TWENTY FIFTH INTERNATIONAL LABOUR CONFERENCE SESSION ON 28 JUNE 1939 - AT GENEVA

ILO - CONVENTION - 066
MIGRATION FOR EMPLOYMENT

Convention Concerning the Recruitment, Placing ad Conditions of Labour of Migrants for Employment .

Entry into force: 08 July 1948

[Withdrawn by decision of the International Labour Conference at its 88th Session (2000)]

Preamble

The General Conference of the International Labour Organization, Having been convened in Geneva by the Governing Body of the International Labour Office, and having met in its 88th Session on 30 May 2000, and Following consideration of the proposal for the withdrawal of several international labour Conventions, which is the seventh item on the agenda of this session; decides this fifteenth day of June of the year two thousand to withdraw the Migration for Employment Convention, 1939 (No. 66). The Director-General of the International Labour Office shall notify all Members of the International Labour Organization as well as the Secretary-General of the United Nations of this decision to withdraw the instrument. The English and French versions of the text of this decision are equally authoritative.

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 Twenty-fifth Session on 8 June 1939, and

Having decided upon the adoption of certain proposals with regard to the recruiting, placing and conditions of labour (equality of treatment) of migrant workers, which is the third item on the agenda of the Session, and

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

adopts this twenty-eighth day of June of the year one thousand nine hundred and thirty-nine the following Convention, which may be cited as the Migration for Employment Convention, 1939:

Article 1

Each Member of the International Labour Organisation which ratifies this Convention undertakes that it will--

- (a) enact and enforce penalties for the repression of--

- (i) misleading propaganda relating to emigration or immigration; and
- (ii) propaganda relating to emigration or immigration which propaganda is contrary to national laws or regulations; and

- (b) exercise supervision over advertisements, posters, pamphlets and other forms of publicity relating to employment in one territory which is offered to persons in another territory.

Article 2

- 1. Each Member which ratifies this Convention undertakes to maintain, or satisfy itself that there is maintained, an adequate service to supply information and give assistance to emigrants and immigrants.
- 2. This service shall be conducted--
  - (a) by the public authorities; or
  - (b) by one or more voluntary organisations not conducted with a view to profit, approved for the purpose by the public authorities, and subject to the supervision of the said authorities; or
  - (c) partly by the public authorities and partly by one or more voluntary organisations fulfilling the conditions stated in subparagraph (b) of this paragraph.

Article 3

- 1. Each Member which ratifies this Convention undertakes to regulate in accordance with the provisions of this Article the following operations:
  - (a) recruitment, that is to say--
    - (i) the engagement of a person in one territory on behalf of an employer in another territory, or
    - (ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory,

  together with the making of any arrangements in connection with the operations mentioned in (i) and (ii), including the seeking for and selection of intending emigrants and the preparation for departure of the emigrants;

  - (b) introduction, that is to say any operations for ensuring or facilitating the arrival in or admission to a territory of persons who have been recruited within the meaning of subparagraph (a) of this paragraph; and
  - (c) placing, that is to say any operations for the purpose of supplying an employer with the labour of persons who have been introduced within the meaning of subparagraph (b) of this paragraph.

- 2. The right to engage in the operations enumerated in paragraph 1 of this Article shall be restricted to--
  - (a) public employment exchanges or other public bodies of the territory in which the operations take place;
  - (b) public bodies of a territory other than that in which the operations take place which are authorised to operate in that territory by an agreement between the Governments concerned;
  - (c) any body established in accordance with the terms of an international instrument;
  - (d) the prospective employer or a person in his service acting on his behalf; and
  - (e) private employment agencies, whether fee-charging or not, which are not conducted with a view to profit.
- 3. The right to engage in the operations enumerated in paragraph 1 of this Article shall be subject to the prior authorisation of the competent authority of the territory where the said operations are to take place in such cases and under such conditions as may be prescribed by the laws or regulations of that territory or by agreement between the country of emigration and the country of immigration.
- 4. The competent authorities of the territory where the operations take place shall supervise the activities of bodies and persons to whom authorisations have been issued in pursuance of the preceding paragraph.

Article 4

- 1. Each Member ratifying this Convention which maintains a system of supervision over contracts of employment between an employer, or person acting on his behalf, and a migrant for employment, which are concluded before the departure of the migrant undertakes to require contracts subject to such supervision to comply with the provisions of this Article.
- 2. The contract shall be drawn up in or translated into a language which the migrant understands.
- 3. The contract shall, in addition to any other terms, specify the following particulars:
  - (a) the duration of the contract and if the contract is renewable the method of renewal, or in the case of a contract of indeterminate duration the procedure for the denunciation of the contract and the notice of the denunciation required;
  - (b) the exact date on which and place at which the migrant is required to report;
  - (c) the method of meeting the travelling expenses--
    - (i) of the migrant on the outward journey;

- (ii) of the migrant on the return journey, if such journey takes place on the expiry of the period for which the contract was concluded or before the expiry of the said period in consequence of the denunciation or termination of the contract not due to the fault of the migrant;
- (iii) of members of the migrant's family authorised to accompany him to or join him in the country of immigration;

- (d) any deductions which the employer may make from remuneration in accordance with the laws or regulations of the country of immigration or an agreement between the country of emigration and the country of immigration;
- (e) the housing conditions, if housing is to be provided or obtained by the employer;
- (f) any arrangements to ensure the maintenance of the migrant's family in the country of origin, more particularly with a view to preventing desertion of his family by the migrant.

Article 5

Each Member which ratifies this Convention undertakes to take measures to ensure that, if any migrant introduced into its territory fails, for a reason for which he is not responsible, to secure the employment for which he has been recruited, or an equivalent employment, the cost of his return and that of the members of his family, including administrative fees, transport and maintenance charges to the final destination, and charges for the transport of household belongings, does not fall upon the migrant.

Article 6

- 1. Each Member which ratifies this Convention undertakes that it will apply to foreigners treatment no less favourable than that which it applies to its own nationals with respect to the following matters:
  - (a) in so far as such matters are regulated by law or regulations or are subject to the control of administrative authorities--
    - (i) conditions of work and more particularly remuneration, and
    - (ii) the right to be a member of a trade union;
  - (b) employment taxes, dues or contributions payable by the person employed; and
  - (c) legal proceedings relating to contracts of employment.
- 2. The equality of treatment provided for in the preceding paragraph may be granted subject to reciprocity, which shall be deemed to exist--
  - (a) as between all Members bound by this Convention; and

- (b) as between each Member bound by this Convention and any other State with which it has concluded a reciprocity agreement relating to the matter in question.

Article 7

- 1. Personal effects and tools belonging to recruited migrants for employment and members of their families shall be exempt from customs duties on arrival in the country of immigration.
- 2. Personal effects and tools belonging to migrants for employment and members of their families shall be exempt from customs duties on the return of the said persons to their country of origin if they have retained the nationality of that country at the time of their return there.

Article 8

This Convention does not apply to--

- (a) migration within the territory of a Member or from one territory of a Member to another territory of the same Member;
- (b) frontier workers whose place of employment is in the territory of one State and whose place of residence is in the territory of another State;
- (c) seamen;
- (d) indigenous workers as defined in Article 2 (b) of the Recruiting of Indigenous Workers Convention, 1936.

Article 9

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

Article 10

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

Article 11

- 1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

- 2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 12

- 1. The Director-General of the International Labour Office shall notify all the Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
- 2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which this Convention will come into force.

Article 13

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 14

- 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,
  - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;
  - (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
- 2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.