



## Governing Body

312th Session, Geneva, November 2011

GB.312/INS/3

Institutional Section

INS

THIRD ITEM ON THE AGENDA

### **Matters arising out of the work of the 100th Session (2011) of the International Labour Conference**

#### **Follow-up to the adoption of the resolution concerning efforts to make decent work a reality for domestic workers worldwide**

#### **Overview**

##### **Summary**

The paper provides a brief overview of the rationale for and the overall thrust and content of the new Domestic Workers Convention (No. 189), and Recommendation (No. 201) that were adopted through tripartite consensus and with overwhelming support by the Conference in June 2011. The paper also lays down the priorities, geographical and thematic scope and institutional set of a possible strategy for action aimed at giving effect, within existing resources, to the resolution concerning efforts to make decent work a reality for domestic workers worldwide.

##### **Policy implications**

None.

##### **Legal implications**

None.

##### **Financial implications**

None.

##### **Decision required**

Paragraph 33. The Conference invited the Governing Body to request the Director-General to consider adopting measures in a number of specific areas identified in the resolution.

##### **Author unit**

Conditions of Work and Employment Programme (TRAVAIL).

##### **References to other Governing Body documents and ILO instruments**

GB.312/POL/6; GB.312/INS/12.

Convention No. 189 and Recommendation No. 201.



## Part I. Introduction

1. At its 100th Session (2011), the International Labour Conference adopted the Domestic Workers Convention (No. 189), and Recommendation (No. 201), 2011.<sup>1</sup> This is the first time that the ILO has adopted international labour standards dedicated to this particular group of workers.
2. According to recent ILO estimates, at least 52.6 million persons above the age of 15 worldwide engage in domestic work as their principal job; and 83 per cent of them are women.<sup>2</sup> Domestic work is a truly global phenomenon, concerning developing and high-income countries alike, and on the rise everywhere. It accounts for 3.6 per cent of wage employment worldwide, representing 0.9 per cent of wage employment in industrialized countries, almost 12 per cent of wage employment in Latin America and the Caribbean, 8 per cent in the Middle East, and about 5 and 3.5 per cent in Africa and Asia, respectively.
3. The Convention and Recommendation are the result of in-depth and fruitful discussions among the constituents. The final texts were achieved through tripartite consensus and adopted with overwhelming support.<sup>3</sup> Broad interest and support for the new standards have been expressed also by the United Nations, the European Union (EU)<sup>4</sup> and other international organizations and bodies (see paragraph 28 below).
4. The Convention and Recommendation recognize that, while domestic workers make important contributions to the well-being and functioning of families, labour markets and economies, they experience huge decent work deficits owing to serious legal and policy gaps.<sup>5</sup> The new instruments lay down basic principles and minimum labour standards for domestic work, while recognizing its specific nature, the varied employment arrangements in which domestic workers are employed, and the differing legal regimes and socio-economic circumstances of member States.
5. Alongside the new instruments, in June 2011 the Conference also adopted the resolution concerning efforts to make decent work a reality for domestic workers worldwide. It invites the Governing Body to request the Director-General, subject to the availability of resources, to consider measures in a number of areas related to the promotion of decent

<sup>1</sup> The texts of Convention No. 189 and Recommendation No. 201 can be found on the ILO website at: [www.ilo.org/ilolex/english/index.htm](http://www.ilo.org/ilolex/english/index.htm).

<sup>2</sup> Many more millions engage in domestic work as a secondary occupation, are children less than 15 years, or are simply unregistered and hidden from official statistics. It is therefore reasonable to suppose the actual numbers of domestic workers to be considerably higher. See ILO: *Global and regional estimates on domestic workers*, Domestic Work Policy Brief No. 4 (Geneva, 2011), available at: [http://www.ilo.org/travail/whatwedo/publications/lang--en/docName--WCMS\\_155951/index.htm](http://www.ilo.org/travail/whatwedo/publications/lang--en/docName--WCMS_155951/index.htm).

<sup>3</sup> ILO: *Provisional Record* No. 30, International Labour Conference, 100th Session, Geneva, 2011, pp. 6–8.

<sup>4</sup> European Parliament: *Resolution on the proposed ILO Convention supplemented by a Recommendation on domestic workers* (RSP/2011/2678) at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2011-0237&language=EN&ring=B7-2011-0296>.

