALTH

ILO health and safety standards cover four main categories:

- **Protection against specific risks, for example chemicals, ionizing radiation, benzene, air-pollution, asbestos.**
- **Hazardous sectors are covered by specific conventions, e.g. construction, dock work, agriculture. Convention 176 is this type.**
- **Measures of protection e.g. guarding machinery, medical examination of young workers, maximum weight of loads to be lifted or transported by a worker.**
- **Guiding policies for action. This includes the Occupational Safety and Health Convention (155) and its accompanying Recommendation, the Occupational Health Service Convention (161) and its Recommendation, and the Promotional Framework for Occupational Safety and Health Convention 2006 (No.187) and its accompanying Recommendation (No. 197).**

THESE ARE SOME OF THE CONVENTIONS OF MOST RELEVANCE TO HEALTH AND SAFETY IN MINES:

- Underground Work (Women) Convention, 1935 (No. 45)
- Labour Inspection Convention, 1947 (No. 81)
- Protocol of 1995 to the Labour Inspection Convention, 1947
- Radiation Protection Convention, 1960 (No. 115) 47
- Hygiene (Commerce and Offices) Convention, 1964 (No. 120)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Occupational Cancer Convention, 1974 (No. 139)
- Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)
- Occupational Safety and Health Convention, 1981 (No. 155)
- Occupational Health Services Convention, 1985 (No. 161)
- Asbestos Convention, 1986 (No. 162)
- Safety and Health in Construction Convention, 1988 (No. 167)
- Chemicals Convention, 1990 (No. 170)
- Prevention of Major Industrial Accidents Convention, 1993 (No. 174)
- Safety and Health in Mines Convention, 1995 (No. 176)
- Safety and Health in Agriculture Convention, 2001 (No. 184)
- Protocol of 2002 to the Occupational Safety and Health Convention, 1981



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