


Manual 6:**HOW TO RATIFY & USE
ILO CONVENTION No. 184 ON
SAFETY & HEALTH IN AGRICULTURE**
Foreword

The 21 June 2001 was an historic day for the world's agricultural workers, with the adoption by the International Labour Conference of the International Labour Organisation (ILO) Convention No. 184 and Recommendation No. 192 on Safety and Health in Agriculture. This is the first time that waged agricultural workers¹ – whether permanent, temporary or seasonal – are guaranteed in international law the same rights and levels of protection as other categories of workers, despite the fact that the agricultural industry is one of the three most dangerous in the world and has the largest workforce of any. There are an estimated 450 million waged agricultural workers worldwide, and their numbers are growing in most regions of the world. They account for 40% of the global agricultural workforce of over 1.1 billion. Twenty to thirty per cent of the waged workers are women. Unfortunately, child workers also form part of the agricultural labour force.

In June 2001, governments, employers and worker trade unions participating in the 89th International Labour Conference (ILC) in Geneva decisively adopted the new instruments despite the fierce resistance of the employers' group at the ILC in 2000. There were only two opposing votes,

¹ Waged agricultural workers are the women and men who labour in the crop fields, orchards, glasshouses, livestock units, and primary processing facilities to produce the world's food and fibres. They are employed on everything from small- and medium-sized farms to large industrialised farms and plantations. They are waged workers because they do not own or rent the land on which they work nor the tools and equipment they use and so are a group distinct from farmers. Such workers include the following categories: permanent agricultural workers; temporary agricultural workers; seasonal/casual agricultural workers; migrant agricultural workers, piece-rate workers; or workers receiving some form of 'in-kind' payment. There are also many indigenous agricultural workers who are part of the employed workforce. Agricultural workers work for some kind of 'wage' which can include payment in kind in an employment relationship, be it with a farmer, farming or plantation company, or agricultural contractor. (IUF 2002)

the employers' delegations of Indonesia and Malaysia, and 41 abstentions (28 employers and 13 governments).

The need to improve safety and health standards in agriculture is paramount as it is one of the three most dangerous industries along with construction and mining. Agricultural workers labour in an industry that is not sustainable as measured by the loss of human life, injury and ill health. Furthermore, agricultural workers and small farmers form the core of the rural poor. Their poverty can contribute to increased risks of work-related ill health due to poor diet and malnutrition.

One of the most distinguishing characteristics of agricultural work is that it is carried out in a rural environment where there is no clear distinction between working and living conditions, unlike for factory or office workers. As a result, agricultural workers and their families face extra dangers such as exposure to pesticides. However, agricultural workers – who continue to register among the highest levels of global poverty – are generally excluded from effective forms of health, safety and social protection.

The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) views adoption, ratification and implementation of the Convention, supported by the Recommendation, as one of the key elements and measures of sustainable agriculture. Agriculture cannot be sustainable if it continues to kill, maim, and make ill huge numbers of workers and farmers producing the world's food and commodities, nor if it continues to harm the environment. A safe and healthy agricultural workforce organised in strong trade unions is also a key element in helping ensure world food security and promoting food safety. For example, giving workers both the right and the means to wash their hands not only protects them, it also protects the quality of the food. Food should not only be ecologically labelled but socially labelled to say that those producing it did so in safe and healthy working conditions.

It is hoped that this ILO-IUF Manual will help to promote ratification and implementation of the International Labour Organisation Convention No. 184.

■ Aims

This Manual aims to help agricultural workers and their trade unions, plus civil society organisations, in their campaign(s) to promote speedy ratification and implementation of the International Labour Organisation Convention No. 184 on Safety and Health in Agriculture, along with the supporting Recommendation No. 192. It should also provide a useful general reference to the Convention and what it contains.

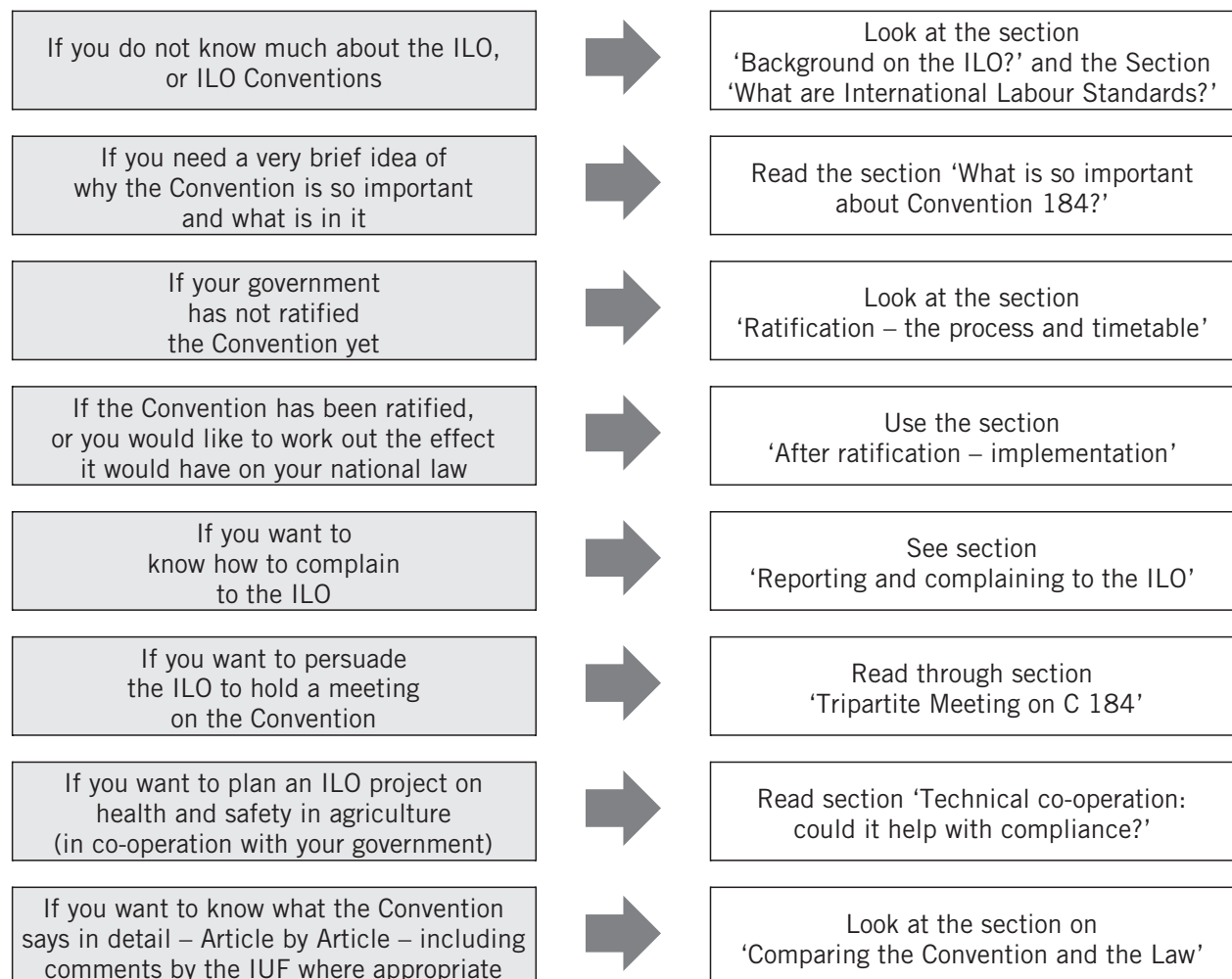
■ How to use this Manual

You can use this section alone, but it is best used:

- as a tool on courses for active union members
- in workshops for Executive Committee members of the union, to draw up plans for ratification
- by worker HS&E representatives including meetings of joint worker-management workplace health and safety committees
- at education events, either regular courses or as part of the IUF HSE/Global Pesticides Project
- as a basis for tripartite meetings on ratification with governments and agricultural employers' associations

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



■ Background on the International Labour Organisation

Introduction

The International Labour Organisation (ILO) is a part of the United Nations (UN) system. It is called a ‘specialised 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 organisations, the ILO is financed by member states. Countries have to join the ILO separately. Thus for a while the USA was a member of the UN but not the ILO.