<sup>5</sup> See ILO: *Decent work for domestic workers*, Report IV(1), International Labour Conference, 99th Session, Geneva, 2009; *Coverage of domestic workers by key working conditions laws*, Domestic Work Policy Brief No. 5 (Geneva, 2011), available at [http://www.ilo.org/travail/whatwedo/publications/lang--en/docName--WCMS\\_157509/index.htm](http://www.ilo.org/travail/whatwedo/publications/lang--en/docName--WCMS_157509/index.htm).

work for domestic workers. More specifically the resolution identifies the following areas for action:

- promotion, through appropriate initiatives, of the widespread ratification of the Convention and the effective implementation of the Convention and Recommendation;
  - support for governments and employers' and workers' organizations in the sharing of knowledge, information and good practices on domestic work;
  - promotion of capacity building of governments and employers' and workers' organizations to ensure decent working conditions for domestic workers; and
  - cooperation with regard to the promotion of decent work for domestic workers between the International Labour Organization and other relevant international organizations.
6. The purpose of this paper is to propose a framework for ILO action to implement the resolution mentioned in paragraph 5. It suggests a strategy and main areas of ILO assistance to member States. Specific country-level priorities, targets and resources will be elaborated based on the Governing Body's decision on this proposed framework and on the consultations between headquarters and field offices on specific country priorities for the Programme and Budget for 2012–13 that will take place in November 2011.

### **Convention No. 189 and Recommendation No. 201 at a glance**

7. The new instruments make it clear that domestic workers, like other workers, are entitled to fundamental rights at work and to minimum labour and social protection. The new Convention and Recommendation are grounded on the principle of non-less favourable treatment between domestic workers and workers generally. They contain important provisions concerning working and living conditions, ranging from working time and remuneration to occupational safety and health. These are areas where the exclusion or inclusion, under more disadvantaged terms, of domestic workers in national law is most apparent, and constitutes an important source of their social and economic vulnerability.
8. The new instruments also recognize that private employment agencies can play a positive role in creating opportunities for decent employment in the domestic work sector and that this also requires appropriate legal frameworks, including protection of workers from abusive practices.
9. Considering that the large majority of domestic workers are women from disadvantaged groups who are over-represented among low-paid workers, the new standards constitute an important step towards gender equality in the world of work and reduction of income inequality. The new instruments also recognize that certain groups of domestic workers, such as migrant domestic workers, young domestic workers and workers who reside in the household for which they work (the so-called "live-in" domestic workers), face particular needs and risks that require specific measures.
10. Cognizant of the varied socio-economic realities and possibilities of member States, the Convention allows for some flexibility in respect of its implementation. The Recommendation provides practical guidance for the design and implementation of effective measures to promote decent work for domestic workers. Both instruments

emphasize social dialogue as a key principle of the implementation process (see paragraph 22 below).

11. Significant and valuable work on domestic work by the ILO has been under way for some years, but addressing only specific aspects of it, e.g. child domestic labour; forced labour and trafficking into domestic work; and discrimination in employment due to gender, race and nationality.<sup>6</sup> Convention No. 189 and Recommendation No. 201 provide the guiding framework for a more comprehensive and better integrated approach. While the ILO's experience in promoting fundamental principles and rights at work for domestic workers is well-established, work in policy areas such as working conditions, occupational safety and health, social security and enforcement mechanisms requires further impetus. This is essential if the Office is to effectively assist the ILO's constituency in delivering decent work for this category of workers at the country level.

## Part II. The follow-up: Strategy for action

12. Making decent work a reality for domestic workers requires a combination of policy interventions whose sequencing and timing would vary from country to country, according to national priorities, as reflected, among others, in Decent Work Country Programmes, realities and possibilities. Regardless of these differences, however, action in four core areas is proposed across countries. These include: the promotion of the ratification and implementation of the new Convention and of the implementation of the new Recommendation; building and strengthening institutions at the country level; facilitating the organization and representation of domestic workers and their employers; and awareness raising and advocacy. Applied research and its dissemination underpin each of these core areas.
13. A number of member States in the past years have embarked on initiatives to establish laws and policies aimed at improving the social and labour protection of domestic workers, often with the ILO's technical and financial support (see paragraph 17 below). Several among them have already expressed their intention to ratify the Convention (e.g. Brazil, Namibia, Norway, the Philippines and Uruguay), while others are considering such a possibility. Many other member States still require some time to put in place effective laws, policies and practical measures for the realization of decent work for domestic workers.
14. The next four years will be critical. A rapid entry into force of the Convention, which requires two ratifications, will be important to maintain the tremendous interest and momentum that its adoption has generated. This initial period is also crucial for promoting national assessments and action plans on decent work for domestic workers that will permit member States to understand what is required for effective implementation of Convention No. 189. Experience and lessons from this initial phase, in turn, are expected to encourage the design of better-targeted initiatives that may result in widespread ratification and implementation in the longer term. For these reasons, and without prejudice to ongoing or planned initiatives related to domestic work, it is suggested that in the next two to four years the Office combine and coordinate its efforts in a systematic manner in ten specific countries (two per region) where conditions for ratification and implementation of the new Convention appear to be ripe. One key indicator for such condition would be expressed political commitment together with the existence of political processes aimed at improving the legal and policy frameworks on domestic work. As

