



DRAFT

**CODE OF PRACTICE ON HIV/AIDS
AND THE WORLD OF WORK**

22 February 2001

Preface

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1. Objective

The objective of this Code is to promote decent work in the face of HIV/AIDS, by preventing and managing HIV/AIDS, mitigating its impact on the world of work and creating a working environment where discrimination based on HIV/AIDS status is eliminated.

2. Use

In seeking to achieve these aims, the Code provides guidance to a broad spectrum of policy-makers, organizations and social partners on:

- (a) protection, by eliminating discrimination in the world of work based on real or perceived HIV status and by respecting the dignity of working people;
- (b) prevention, by safeguarding the health and welfare of all workers and their families, and by information and education to help reduce or prevent the spread of infection;
- (c) concrete responses, by promoting enterprise-level, community-based, regional, sectoral, national and international action, such as regulatory frameworks, collective agreements and plans of action, to reduce the incidence of HIV in the world of work;
- (d) processes, by promoting dialogue, consultations, negotiations and all forms of cooperation between governments, employers, supervisors, personnel officers, workers and their representatives, with the assistance of occupational health personnel, specialists in HIV/AIDS issues, and relevant non-governmental organizations (NGOs).

3. Scope and definitions

3.1. Scope

This Code applies to the public and private sectors, including employers and managers, job applicants, jobseekers, apprentices, trainees, unemployed, casual, part-time and full-time workers, and former workers, and to all types of employment contracts. It applies to the world of work in the broadest sense. It covers all men and women in employment and all types of work, paid or unpaid, in the formal and the informal economies. While intended for application in the world of work, it may also be used in the fields of migration policy, education and administration.

3.2. Definitions

HIV means the Human Immunodeficiency Virus, a virus that weakens the body's immune system, ultimately causing AIDS.

AIDS stands for the Acquired Immune Deficiency Syndrome, a cluster of medical conditions, often referred to as opportunistic infections and cancers and for which, to date, there is no cure.

Discrimination is used in this Code in accordance with the definition given in the ILO's Discrimination (Employment and Occupation) Convention, 1958 (No. 111), namely any distinction, exclusion or preference made on the basis of real or perceived HIV status that has the effect of nullifying or impairing equality of opportunity and treatment in employment or occupation. It covers access to training, access to employment and job security, and terms and conditions of employment. However, any distinction, exclusion or preference in respect of a specific job based on the inherent requirements of that job is not discrimination.

Persons with disabilities is used in this Code in accordance with the definition given in the ILO's Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), namely individuals whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognized physical or mental impairment.

Employer means a person or organization employing workers under a written or verbal contract of employment which establishes the rights and duties of both parties, in accordance with national law and practice. Governments, public authorities, private companies and individuals may be employers.

Occupational health services (OHS) is used in this Code in accordance with the description given in the ILO's Occupational Health Services Convention, 1985 (No. 161), namely health services which have an essentially preventative function and which are responsible for advising the employer, as well as workers and their representatives, on the requirements for establishing and maintaining a safe and healthy working environment to facilitate optimal physical and mental health in relation to work. The OHS also provide advice on the adaptation of work to the capabilities of workers in the light of their physical and mental health.

Sex and gender. There are both biological and social differences between men and women. The term "sex" refers to biologically determined differences, while the term "gender" refers to differences in social roles and relations between men and women, including perceptions of sexuality. Gender roles are learned through socialization and vary widely within and between cultures. Gender roles are affected by age, class, race, ethnicity and religion, and by the geographical, economic and political environment. Generally, the greater the gender discrimination in societies and the lower the position of women, the more negatively they are affected by HIV/AIDS. Increases in HIV/AIDS and in gender inequalities are directly related to one another. More equal gender relations are vital to successfully prevent and cope with HIV/AIDS.

STI stands for sexually transmitted infection, which includes syphilis, chancroid, chlamydia and gonorrhoea; also known as sexually transmitted diseases (STDs).

Termination of employment has the meaning attributed in the ILO's Termination of Employment Convention, 1982 (No. 158), namely dismissal at the initiative of the employer.

Workers' representatives are persons recognized as such by national law or practice in accordance with the ILO's Workers' Representatives Convention, 1971 (No. 135).