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 to decide the new boundaries, and to give the colonies of the ‘losing’ countries to the victorious powers (basically, France, Britain and the USA).

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 constitution states:

***“universal and lasting peace can be established
only if it based upon social justice”***

The demand for social justice 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 organisation for many years.

What makes the ILO unique among international organisations is its tripartite nature. Other UN organisations are run only by governments. But in the ILO, governments, trade unions and employers are all represented at the International Labour Conference, on the ILO Governing Body and on specialised committees. Unions speak and **vote** at ILO meetings.

What is tripartism?

Tripartism 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 International Labour 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 is composed in the same way.

***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 composed the way that the ILO is now. It is also very unlikely that unions would be able to make governments hold a conference every year to agree international treaties on health and safety.

So unions can use the ILO – and the IUF, which started the campaign for a Convention on agricultural workers' health and safety – showed how it can be done.

■ What are International Labour Standards – Conventions and Recommendations?

The system of international labour standards takes the form of Conventions and Recommendations. They are negotiated at and adopted by the tripartite International Labour Conference, which meets every year in Geneva, Switzerland.

***International
Labour
Conventions***

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

Once these countries voluntarily ratify Conventions, they undertake to apply them, to ensure that their national law and practice comply with the requirements of the Conventions, and to accept international supervision.

Complaints about alleged non-compliance may be made by:

- the governments of other ratifying States or
- employers or
- *workers' organisations*

Procedures exist for investigation and action upon such complaints. A later section describes those procedures in more detail.

There are already many ILO Conventions on safety and health. They fall into four categories:

1. This category provides for protection against specific risks. For example, safety in the use of chemicals at work, asbestos and guarding of machinery
2. This category provides for protection in given branches of economic activity, for example, construction. Convention 184 is of this type
3. This category highlights measures of protection. For example, medical examination of young workers and prevention of occupational cancer
4. This category sets out framework of guiding policies for action. For example, the Occupational Safety and Health Convention (155) and Recommendation, and the Occupational Health Service Convention (161) and Recommendation

***International
Labour
Recommendations***

Recommendations are not international treaties. They set non-binding guidelines which may orient national policy and practice. Governments do NOT ratify Recommendations. Recommendations give more detailed measures on how the provisions in the Convention can be applied.

The distinction between Conventions and Recommendations is important. Member states have certain important **procedural** obligations in respect of Recommendations:

- to submit the texts to their legislative bodies
- to report on the action resulting and
- to report occasionally at the request of the Governing Body of ILO on the measures taken or envisaged to give effect to the provisions

Conventions that have not been ratified have the same value as Recommendations, that is, as guidance.

■ What is so important about ILO Convention No. 184 on Safety and Health in Agriculture?

***Health and
safety
protection for
agricultural
workers***

This is the first time that waged agricultural workers – whether permanent, temporary or seasonal – are guaranteed in international law the same health and safety rights and levels of protection as other categories of worker. The Convention adopts a refreshing new approach to health and safety in agriculture by:

- placing responsibility firmly on employers
- strengthening workers' rights and
- placing clear obligations on governments

***Workers'
rights***

The Convention gives workers several important rights to:

- be informed and consulted on the application and review of safety and health matters
- participate in safety and health measures
- select health and safety representatives and representatives on joint worker-management health and safety committees
- remove themselves from danger where there is a serious and imminent risk, and not be penalised for these actions

The Convention also imposes certain duties on workers to comply with health and safety measures and co-operate with employers.

Employers' duties

There are many specific duties placed on employers by the Convention. The most important include:

Risk assessment

The employer must carefully assess all the risks agricultural workers may be exposed to. This process is called risk assessment and has three stages:

1. Identifying the **hazard** (the potential to cause harm)
2. Assessing the **risk** (the likelihood that the harm from a particular hazard is realised)
3. On the basis of the assessment, the employer should adopt preventive and protective measures to ensure safety and health, and compliance with health and safety standards

Training and information

The employer must ensure that agricultural workers are:

- trained
- provided with instructions and information that they understand
- supervised

Stopping work

The employer must stop work immediately if there is serious and imminent danger to workers

Government obligations

The Convention imposes five key tasks upon governments:

1. Develop and review a coherent national policy on safety and health in agriculture. They need to do this in consultation with employers and trade unions
2. Establish a competent authority to implement the policy and to enforce national laws and regulations on occupational safety and health in agriculture
3. Specify employers and workers' rights and duties
4. Ensure that there is a system of inspection with adequate means for agricultural workplaces with provision for corrective measures and appropriate penalties
5. Establish mechanisms for inter-sectoral co-ordination amongst authorities

The standards in the Convention are very high and applying them in many countries would almost certainly make a difference. And the first stage in applying them is getting your government to agree to ratify the Convention. That is the subject of the next section.

Convention No. 184 is also complemented by other ILO Conventions on safety and health:

- Convention No. 155 concerning Occupational Safety and Health and the Working Environment (plus Recommendation No. 164),
- Convention No. 161 concerning Occupational Health Services (plus Recommendation No. 171)
- Convention No. 170 concerning Safety in the Use of Chemicals at Work (plus Recommendation No. 177)

■ Ratification – the process and timetable

Procedure

Two countries need to ratify a Convention for it to enter into force. Ratification of a Convention is a free act by a country. However, if a country decides to ratify, the Convention acquires a binding force at the national level and must be applied by legislative or other means.

Soon after the International Labour Conference adopted the Convention and Recommendation in June 2001, the ILO secretariat wrote to every member state enclosing the final texts of the Convention and Recommendation and copies of the same documents were also sent to national organisations of employers and workers. Governments then had one year (18 months in exceptional circumstances) to submit the Convention and recommendation to the appropriate body – this is almost always the parliament or National Assembly. This is an obligation under the ILO Constitution (Article 19).

When placing the text before the parliament, the Government must indicate what action it considers desirable. It is good practice (and an obligation under ILO Convention 144 if that has been adopted) to consult unions before making its suggestions.

Governments then have to report back to the ILO indicating:

- the measures they have taken to bring the Convention and the Recommendation to the attention of the competent authorities
- who or what is the “competent authority” concerned
- the action taken by this authority

In practice, Governments really have four options:

1. If national law or practice are already of a very high standard, and are as good as those of those of the Convention, then the government could recommend ratification

2. If as is likely in many countries – national law or practice falls short of the Convention, then the government could recommend amendments to the law, or developing completely new law
3. The government can recommend deferring a decision to allow time for more consultations or research
4. To recommend no action, no ratification

Again, according to the ILO constitution, governments must inform the ILO of the measures they have taken to submit the texts. This report to the ILO must also be sent to the trade unions and employers, which can comment on them.

Ratifications to date

By 14 July 2003, three countries had ratified Convention No. 184. The Convention entered into force on 20 September 2003. Many other countries have announced their intention to ratify.