<sup>6</sup> ILO: *Decent work for domestic workers*, Report IV(1), op. cit., pp. 87–91.

highlighted in paragraph 12 above, action in the selected countries would involve initiatives on a range of fronts.

## **1. Promotion of ratification and implementation of the new Convention**

- 15.** Action towards the ratification and implementation of Convention No. 189, supplemented by Recommendation No. 201, requires the involvement of all tripartite constituents. The role of the ILO Office, including the Bureau for Workers' Activities (ACTRAV) and the Bureau for Employers' Activities (ACT/EMP), will be to support social dialogue on decent work for domestic workers and efforts at the national level to study the possibility of ratifying Convention No. 189: in this regard, the Office, upon request, will assist the concerned authorities in the examination of national law and practice in the light of the Convention and the preparation of measures to overcome gaps identified.
- 16.** Because legislative reform can be long and complex, involving not only ILO traditional tripartite partners but also other government ministries, parliamentarians, and organizations of domestic workers and of their employers, the ILO must be ready to engage in this process at country level on a sustained basis for at least three years.

## **2. Building and strengthening capacities and institutions at the national level**

- 17.** Since 2009, some countries have embarked on initiatives to design new legislation or policies aimed at improving working conditions and social security of domestic workers, e.g. in Argentina, China, India, Indonesia, Jordan, Lebanon, Paraguay, the Philippines, the United States (State of New York, California) and Zambia.
- 18.** Even prior to the adoption of Convention No. 189 and Recommendation No. 201, the ILO had already received requests from several countries for practical guidance and assistance, among them the Plurinational State of Bolivia, Lebanon, the Philippines, Rwanda and Uruguay. A number of country programme outcomes in the ILO Programme and Budget for 2010–11 address domestic workers (see appendix). The forthcoming Programme and Budget for 2012–13 is also expected to include a number of country programme outcomes related to domestic work. Based on information received from national constituents and field offices, a number of countries are ready to improve, revise or introduce the legal, policy and institutional conditions necessary to ratify and/or effectively implement Convention No. 189, but they are at different stages and thus may require different forms of ILO assistance. For example, a few are relatively advanced and require legal and policy reviews leading to ratification; some require building institutional capacities for implementation, such as in dispute settlement or enforcement; others require as a first step wider awareness raising and policy dialogues on the Convention. These specificities will be elaborated through consultations with field offices and across the relevant technical departments at headquarters.
- 19.** Based on demands expressed, ILO technical assistance may cover the following areas:
  - labour law reform;
  - improvement of data collection and statistics to better capture domestic work;
  - social security, including maternity protection;

- employment, social security and immigration regimes governing migrant domestic workers;
- occupational safety and health;
- skills development for domestic workers;
- private employment agencies;
- collective bargaining mechanisms;
- recruitment and placement of domestic workers, as well as settlement of disputes; and
- enforcement mechanisms.

20. National capacity building may involve a range of policy actors, governance institutions, workers' and employers' organizations and private employment agencies; and may include knowledge sharing, training, feasibility studies and pilot-testing of new schemes, and development of local experts' support networks.