UNAIDS is the Joint United Nations Programme on HIV/AIDS, comprising the following co-sponsors: the United Nations Development Programme (UNDP), the United Nations International Drug Control Programme (UNDCP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Population Fund (UNFPA), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO) and the World Bank. UNAIDS has also signed cooperation agreements with the Food and Agriculture Organization (FAO), the International Labour Organization (ILO) and the United Nations High Commissioner for Refugees (UNHCR).

4. Key principles

4.1. Non-discrimination

In the spirit of decent work and respect for the human rights and dignity of persons infected or affected by HIV/AIDS, there should be no discrimination against workers on the basis of real or perceived HIV status.

4.2. Recognition of HIV/AIDS as a workplace issue

HIV/AIDS should be recognized as a workplace issue, and be treated like any other serious illness/condition in the workplace. This is necessary not only because it affects the workforce, but also because the workplace, being part of the local community, has a role to play in the wider struggle to limit the spread and effects of the epidemic.

4.3. Gender equality

The gender dimension of HIV/AIDS should be recognized, in particular the fact that women are more vulnerable than men to infection due to biological, socio-cultural and economic reasons. Women undertake more of the responsibilities for the care of infected family and community members. The economic and social subordination of many women and girls makes it difficult for them to negotiate safe sex or refuse unsafe sex, and exposes them to the risk of sexual harassment and violence in the workplace as well as at home.

Stereotypes about masculine behaviour may lead men to unsafe sex and/or non-consensual sex.

4.4. Healthy work environment

A healthy work environment facilitates optimal physical and mental health in relation to work and adaptation of work to the capabilities of workers in the light of their state of physical and mental health. The establishment and maintenance of a healthy work environment require that the workplace, machinery, equipment and processes be safe, hazard-free and without risk to health, and that the chemical, physical and biological substances and agents present in the working environment be without risk to health when appropriate measures of protection are taken.

4.5. Social dialogue

The successful implementation of an HIV/AIDS policy and programme requires cooperation and trust between employers, workers and their representatives.

4.6. Screening

Casual contact at the workplace cannot transmit the virus, therefore HIV/AIDS screening – whether direct (HIV testing), indirect (assessment of risk-taking behaviours) or asking questions about tests already taken or about medication – should not be required of job applicants or persons in employment.

4.7. Confidentiality

There is no justification for asking job applicants or workers to disclose HIV-related personal information. Nor should co-workers be obliged to reveal such personal information about fellow workers. Access to personal data relating to a worker's HIV status should be bound by the rules of confidentiality consistent with the ILO's Code of Practice on the Protection of Workers' Personal Data, 1997.

4.8. Termination of employment

Employment should never be terminated solely on the basis of an individual's perceived or real HIV status. Nor should HIV status influence retrenchment decisions. Where a worker with an AIDS-related condition is too ill to continue to work and where alternative working arrangements including extended sick leave have been exhausted, termination of employment may be considered in accordance with non-discriminatory labour laws and with respect for general procedures and full benefits. In summary, only

when fitness to work becomes impaired by HIV-related illness, and further reasonable workplace accommodation is not possible, may termination go ahead.

4.9. Prevention

Employers, workers and their families should have access to accurate and up-to-date information about HIV and how it is spread, and to education programmes which cover risk assessment and coping strategies. Prevention measures to promote behavioural change could include condom distribution and STI management. All parties should be encouraged to become actively involved in such programmes.

4.10. Care and support

Compassion, care and assistance should guide the response to HIV/AIDS in the world of work. HIV-infected workers are entitled to affordable health services. There should be no discrimination against them and their dependants in access to and receipt of benefits from statutory social security programmes and occupational schemes.

5. General rights and responsibilities

5.1. Governments and their competent authorities

- (a) *Coherence.* Governments should ensure coherence of the national HIV/AIDS strategy and programmes, recognizing the importance of including the world of work in national plans, for example by ensuring that the composition of national AIDS councils includes representatives of employers, workers and of ministries responsible for labour and social matters.
- (b) *Multi-sectoral participation.* The competent authorities should mobilize and support broad partnerships for protection and prevention, including public agencies, the private sector, workers' and employers' organizations, and NGOs so that the greatest number of actors in the world of work are involved.
- (c) *Coordination.* Governments should facilitate and coordinate all interventions at the national level, thus providing an enabling environment for world of work interventions and capitalizing on the presence of all relevant social partners. Coordination should build on measures and support services already in place, for example those related to promoting employment opportunities for persons with disabilities.
- (d) *Prevention and health promotion.* The competent authorities should instigate and promote awareness and prevention programmes to counter stigmatization and reduce the incidence of HIV in the world of work.