Trade union intervention

There are several possibilities in the procedure outlined above for unions to intervene:

- If the government has still not even tabled the texts, then the campaign starts for that to be done. It is possible that less experienced officials in the relevant ministry are unaware of the obligation -in which case you can help them by drawing their attention to the procedure. You can use the opportunity to ensure that the ministry consults with agricultural unions. The ILO Governing Body has produced a memorandum giving detailed guidance on this process of placing texts before parliament. A copy is available from the IUF.
- If the text has been tabled quietly, with no consultation with unions, then you can at least demand a copy of the report sent to the ILO. Again it is possible that Ministry officials are unaware of the obligations under the ILO constitution. You can help them by showing them the memorandum. What IUF affiliates will want is for a good discussion in parliament, with the chance to lobby members of the parliament, and to influence the debate.
- If the government has recommended no action, and the Convention remains unratified, then you need to launch a campaign to have that decision reconsidered. The most probable grounds you could argue would be that the Convention has not been properly discussed by those most involved – agricultural workers – through their unions.

It is likely that governments who have recommended no action have not consulted employers either. The employers may be happy that the Convention is not be ratified, but they might not be happy that they were not consulted.

What can your union do?

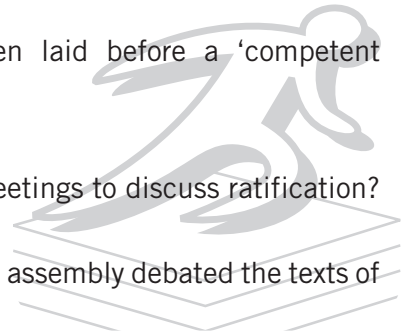
- Contact the ministry (it could be Ministry of Labour or perhaps the Ministry of Agriculture) and ask for a report on the submission process. You may need to give them a copy of the ILO memorandum to remind them of the process
- Contact friendly Members of Parliament (MPs) and discuss the matter with them
- Talk to other unions (if any) and non-governmental organisations (NGO's) and civil society organisations (CSOs) to see if there is any scope for co-operation on this issue
- Talk to the employers and see if their organisation has a view on ratification of the Convention. Even if their answer is negative, then at least you are prepared.

Lobbying and campaigning to ensure speedy ratification and comprehensive implementation will be needed from trade unions working in co-operation with NGOs/CSOs including raising awareness of the new standard in farming communities everywhere.

Speedy ratification and comprehensive implementation are clearly the ideals but even where a country is slow to ratify, or does not ratify, the Convention and Recommendation can be used as standards on which a progressive national agricultural safety and health policy/programme can be based.

**Checklist on ratification**

- ✓ Have the Convention & Recommendation been laid before a 'competent authority' (almost always Parliament)?
- ✓ If not, campaign for it to be tabled
- ✓ Has the relevant Ministry called any tripartite meetings to discuss ratification? If not, raise that demand
- ✓ If your country has a federal system, has the local assembly debated the texts of Convention and Recommendation?
- ✓ If the texts have been laid before Parliament, and no decision to ratify was taken, seek to get the issue re-opened. Call for an ILO tripartite workshop as a first step



■ After ratification – implementation

It is a great victory for agricultural workers when a country ratifies the Convention. But the task will not be over. The government now has to make sure that legislation or practice conforms to the Convention and is implemented. Thus discussions must be held on amendments to any national health and safety laws or legal codes.

Ratification means building on your country's safety and health laws, using the Articles of the Convention to introduce, expand and/or strengthen them where necessary. If a particular element of your country's law already provides an equivalent, or higher standard, than the Convention, then your country simply maintains its existing standards with regard to that specific element.

At this point, the following exercise should be useful. It will show what improvements can be made. 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 in the tripartite workshop, if you are successful in getting one organised (see the section Tripartite meeting on C 184).

■ Comparing the Convention and the law in your country



Activity – Comparing the convention and the law

AIMS

To help us to compare the standards in Convention 184 and the present law

TASK

1. Each small group will be asked to scrutinise one part of the Convention. The main provisions are restated in the first column of the boxes below, but you can refer to the actual text in the Convention if you wish.
2. Compare what the Convention demands with the current law in your country in the second column of the box.
3. Quote the exact section or part of the law which corresponds, *if any*. It is possible that there will be no corresponding part of the your national law.
4. In the third column of the box, identify amendments that need to be made in your national law.

Elect a spokesperson to report back

***The
Convention:
Article by
Article***

The section below looks at the Convention in detail, giving comments/explanations from the IUF where appropriate. Where an Article in the Convention is supported by guidance in the Recommendation, the appropriate paragraph(s) or sub-paragraph(s) of the Recommendation are quoted.

THE PREAMBLE

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 89th Session on 5 June 2001, and
Noting the principles embodied in the relevant international labour Conventions and Recommendations, in particular the Plantations Convention and Recommendation, 1958, the Employment Injury Benefits Convention and Recommendation, 1964, the Labour Inspection (Agriculture) Convention and Recommendation, 1969, the Occupational Safety and Health Convention and Recommendation, 1981, the Occupational Health Services Convention and Recommendation, 1985, and the Chemicals Convention and Recommendation, 1990, and
Stressing the need for a coherent approach to agriculture and taking into consideration the wider framework of the principles embodied in other ILO instruments applicable to the sector, in particular the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Minimum Age Convention, 1973, and the Worst Forms of Child Labour Convention, 1999, and Noting the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy as well as the relevant codes of practice, in particular the code of practice on recording and notification of occupational accidents and diseases, 1996, and the code of practice on safety and health in forestry work, 1998, and
Having decided upon the adoption of certain proposals with regard to safety and health in agriculture, 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-first day of June of the year two thousand and one the following Convention, which may be cited as the Safety and Health in Agriculture Convention, 2001.

PART I – SCOPE

Article 1: Definitions. Agriculture means....

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>Agricultural and forestry activities carried out in agricultural undertakings including:</p> <ul style="list-style-type: none"> • crop production, • forestry activities, • animal husbandry and insect raising, • the primary processing of agricultural and animal products by or on behalf of the operator of the undertaking, as well as the use and maintenance of machinery, equipment, appliances, tools, agricultural installations, including any process, storage, operation or transportation in an agricultural undertaking which are directly related to agricultural production. 		

IUF Comment on Article 1

This Article gives a broad definition of agriculture. After considerable debate, forestry activities in agricultural undertakings were included in preference to the term agro-forestry. Note that the word ‘undertaking’ which is used has a wider sense than the word ‘workplace’. An undertaking may have more than one workplace. A workplace may also be an agricultural field or a more permanent installation, for example, a packing shed or barn.

Article 2: For the purpose of this Convention the term agriculture:

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
(a) does not cover subsistence farming;		
(b) does not cover industrial processes that use agricultural products as raw material and the related services; and		
(c) does not cover the industrial exploitation of forests.		

IUF comment on Article 2

The vast majority of governments were firmly opposed to including subsistence farming as they felt it would make the Convention impractical to enforce as well as too costly.

Article 3: (1). The competent authority of a Member which ratifies the Convention, after consulting the representative organisations of employers and workers concerned:

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
(a) may exclude certain agricultural undertakings or limited categories of workers from the application of this Convention or certain provisions thereof, when special problems of a substantial nature arise; and		
(b) shall, in the case of such exclusions, make plans to cover progressively all undertakings and all categories of workers.		

IUF Comment on Article 3

Article 3 (2) states that *“Each Member shall list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, any exclusions made in pursuance of paragraph 1(a) of this Article giving the reasons for such exclusion. In subsequent reports, it shall describe the measures taken with a view to extending progressively the provisions of the Convention to the workers concerned.”*

The Convention was designed to allow for maximum flexibility (like Convention 182 on elimination of the worst forms of child labour). This means governments can exclude certain types of workers and undertakings from the Convention and can also exclude certain provisions of the Convention as per Article 3.1 (a). If they do any of these, they have to present to the ILO a plan to bring the excluded workers and undertakings into the cover of the Convention. Governments should of course be encouraged to include all workers, all undertakings and all parts of the Convention.