### 3. Promoting the organization of domestic workers and their employers

21. As domestic work is carried out in private homes, most domestic workers typically have little contact with other workers and often are either unorganized or organized in volatile, understaffed and unequipped associations. Isolated, and without voice and organization, they would be in a weak position to claim their rights. Employers of domestic workers are equally hardly organized, and both groups have little or no experience in collective bargaining or in dealing with authorities on labour laws and social security.
22. The international trade union movement, through the International Trade Union Confederation and its regional affiliates and the Global Union federations, played an active role in the process which led to the adoption of the new standards. It provided, in particular, a platform for domestic workers to voice their own expectations and demands. The international trade union movement is now committed to promoting the ratification of the new Convention, and to encouraging the organization and affiliation of domestic workers in established trade unions.
23. Employers' representatives to the 2011 Conference expressed their readiness to engage in dialogue on improving the working and living conditions of domestic workers. At the country level, there are already examples of national employers' organizations that have started to do so, e.g., in Zambia. In the context of the standard-setting process, the International Organisation of Employers has actively engaged in international discussions concerning private employment agencies, which play an important role in recruiting and placing migrant domestic workers.
24. The new Convention and Recommendation explicitly recognize the importance of workers' and employers' organizations. Generally, implementation measures are to be taken in consultation with them. Consultations are more specifically envisaged on measures regarding occupational safety and health, social security, and private employment agencies. This is underpinned by provisions on the protection and promotion of freedom of association and the right to collective bargaining in the domestic work sector.

25. In this regard, ILO technical assistance, through ACTRAV and ACT/EMP and upon request of the organizations concerned, will: (i) collaborate with and assist trade unions to develop their capacities to respond to the needs of domestic workers, to organize them and give them voice and representation in the mainstream trade union movement; (ii) collaborate with and assist employers' organizations to address domestic work issues, including the development of programmes to strengthen good practices among private employment agencies that recruit, place and/or hire domestic workers, and to support organizations of employers of domestic workers; and (iii) strengthen the organization and negotiating capacity of domestic workers and of employers of domestic workers.

#### **4. Awareness raising and advocacy through applied research and its dissemination**

26. A sound knowledge base on domestic work and approaches to regulating it is essential to informed, meaningful policy dialogue, awareness raising and action at national, regional and international levels. For purposes of assessing and formulating national policies, legislation and action programmes on domestic work, national constituents in a number of countries and members of the Conference Committee on Domestic Workers have pointed to the need for reliable, broader-based empirical data.

27. There is also a considerable demand for cross-country, cross-regional sharing of practical knowledge and experiences in addressing domestic work issues. The ILO's future research and knowledge-sharing strategy on domestic work will build upon the recently developed methodology for estimating the number of domestic workers and coverage of legal protection, and on other studies already undertaken by the Conditions of Work and Employment Programme (TRAVAIL), the International Migration Branch (MIGRANT), the International Programme on the Elimination of Child Labour (IPEC), ACTRAV and ILO field offices (in Beijing, Beirut, Brasilia, Dar es Salaam, Hanoi, New Delhi and Santiago), and will aim for broader-based data and surveys. Future research will have three streams: (i) improving methodologies for monitoring the number of domestic workers and trends in their conditions of work and employment; (ii) a policy thematic stream, aimed at building a critical mass of knowledge on specific policy themes such as remuneration, working time, occupational safety and health, social security, links between immigration and labour policy and regulation, dispute settlement and enforcement, collective bargaining, private employment agencies and skills development; and (iii) a country-specific stream, aimed at building in-depth understanding of the multiple aspects of domestic work and the relative effects of different policies and regulations concerning domestic workers on labour markets and inequalities, informal or undeclared work and poverty, and the quality of domestic services alike. As a cost-effective strategy, the ILO will continue to work with the academic community and other national partners, and will strengthen networks with them through varied modes of partnership.

#### **5. Cooperation between the ILO and other UN agencies on issues pertaining to domestic work**

28. During the standard-setting process which culminated in the adoption of the new instruments on domestic workers, the Office had developed relationships in this area with a number of UN organizations and bodies, including the United Nations Entity for Gender



Equality and the Empowerment of Women (UN Women),<sup>7</sup> the Office of the High Commissioner for Human Rights, and several UN human rights treaty bodies and special procedures of the Human Rights Council. More recently, contacts have been initiated with the Organization for Security and Co-operation in Europe (OSCE).

29. The new instruments provide the ILO with an opportunity to strengthen its partnership with these organizations, including with respect to the promotion of their ratification and implementation. Such cooperation is essential for: (i) ensuring consistency in terms of messages and approaches towards the effective regulation and enforcement of domestic work; (ii) reaching out to relevant constituencies beyond the ILO's own; and (iii) identifying potential synergies and complementarities, for the sake of greater cost-effectiveness.
30. The new Convention and Recommendation provide the Office with an opportunity to "lead by example" through the development of a code of conduct for its own staff that resort to domestic workers' services, in line with the thrust of these instruments. This would lend further legitimacy and credibility to the ILO's commitment towards making decent work a reality for domestic workers. The ILO, in turn, could offer such a code to UN agencies or other international organizations for their consideration.