Article 3.1 (b) and 3.2 are important clauses as they allow for categories of workers who have been excluded to be progressively covered.

At the insistence of the employers, and many governments, all references in the Convention (except the one in Article 6.2), to various categories of self employed farmers, were moved to paragraphs 12-15 (see below) of the non-binding Recommendation. This still means that categories of self employed farmers like small-tenants, share-croppers are covered by the Convention, unless they are subsistence farmers (excluded by Article 2(a) of the Convention), or unless excluded by the ratifying country under Article 3(a) of the Convention.

ILO Recommendation No. 192 on Safety and Health in Agriculture**Self-employed farmers**

Paragraph 12. (1) Taking into consideration the views of representative organisations of self-employed farmers, Members should make plans to extend progressively to self-employed farmers the protection afforded by the Convention, as appropriate.

(2) To this end, national laws and regulations should specify the rights and duties of self-employed farmers with respect to safety and health in agriculture.

(3) In the light of national conditions and practice, the views of representative organisations of self-employed farmers should be taken into consideration, as appropriate, in the formulation, implementation and periodic review of the national policy referred to in Article 4 of the Convention.

Paragraph 13. (1) In accordance with national law and practice, measures should be taken by the competent authority to ensure that self-employed farmers enjoy safety and health protection afforded by the Convention.

(2) These measures should include:

- (a) provisions for the progressive extension of appropriate occupational health services for self-employed farmers;
- (b) progressive development of procedures for including self-employed farmers in the recording and notification of occupational accidents and diseases; and
- (c) development of guidelines, educational programmes and materials and appropriate advice and training for self-employed farmers covering, inter alia:
 - (i) their safety and health and the safety and health of those working with them concerning work-related hazards, including the risk of musculoskeletal disorders, the selection and use of chemicals and of biological agents, the design of safe work systems and the selection, use and maintenance of personal protective equipment, machinery, tools and appliances; and
 - (ii) the prevention of children from engaging in hazardous activities.

Paragraph 14. Where economic, social and administrative conditions do not permit the inclusion of self-employed farmers and their families in a national or voluntary insurance scheme, measures should be taken by Members for their progressive coverage to the level provided for in Article 21 of the Convention. This could be achieved by means of:

- (a) developing special insurance schemes or funds; or
- (b) adapting existing social security schemes.

Paragraph 15. In giving effect to the above measures concerning self-employed farmers, account should be taken of the special situation of:

- (a) small tenants and sharecroppers;
- (b) small owner-operators;
- (c) persons participating in agricultural collective enterprises, such as members of farmers' cooperatives;
- (d) members of the family as defined in accordance with national law and practice;
- (e) subsistence farmers; and
- (f) other self-employed workers in agriculture, according to national law and practice.

PART II – GENERAL PROVISIONS

Article 4: Coherent national policy

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>1. In the light of national conditions and practice and after consulting the representative organisations of employers and workers concerned, Members shall formulate, carry out and periodically review a coherent national policy on safety and health in agriculture. This policy shall have the aim of preventing accidents and injury to health arising out of, linked with, or occurring in the course of work, by eliminating, minimising or controlling hazards in the agricultural working environment.</p>		
<p>2. To this end, national laws and regulations shall:</p> <p>(a) designate the competent authority responsible for the implementation of the policy and for the enforcement of national laws and regulations on occupational safety and health in agriculture;</p>		

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>(b) specify the rights and duties of employers and workers with respect to occupational safety and health in agriculture; and</p>		
<p>(c) establish mechanisms of inter-sectoral coordination among relevant authorities and bodies for the agricultural sector and define their functions and responsibilities, taking into account their complementarity and national conditions and practices.</p>		
<p>3. The designated competent authority shall provide for corrective measures and appropriate penalties in accordance with national laws and regulations, including, where appropriate, the suspension or restriction of those agricultural activities which pose an imminent risk to the safety and health of workers, until the conditions giving rise to the suspension or restriction have been corrected.</p>		

IUF Comment on Article 4

Article 4 represents a step forward in many countries as it means a national strategy and programme on safety and health in agriculture has to be drawn up and with adequate resources.

Under Article 4.1, a Government has to develop a national policy on agricultural safety and health, and define the 'competent authority' as per Article 4.2. The proviso in Article 4.1 for, "*after consulting with the representative organisations of employers and workers concerned*", offers workers and their trade unions the possibility to express their views regarding the drawing up, implementation, and monitoring of that national policy and associated standards.

The call in Article 4.2 (c) for governments to, "*establish mechanisms of inter-sectoral co-ordination among relevant authorities and bodies for the agricultural sector and define their functions and responsibilities.....*". can be important, for example, in ensuring that Ministries of Labour, Agriculture, Health etc. co-operate to protect workers' health.

Article 5: Systems of inspection

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>1. Members must ensure an adequate and appropriate system of inspection for agricultural workplaces is in place and provided with adequate means.</p>		
<p>2. In accordance with national legislation, the competent authority may entrust certain inspection functions at the regional or local level, on an auxiliary basis, to appropriate government services, public institutions, or private institutions under government control, or may associate these services or institutions with the exercise of such functions.</p>		

IUF Comment on Article 5

It is important that a government establishes a system of independent, government health and safety inspectors, with full legal powers, who are well resourced to help ensure effective enforcement of regulations. In many parts of the world this is not the case and as a result, agricultural health and safety laws are not enforced.

Where a non-government agency is used for enforcement it must be a reputable body whose activities need to be monitored and evaluated by the government in co-operation with trade unions and employers' organisations.

PART III – PREVENTIVE AND PROTECTIVE MEASURES – GENERAL

Article 6: Employers’ general duties

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>1. In so far as is compatible with national laws and regulations, the employer shall have a duty to ensure the safety and health of workers in every aspect related to the work.</p>		
<p>2. National laws and regulations or the competent authority shall provide that whenever in an agricultural workplace two or more employers undertake activities, or whenever one or more employers and one or more self-employed persons undertake activities, they shall co-operate in applying the safety and health requirements. Where appropriate, the competent authority shall prescribe general procedures for this collaboration.</p>		

IUF Comment on Article 6

This Article lays down the general duty of employers in respect of workers, and is a key piece of text. More details about what this means in practice are contained in later Articles.

Article 7: Employers' duties regarding risk assessment, training and stopping dangerous operations.

In order to comply with the national policy referred to in Article 4 of the Convention, national laws and regulations or the competent authority shall provide, taking into account the size of the undertaking and the nature of its activity, that the employer shall:

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>(a) carry out appropriate risk assessments in relation to the safety and health of workers and, on the basis of these results, adopt preventive and protective measures to ensure that under all conditions of their intended use, all agricultural activities, workplaces, machinery, equipment, chemicals, tools and processes under the control of the employer are safe and comply with prescribed safety and health standards;</p>		
<p>(b) ensure that adequate and appropriate training and comprehensible instructions on safety and health and any necessary guidance or supervision are provided to workers in agriculture, including information on the hazards and risks associated with their work and the action to be taken for their protection, taking into account their level of education and differences in language; and</p>		

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>(c) take immediate steps to stop any operation where there is an imminent and serious danger to safety and health and to evacuate workers as appropriate.</p>		

IUF Comment on Article 7

The requirement in Article 7.1 for employers to “carry out appropriate risk assessments in relation to the safety and health of workers” and then to then to “adopt preventive and protective measures”, is an important step forward in ensuring greater worker protection.

This requirement is supplemented by paragraphs 4 (1) & (2) of the Recommendation (see below) which gives the government a role in ensuring that a system for risk assessment is set up and provides a non-exhaustive list – which can be added to – of the potential topics to be covered in an employer’s risk assessment. Paragraph 5 (below) spells out in detail, the hierarchy of elimination/prevention and control measures to be followed in the order that they are written.

ILO Recommendation No. 192 on Safety and Health in Agriculture

Paragraph 4. (1) To give effect to Article 7 of the Convention, the competent authority should establish a national system for occupational safety and health surveillance which should include both workers' health surveillance and the surveillance of the working environment.

(2) This system should include the necessary risk assessment and, where appropriate, preventive and control measures with respect to, inter alia:

- (a) hazardous chemicals and waste;
- (b) toxic, infectious or allergenic biological agents and waste;
- (c) irritant or toxic vapours;
- (d) hazardous dusts;
- (e) carcinogenic substances or agents;
- (f) noise and vibration;
- (g) extreme temperatures;
- (h) solar ultraviolet radiations;
- (i) transmissible animal diseases;
- (j) contact with wild or poisonous animals;
- (k) the use of machinery and equipment, including personal protective equipment;
- (l) the manual handling or transport of loads;
- (m) intense or sustained physical and mental efforts, work-related stress and inadequate working postures; and
- (n) risks from new technologies.

Paragraph 5. To give effect to Article 7 of the Convention, a set of measures on safety and health at the level of the undertaking should include:

- (a) occupational safety and health services;
- (b) risk assessment and management measures in the following order of priority:
 - (i) elimination of the risk;
 - (ii) control of the risk at the source;
 - (iii) minimisation of the risk by such means as the design of safe work systems, the introduction of technical and organisational measures and safe practices, and training; and
 - (iv) in so far as the risk remains, provision and use of personal protective equipment and clothing, at no cost to the worker;
- (c) measures to deal with accidents and emergencies, including first aid and access to appropriate transportation to medical facilities;
- (d) procedures for the recording and notification of accidents and diseases;
- (e) appropriate measures to protect persons present at an agricultural site, the population in the vicinity of it and the general environment, from risks which may arise from the agricultural activity concerned, such as those due to agrochemical waste, livestock waste, soil and water contamination, soil depletion and topographic changes; and
- (f) measures to ensure that the technology used is adapted to climate, work organisation and working practices.

Article 8: Workers' rights and duties

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>Article 8.1. Workers in agriculture shall have the right:</p> <p>(a) to be informed and consulted on safety and health matters including risks from new technologies;</p>		
<p>(b) to participate in the application and review of safety and health measures and, in accordance with national law and practice, to select safety and health representatives and representatives in safety and health committees; and</p>		
<p>(c) to remove themselves from danger resulting from their work activity when they have reasonable justification to believe there is an imminent and serious risk to their safety and health and so inform their supervisor immediately. They shall not be placed at any disadvantage as a result of these actions.</p>		

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>2. Workers in agriculture and their representatives shall have the duty to comply with the prescribed safety and health measures and to co-operate with employers in order for the latter to comply with their own duties and responsibilities.</p>		
<p>3. The procedures for the exercise of the rights and duties referred to in paragraphs 1 and 2 shall be established by national laws and regulations, the competent authority, collective agreements or other appropriate means.</p>		
<p>4. Where the provisions of this Convention are implemented as provided for by paragraph 3, there shall be prior consultation with the representative organisations of employers and workers concerned.</p>		

IUF Comment on Article 8

This is a most important Article dealing with the rights and duties of workers in agriculture.

Article 8.1 (b) establishes the right for workers to select safety representatives and representatives in safety committees. Worker HS&E representatives and worker safety committee members are the backbone of trade union organisation on health and safety at work. They are the eyes and the ears of trade unions and workers on workplace health and safety issues and play crucial roles in reducing fatalities, accidents and ill health at work. Many deal with workplace environmental issues as well. These representatives and committees help protect worker and public health, and the general environment.

But in practice, few countries have legal worker HS&E representatives and safety committees in agriculture. Therefore, the IUF wanted governments to set up and finance roving safety representative schemes in agriculture as explained in **Appendix 1**. Although the IUF did not succeed in securing requirements for roving safety representatives in this ILO instrument, the IUF is continuing to promote the introduction of such schemes as part of its campaign for ratification and implementation of the Convention.

The safety and health committees referred to in Article 8.1(b) are joint union-employer/management committees. The important point is that this Article establishes the right of workers to select their own representatives to these committees, and not to have “worker representatives” nominated by the employer/management as is unfortunately often the case.

There is now a right in Article 8.1 (c) for workers, to remove themselves from danger resulting from their work activity when they have reasonable justification to believe there is an imminent and serious risk to their safety and health. This is an important new right and in line with protection already granted to other groups of vulnerable workers.

As well as legal rights, workers also have legal duties as laid down in Article 8.2.

**PART III – PREVENTIVE AND PROTECTIVE MEASURES –
MACHINERY SAFETY AND ERGONOMICS**

Article 9

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>1. National laws and regulations or the competent authority shall prescribe that machinery, equipment, including personal protective equipment, appliances and hand tools used in agriculture comply with national or other recognised safety and health standards and be appropriately installed, maintained and safeguarded.</p>		
<p>2. The competent authority shall take measures to ensure that manufacturers, importers and suppliers comply with the standards referred to in paragraph 1 and provide adequate and appropriate information, including hazard warning signs, in the official language or languages of the user country, to the users and, on request, to the competent authority.</p>		
<p>3. Employers shall ensure that workers receive and understand the safety and health information supplied by manufacturers, importers and suppliers.</p>		

IUF comment on Article 9

Article 9.2 imposes legal duties on manufacturers, importers and suppliers which benefit employers as well as workers by ensuring that adequate, appropriate and understandable information is supplied with machinery and equipment including personal protective equipment.

Article 10: National laws and regulations shall prescribe that agricultural machinery and equipment shall:

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>(a) only be used for work for which they are designed, unless a use outside of the initial design purpose has been assessed as safe in accordance with national law and practice and, in particular, shall not be used for human transportation, unless designed or adapted so as to carry persons;</p>		
<p>(b) be operated by trained and competent persons, in accordance with national law and practice.</p>		

**PART III – PREVENTIVE AND PROTECTIVE MEASURES –
HANDLING AND TRANSPORT OF MATERIALS**

Article 11

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>1. The competent authority, after consulting the representative organisations of employers and workers concerned, shall establish safety and health requirements for the handling and transport of materials, particularly on manual handling. Such requirements shall be based on risk assessment, technical standards and medical opinion, taking account of all the relevant conditions under which the work is performed in accordance with national law and practice.</p>		
<p>2. Workers shall not be required or permitted to engage in the manual handling or transport of a load which by reason of its weight or nature is likely to jeopardise their safety or health.</p>		

**PART III – PREVENTIVE AND PROTECTIVE MEASURES –
SOUND MANAGEMENT OF CHEMICALS**

Article 12: The competent authority shall take measures, in accordance with national law and practice, to ensure that:

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
(a) there is an appropriate national system or any other system approved by the competent authority establishing specific criteria for the importation, classification, packaging and labelling of chemicals used in agriculture and for their banning or restriction;		
(b) those who produce, import, provide, sell, transfer, store or dispose of chemicals used in agriculture comply with national or other recognised safety and health standards, and provide adequate and appropriate information to the users in the appropriate official language or languages of the country and, on request, to the competent authority; and		
(c) there is a suitable system for the safe collection, recycling and disposal of chemical waste, obsolete chemicals and empty containers of chemicals so as to avoid their use for other purposes and to eliminate or minimise the risks to safety and health and to the environment.		