## Institutional framework for implementation

31. Because of the cross-cutting nature of domestic work and the country focus of the proposed action plan, the coordinated efforts of several technical departments at headquarters and the concerned field offices will be required. The following mechanisms will be put in place:
  - (a) a technical working group at headquarters, consisting of the Labour Protection Department (PROTRAV), the International Labour Standards Department (NORMES), the Industrial and Employment Relations Department (DIALOGUE) and the Labour Administration and Inspection Programme (LAB/ADMIN), which will elaborate and assess respective roles and contributions in consultation with ACTRAV and ACT/EMP and the field structure;
  - (b) one coordinator in each ILO regional office, who will be responsible for mobilizing and coordinating contributions and proper consultation and information flows among different participants, especially the concerned ILO offices; and
  - (c) an interregional, knowledge-sharing forum for headquarters and field representatives to be held at the end of 2013 to distil the lessons learned and provide insights for the subsequent stages.
32. The financial resources required for the implementation of this action plan will be raised consistently with the ILO's technical cooperation strategy as adopted by the Governing Body. The resource mobilization and allocation is part of the ILO's overall integrated resource framework, where the regular budget, regular budget technical cooperation, extra-budgetary technical cooperation and Regular Budget Supplementary Account are allocated through the outcome-based workplanning process to priority country programme outcomes and global products, using the resource gaps identified.

<sup>7</sup> On 13 June 2011, the ILO and UN Women signed a Memorandum of Understanding which identifies domestic work as one area of common interest. The text of the MOU is available at <http://www.ilo.org/public/english/bureau/leg/download/un-women-mou.pdf>.

**33. *The Governing Body may wish to:***

- (a) advise the Office on how to modify, improve or complement the above strategy for action; and*
- (b) request the Director-General to take into consideration this strategy in preparing future programme and budget proposals and facilitating extra-budgetary resources.*

Geneva, 19 September 2011

*Point for decision:* Paragraph 33

## Appendix

### Country programme and Decent Work Country Programme outcomes that address issues concerning domestic work, 2010–11

Country	Country programme outcomes: <i>Targets</i>	Linked programme and budget outcome
Uruguay	URY103 – Social dialogue for enhanced gender equality, and strategy to promote reconciliation policies and eliminate discrimination, especially against domestic workers.	Outcome 5 – Working conditions
Paraguay	PRY128 – Policy to strengthen the rights of domestic workers in the process of being designed and implemented.	Outcome 5
Chile	CHL105 – Social dialogue for enhanced gender equality, and strategy to promote reconciliation policies and eliminate discrimination, especially against domestic workers.	Outcome 5
Brazil	BRA102 – Constituents adopt measures towards the improvement of employment conditions, with focus in the areas of wages, working hours, safety and health at work, and work–life balance.	Outcome 5
Argentina	ARG176 – Increased social inclusion and coverage through the development of social protection policies (integrated and coordinated with employment policies) based on the Global Jobs Pact.	Outcome 4 – Social security
Indonesia	IDN102 – Improved labour migration management and better protection for Indonesian workers especially domestic workers.	Outcome 7 – Labour migration
Philippines	PHL826 – Strengthened capacity of member States to ratify and apply international labour standards and to fulfil their reporting obligations.	Outcome 18 – International labour standards
India	IND126 – Social protection policies/programmes formulated and progressively extended.	Outcome 4
<b>Country programme outcomes remaining on <i>Pipeline status</i> (planned but not resourced)</b>		
Plurinational State of Bolivia	BOL201 – Support to tripartite constituents on domestic workers.	
Ecuador	ECU176 – Domestic workers. Domestic workers' platform is incorporated into the trade union agenda and the Tripartite Committee on Equality.	
Mexico	MEX901 – Constituents adopt policies and programmes to promote more equal working and living conditions for men and women, especially for domestic workers.	
Peru	PER201 – Domestic workers. Reports of ILO evaluations and meetings on the domestic workers' platform and incorporation of the platform into the trade union agenda and the Tripartite Committee on Equality.	