IUF Comment on Article 12

Article 12 represents a step forward for many countries in improving chemicals management at the national level. Article 12 (a) prescribes measures to be taken before chemicals are sold. Importantly, Article 12 (b) places duties on chemical producers, importers, providers, sellers, and those who transfer, store or dispose of chemicals to conform with recognised safety and health standards. Article 12 (c) refers to the need to protect the general environment in respect of disposal of empty containers and wastes.

Article 13

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>1. National laws and regulations or the competent authority shall ensure that there are preventive and protective measures for the use of chemicals and handling of chemical waste at the level of the undertaking.</p>		
<p>2. These measures shall cover, amongst other things:</p> <p>(a) the preparation, handling, application, storage and transportation of chemicals;</p>		
<p>(b) agricultural activities leading to the dispersion of chemicals;</p>		

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
(c) the maintenance, repair and cleaning of equipment and containers for chemicals; and		
(d) the disposal of empty containers and the treatment and disposal of chemical waste and obsolete chemicals.		

IUF Comment on Article 13

Complementing Article 12, this Article places an obligation on governments to ensure that measures are established for the sound management of chemicals at the level of the undertaking.

Paragraph 7 of the Recommendation (**see below**) complements Articles 12 & 13, and in paragraph 7 (1), clear reference is made to the need to consult ILO Convention No. 170 Concerning Safety in the Use of Chemicals at Work, which is the main ILO instrument dealing with all aspects of chemicals management.

ILO Recommendation No. 192 on Safety and Health in Agriculture

Paragraph 7. (1) The measures prescribed concerning the sound management of chemicals in agriculture should be taken in the light of the principles of the Chemicals Convention and Recommendation, 1990, and other relevant international technical standards.

7. (2) In particular, preventive and protective measures to be taken at the level of the undertaking should include:

- (a) adequate personal protective equipment and clothing, and washing facilities for those using chemicals and for the maintenance and cleaning of personal protective and application equipment, at no cost to the worker;
- (b) spraying and post-spraying precautions in areas treated with chemicals, including measures to prevent pollution of food, drinking, washing and irrigation water sources;
- (c) handling and disposal of hazardous chemicals which are no longer required, and containers which have been emptied but which may contain residues of hazardous chemicals, in a manner which eliminates or minimises the risk to safety and health and to the environment, in accordance with national law and practice;
- (d) keeping a register of the application of pesticides used in agriculture; and
- (e) training of agricultural workers on a continuing basis to include, as appropriate, training in the practices and procedures or about hazards and on the precautions to be followed in connection with the use of chemicals at work.

**PART III – PREVENTIVE AND PROTECTIVE MEASURES –
ANIMAL HANDLING AND PROTECTION AGAINST BIOLOGICAL RISKS**

Article 14

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>National laws and regulations shall ensure that risks such as those of infection, allergy or poisoning are prevented or kept to a minimum when biological agents are handled, and activities involving animals, livestock and stabling areas, comply with national or other recognised health and safety standards.</p>		

IUF Comment on Article 14

There was strong government support for strengthening the requirements for protection against biological risks which resulted in this Article.

Biological agents refer to, for example, diseases caught from livestock such as brucellosis, or contact with organic dusts. This Article could also be used, for example, to prevent worker exposure to cattle infected with “mad cow” disease.

Paragraph 8 of the Recommendation gives more details of what is required under Article 14 (see below).

ILO Recommendation No. 192 on Safety and Health in Agriculture

Paragraph 8. For the purpose of implementing Article 14 of the Convention, the measures for the handling of biological agents giving rise to risks of infection, allergy or poisoning, and for the handling of animals should comprise the following:

- (a) risk assessment measures in accordance with Paragraph 5, in order to eliminate, prevent or reduce biological risks;
- (b) control and testing of animals, in accordance with veterinary standards and national law and practice, for diseases transmissible to humans;
- (c) protective measures for the handling of animals and, where appropriate, provision of protective equipment and clothing;
- (d) protective measures for the handling of biological agents and, if necessary, provision of appropriate protective equipment and clothing;
- (e) immunisation of workers handling animals, as appropriate;
- (f) provision of disinfectants and washing facilities, and the maintenance and cleaning of personal protective equipment and clothing;
- (g) provision of first aid, antidotes or other emergency procedures in case of contact with poisonous animals, insects or plants;
- (h) safety measures for the handling, collection, storage and disposal of manure and waste;
- (i) safety measures for the handling and disposal of carcasses of infected animals, including the cleaning and disinfection of contaminated premises; and
- (j) safety information including warning signs and training for those workers handling animals.

**PART III – PREVENTIVE AND PROTECTIVE MEASURES –
AGRICULTURAL INSTALLATIONS**

Article 15

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>The construction, maintenance and repairing of agricultural installations shall be in conformity with national laws, regulations and safety and health requirements.</p>		

ILO Recommendation No. 192 on Safety and Health in Agriculture

Paragraph 9. To give effect to Article 15 of the Convention, the safety and health requirements concerning agricultural installations should specify technical standards for buildings, structures, guardrails, fences and confined spaces.

**PART IV – OTHER PROVISIONS – YOUNG WORKERS AND
HAZARDOUS WORK**

Article 16

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>1. The minimum age for assignment to work in agriculture which by its nature or the circumstances in which it is carried out is likely to harm the safety and health of young persons <i>shall not be less than 18 years.</i></p>		
<p>2. The types of employment or work to which paragraph 1 applies shall be determined by national laws and regulations or by the competent authority, after consultation with the representative organisations of employers and workers concerned.</p>		

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>3. Notwithstanding paragraph 1, national laws or regulations or the competent authority may, after consultation with the representative organisations of employers and workers concerned, authorise the performance of work referred to in that paragraph as from 16 years of age on condition that appropriate prior training is given and the safety and health of the young workers are fully protected.</p>		

IUF Comment on Article 16

This Article represents an important step forward in protection of young workers. It will require changes in national laws in many countries as, currently, some countries allow children as young as 11-13 years old to carry out all types of agricultural work. Article 16 sets the minimum age for such work at 18 years. National authorities may however permit persons as young as 16 years of age to carry out hazardous work “on condition that appropriate prior training is given and the safety and health of the young workers are fully protected”.

Paragraph 4.3 of the Recommendation also states that, “health surveillance measures for young workers, pregnant and nursing women and aged workers should be taken, where appropriate”.

PART IV – OTHER PROVISIONS – TEMPORARY AND SEASONAL WORKERS

Article 17

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>Measures shall be taken to ensure that temporary and seasonal workers receive the same safety and health protection as that accorded to comparable permanent workers in agriculture.</p>		

IUF Comment on Article 17

This is a most important breakthrough as there are fewer and fewer permanent workers employed in agriculture and more contract labour. It is vital that temporary and seasonal workers have the same safety and health standards as permanent workers.

PART IV – OTHER PROVISIONS – WOMEN WORKERS

Article 18

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>Measures shall be taken to ensure that the special needs of women agricultural workers are taken into account in relation to pregnancy, breastfeeding and reproductive health.</p>		

IUF Comment on Article 18

This important new standard aims to ensure that the special needs of women workers are fully addressed. Paragraph 11 of the Recommendation goes into more details about what is required (see below) and includes the need for assessment of risks for pregnant women and women’s reproductive health. Paragraph 4.3 of the Recommendation also states that, “health surveillance measures for young workers, pregnant and nursing women and aged workers should be taken, where appropriate”.

ILO Recommendation No. 192 on Safety and Health in Agriculture

Paragraph 11. To give effect to Article 18, measures should be taken to ensure assessment of any workplace risks related to the safety and health of pregnant or nursing women, and women’s reproductive health.

Paragraph 4.3. Health surveillance measures for young workers, pregnant and nursing women and aged workers should be taken, where appropriate.

**PART IV – OTHER PROVISIONS – WELFARE AND
ACCOMMODATION FACILITIES**

Article 19: National laws and regulations or the competent authority shall prescribe, after consultation with the representative organisations of employers and workers concerned:

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
(a) the provision of adequate welfare facilities at no cost to the worker; and		
(b) the minimum accommodation standards for workers who are required by the nature of the work to live temporarily or permanently in the undertaking.		

IUF Comment on Article 19

The provision of adequate welfare facilities in Article 19.1 (a) now has the important qualification, *“at no cost to the worker”*. Paragraph 10 of the Recommendation goes into more details about what is required (see below)

ILO Recommendation No. 192 on Safety and Health in Agriculture

Paragraph 10. To give effect to Article 19 of the Convention, employers should provide, as appropriate and in accordance with national law and practice, to workers in agriculture:

- (a) an adequate supply of safe drinking water;
- (b) facilities for the storage and washing of protective clothing;
- (c) facilities for eating meals, and for nursing children in the workplace where practicable;
- (d) separate sanitary and washing facilities, or separate use thereof, for men and women workers; and
- (e) work-related transportation.

PART IV – OTHER PROVISIONS – WORKING TIME

Article 20

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>Hours of work, night work and rest periods for workers in agriculture shall be in accordance with national laws and regulations or collective agreements.</p>		

IUF Comment on Article 20

This represents another important breakthrough. It is the first time in an ILO Convention that the connection between hours of work, rest periods, night work, and health and safety on the job has been made, reflecting new, modern thinking and research on issues which have been too often neglected in the past.

**PART IV – OTHER PROVISIONS – COVERAGE AGAINST
OCCUPATIONAL INJURIES AND DISEASES**

Article 21

WHAT THE CONVENTION SAYS	WHAT YOUR LAWS SAY	AMENDMENTS NEEDED TO YOUR NATIONAL LAW
<p>1. In accordance with national law and practice, workers in agriculture shall be covered by an insurance or social security scheme against fatal and non-fatal occupational injuries and diseases, as well as against invalidity and other work-related health risks, providing coverage at least equivalent to that enjoyed by workers in other sectors.</p>		
<p>2. Such schemes may either be part of a national scheme or take any other appropriate form consistent with national law and practice.</p>		

IUF Comment on Article 21

This is another significant breakthrough as, currently, many agricultural workers are not covered by this form of social protection. In many countries, agricultural workers are excluded from any employment injury benefit or insurance scheme. This is either because:

- no such insurance scheme exists for them or
- directly or indirectly, agricultural workers are excluded from general schemes

■ Implementation – including reporting to the ILO and compliance

Introduction

Once ratified, the Convention has to be turned into national law and implementation measures and programmes put in place. Trade unions have a key role in promoting effective implementation and monitoring that governments and employers meet the obligations and duties laid down for them. In ensuring effective implementation and compliance, ILO processes and procedures can again be made use of.

The reporting process – using ILO standards to improve safety and health standards

Supervision and Complaints

Once a member State has ratified a Convention, it is binding on the State to put the Convention into effect. There is a procedure, laid down in the ILO Constitution, for supervising and monitoring the actions of States once they have ratified.

In supervising how a country applies Conventions, the ILO depends mainly on two types of procedure:

1. Regular supervision in the form of reporting, and examination of these reports by a committee of experts.
2. Examination of specific allegations, through:
 - a. representations and
 - b. complaints.

Reporting

In this case, governments must submit reports to the ILO on each ratified Convention, according to the list prepared by the Governing Body, describing:

- the arrangements made to achieve the goals of a Convention;
- how to overcome any obstacles in the way of its full application;
- how it is applied in practice.

Trade unions are entitled to receive copies of these reports and to comment on them.

At the ILO, the reports are examined by the Committee of Experts on the Application of Conventions and Recommendations. This committee is not limited to the information supplied by governments. Information on a country's legislation can also be found in official gazettes and similar publications where laws and regulations are printed. Other sources are the observations which can be submitted directly to the ILO by the trade unions. These observations by trade unions are of great importance in that they let workers participate fully in the supervisory system of the ILO at any time. These comments by trade unions are also important because they give complementary views on the conditions in a certain country, and help to give the real picture of the situation.

If the committee finds that a government is not fully applying a ratified Convention, it can formulate either:

- a “direct request”, usually made in the case of minor failures;
- an “observation” -- usually used for more serious or long-standing offences.

Each year, the Committee of Experts then publishes a report entitled the “Report of the Committee of Experts on the Application of Conventions and Recommendations”, which is examined during the International Labour Conference by the Tripartite Committee on the Application of Conventions and Recommendations. Many problems concerning individual cases can be sorted out at this forum, and it is here that trade union representatives can play what is perhaps their major role.

Another stage of the reporting process is a general survey on a special topic decided by the Governing Body, and describing the situation in all the countries whether they have ratified the Conventions concerned or not. This survey is based on information received from members according to Articles 19 (5)(c) and (6)(d) of the ILO Constitution.

Representations

Any trade union -- national or international -- can make a representation to the ILO to the effect that a member State has violated a particular ratified Convention. Representations are receivable by the Governing Body if they are presented by:

- a national union directly interested in the matter;
- an international workers’ organization having consultative status with the ILO; or
- an international federation where the allegations relate to matters directly affecting its affiliates.

The submission must be in writing, signed, and be as fully documented as possible with proofs in support of the allegations.

The representation is examined by a committee of three members of the Governing Body, one from each of the three groups. The Governing Body presents the representation to the government concerned. If the Governing Body is not satisfied with their response, or if no reply is forthcoming, then the Governing Body publishes the representation along with the government’s reply, if any, and its own conclusions concerning further action.

Complaints

Making a complaint to the ILO is a more formal procedure and can be taken by one member State against another if the former is not satisfied that the latter is observing a Convention they have both ratified. A complaint can also come from the Governing Body on its own, or from a delegate to the International Labour Conference.

When a complaint has been received, the Governing Body may appoint a commission of inquiry to examine the case. It may call for statements and documents from all parties concerned, hear witnesses and call on member States for relevant information.

After fully considering the complaint, the commission prepares a report of its findings and recommendations which is communicated to the Governing Body and to the governments concerned in the complaint. The report is also published. The governments concerned are allowed three months in which to indicate whether or not they accept the commission's recommendations.

If a government does not accept the recommendations, it may, within three months, refer the complaint to the International Court of Justice, whose decision on the matter is binding. No country has yet found it necessary to take this final step.

Governments do not like the process of public exposure involved in the complaints and take them very seriously.

■ Technical co-operation: could it help with implementation and compliance?

Arguments that the government may use for **not** ratifying the Convention are 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 two member states. So this allows time for the process of changing law. Another point is that the union can help with the drafting.

To help with both ratification and implementation, the ILO will consider offering help to member states to assist them in meeting the standards laid down in the Convention. This is called technical co-operation in the ILO (and United Nations system as a whole). Technical co-operation 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 your country to others to study the operation of the Convention/laws there

To get ILO support, the government will have to apply to the ILO. The ILO is always interested in providing technical co-operation if it may lead to ratification. There is a danger in such a process. The government may draw up its application and implement the project, *without involving the union*. This should not happen but it can.



Checklist

- ✓ A tripartite committee should draw up and approve any project proposal to the ILO
- ✓ Get agreement that the proposal will only be submitted once the union has approved
- ✓ Send a copy of the proposal to IUF in Geneva for advice
- ✓ Ask the nearest ILO Specialist on Workers Activities to look over the draft proposal (these specialists are in ILO Multi-Disciplinary teams which cover sub-regions). A list is available from the IUF if you cannot get the information easily from your ILO Area office
- ✓ 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 will attend and play an active part in the proceedings. They have to be someone who fights for the union
- ✓ The project should include a component for training for worker HS&E representatives. Demand that there is a clear agreement that a trade union specialist will carry this out 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 worker HS&E 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 Convention²
- ✓ The project should not involve sending large numbers of Ministry official or senior members of the agricultural inspectorate abroad

There should be no visits to countries which have not ratified the Convention. Again, you can check with the IUF about which countries might be suitable for a study visit.

² Remember that sometimes, for technical reasons, member states may have a problem ratifying a Convention. This should be for a genuine reason, perhaps to do with a federal constitution.



Activity – Planning a technical co-operation project

AIMS

To help us to design a project to meet the standards of Convention 184.

TASK

In your small group, decide what should be the main components of a project in your country which would help the agricultural industry conform to Convention 184.

Think about:

1. Assistance in drafting new law
2. Training for inspectors, employers' safety officers, worker HS&E representatives
3. Equipment for testing. What already exists, what more is needed?
4. Building up institutions and capacity – for example, agricultural research

Elect a spokesperson to report back

■ Tripartism and Convention No. 184

Organising an ILO tripartite workshop

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

If the ILO has not already organised such a workshop, you can take the initiative, and offer to do the organising. Although the ILO will have to provide the funds, and would normally be responsible for sending out the invitations. You should try to get the ILO to agree that an IUF resource person will run the workshop. The ILO's prestige will help to ensure that government and employers will respond.

A sample letter is provided below to the ILO Director for your country requesting such a workshop. (Not every country has an ILO office. If you are not sure where your ILO office is, contact IUF HQ or your regional IUF co-ordinator).

Sample letter on a tripartite workshop

xxxxx,
Director,
ILO zzz Area Office

Dear xxxxx,

Our country has a substantial agricultural industry, and our union represents **x** thousand agricultural workers. We consider that ratification of ILO Convention No. 184 on Safety and Health in Agriculture (2001) to be a high priority.

So far, there has not been a detailed discussion of the new standards on a tripartite basis. *(You can mention what action, if any, the government has taken).* We consider that it would be helpful if there was a tripartite workshop to:

- to inform all social partners, through the participants, of the provisions of Convention No. 184 and Recommendation No. 192;
- 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 Co-operation might be required to help comply with the standards following ratification.

Our union is affiliated to the International Union of Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), which is one of the global union federations having consultative status with the ILO. The IUF was deeply involved in the discussions leading to the adoption of the Convention. The IUF has drawn up a model programme for tripartite workshops such as we propose and it is attached. *(You should attach the model programme which the IUF has prepared).* We propose that an IUF consultant could run the workshop.

Our union would be happy to make the practical arrangements for the workshop and request that the ILO meet the costs of the workshop out of RBTC.³ Our estimate for the budget would be:

(You should give your estimate here. It should include costs of accommodation and food for all participants, hire of a hall, photocopying, and whatever else is appropriate. You need to think about whether government and employer representatives should pay for their own transport. You should include transport costs for union delegates. Remember that if there is more than one union involved, the ILO would expect them to attend as well. You may also need to include travel and other costs of an IUF officer or consultant to run the workshop).

We would not expect the workshop to try to make decisions on ratification, which is, of course, the responsibility of the competent authority. It is designed to give all concerned a chance to discuss the issues.

I look forward to your reply.

Yours sincerely,
General Secretary/President

³ This is an ILO jargon term and stands for Regular Budget for Technical Co-operation. Every ILO office is allocated a sum of money for local activities.

**Draft programme for a tripartite workshop on ILO Convention No. 184
on Safety and Health in Agriculture (2001)****Day 1**

- Introduction of participants
- The contents of the Convention; an overview
- The process of ratification (ILO speaker on 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 will 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 from working groups
- Future plans
- Evaluation of the workshop

■ Future plans

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



Activity – Planning your campaign: the next steps

AIMS

To help us to plan a ratification campaign.

TASK

In your small group, draw up a report on how the union can campaign for ratification.

It should cover these stages:

1. The situation now: has the government taken any steps, as obliged under the ILO Constitution? Has the ILO in your country taken any action?
2. What action should the union now take? What allies exist who may join in the demands for ratification?
3. What about other unions in agriculture, or NGO's in your country? Has there been any co-operation on this question? If not, is it possible? A joint campaign will be much more effective
4. If the ILO has not organised any action yet, can you approach them and ask for a tripartite workshop on the Convention?

Elect a spokesperson to report back



■ Further information

ILO Reports

ILO Reports which formed the basis of the Convention and Recommendation, including a questionnaire to governments and the analysis of their replies:

- Report VI (1): Safety and health in agriculture (1999)
- Report VI (2): Safety and health in agriculture (2000)
- Report IV (2A) Safety and health in agriculture (2001)

ILO Books

ILO Labour Education 2000/1-2, No. 118/119: Top on the agenda – health and safety in agriculture. Specially produced for the Convention and includes articles by IUF.

For more detailed information on International Labour Standards, read *International Labour Standards – a workers' education manual* (Geneva 1990). The Workers' Education Branch of the ILO has also produced materials on the subject, called simply, ILO Standards. Two sections are especially useful:

- Trade Union participation in shaping and adopting international labour standards
- Trade union participation in implementing international labour standards

ILO standards relevant to agricultural workers

The main standards are:

International Labour Standards Covered in the Declaration on Fundamental Principles and Rights at Work (adopted by the International Labour Conference at its 86th session, Geneva 1998):

- Convention No. 87: Freedom of Association and Protection of the Right to Organise Convention, 1948
- Convention No. 98: Right to Organise and Collective Bargaining, 1949
- Convention No. 29: Forced Labour, 1930
- Convention No. 105: Abolition of Forced Labour, 1957
- Convention No. 100: Equal Remuneration, 1951
- Convention No. 111: Discrimination (Employment and Occupation), 1958
- Convention No. 138: Minimum Age, 1973

Health and Safety Conventions:

- Convention No. 184: Safety and Health in Agriculture, 2001
- Convention No. 155: Occupational Safety and Health, 1981
- Convention No. 161: Occupational Health Services, 1985
- Convention No. 170: Safety in the Use of Chemicals at Work, 1990 plus Recommendation 177
- Convention No. 129: Labour Inspection in Agriculture 1969, plus Recommendation 133

*Agriculture-specific Conventions**Freedom of association*

- Convention No. 11: Right of Association (Agriculture), 1921
- Convention No. 141: Rural Workers' Organisations, 1975

Conditions of work

- Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951
- Convention No. 101: Holidays with Pay (Agriculture), 1952

Social security

- Convention No. 25: Sickness Insurance (Agriculture), 1927
- Convention No. 36: Old-Age Insurance (Agriculture), 1933
- Convention No. 38: Invalidity Insurance (Agriculture), 1933
- Convention No. 40: Survivors' Insurance (Agriculture), 1933
- Convention No. 12: Workmen's Compensation (Agriculture), 1921

Employment of children

- Convention No. 10: Minimum Age (Agriculture), 1921

Plantations

- Convention No. 110: Plantations, 1958.

**Codes of
Practice**

Although they are not international labour 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 Governing Body approves the texts of codes of practice, so they carry great weight, but they are not binding. Codes provide guidance for government, employers and workers in the field of occupational safety and health. They frequently cover the same topic as a Convention.