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- (e) *Social protection.* Governments should ensure that benefits under national laws and regulations apply to workers with HIV/AIDS no less favourably than to workers with other serious illnesses. In designing and implementing social security programmes, governments should take into account the progressive and intermittent nature of the disease and tailor schemes accordingly, for example by making benefits available as and when needed and by the expeditious treatment of claims. In implementing these programmes, governments should ensure that testing is not required as a condition of eligibility.
- (f) *Research.* To achieve coherence with national AIDS plans, to mobilize the social partners, and to facilitate planning to mitigate its socio-economic impact, the competent authorities should carry out and publish the findings of research on HIV/AIDS and the world of work, including gender-sensitive analysis, using, where appropriate, research from employers and their organizations and workers' organizations. Data collection should, to the extent possible, be sector-specific, and disaggregated by sex, age, employment and occupational status.
- (g) *Financial implications.* Governments should estimate the cost implications of HIV/AIDS, and develop and implement proposals to finance the consequences for social security systems and employee benefit schemes.
- (h) *Legislation.* Governments, in consultation with the social partners and experts in the field of HIV/AIDS, should provide the relevant regulatory framework and revise labour laws and other legislation where necessary, including that applicable to non-discrimination, occupational safety and health, medical confidentiality and privacy of workers' data, so as to eliminate workplace discrimination based on HIV status and to enhance workplace prevention.
- (i) *Conditions for funding.* Where governments provide start-up funding and incentives for national and international enterprises, they should require that recipients adhere to this Code.
- (j) *Enforcement.* The competent authorities should supply technical information and advice to employers and workers concerning the most effective way of complying with legislation and regulations applicable to HIV/AIDS and the world of work. They should strengthen enforcement structures and procedures, such as factory/labour inspectorates and labour courts and tribunals, so that protection and prevention laws are enforced and applied as far as practicable in the informal sector.
- (k) *Informal sector.* In extending HIV/AIDS prevention to the informal sector, governments should, as far as possible, adapt and extend their programmes, and include income generation and social protection measures. They should design and develop new approaches specifically tailored to the needs of the informal sector, using local communities where appropriate.
- (l) *Mitigation.* Governments should ensure care and support in the context of HIV/AIDS through public health care programmes and other relevant government initiatives. In their programmes to eliminate child labour, governments should ensure that attention is paid to the impact of the epidemic on children and young persons who have lost one or both parents to AIDS.

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- (m) *Regional and international collaboration.* Governments should promote and support collaboration at regional and international levels, and through intergovernmental agencies, especially UNAIDS, so as to focus international attention on HIV/AIDS and on needs in the world of work.
 - (n) *International assistance.* Governments should enlist international assistance in support of national programmes. They should take initiatives aimed at supporting international campaigns to reduce the cost of and improve access to antiretroviral drugs.

5.2. Employers and their organizations

- (a) *Workplace policy.* Employers should consult and agree with workers and their representatives to develop and implement an appropriate policy for their workplace, which prevents the spread of the infection and protects all workers from discrimination related to HIV/AIDS. A checklist for workplace policy implementation appears in Appendix III.
- (b) *Collective bargaining.* Employers should adhere to national law and practice in relation to negotiating terms and conditions of employment about HIV/AIDS issues, and endeavour to include provisions on HIV/AIDS protection and prevention in national, sectoral and enterprise bargaining agreements.
- (c) *Education and training.* Employers and their organizations should initiate and support programmes at their workplaces to inform, educate and train workers about HIV/AIDS and the enterprise's policy, including specific staff benefits and entitlements.
- (d) *Economic impact.* Employers should develop appropriate strategies to understand, assess and respond to the economic impact of HIV/AIDS on their particular workplace and sector. This should be done in cooperation with other workplace parties.
- (e) *Personnel policies.* Employers should not engage in or permit any personnel policy or practice that treats workers with HIV/AIDS differently from any other worker. In particular, employers should:
 - not engage in HIV/AIDS screening or testing;
 - ensure that work is performed free of discrimination based on perceived or real HIV status;
 - allow persons with HIV-related illnesses to work as long as medically fit for appropriate work; and

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- only terminate employment in accordance with this Code.

 - (f) *Grievance and disciplinary procedures.* Employers should have procedures that can be utilized by workers and their representatives for work-related grievances. Employers should instigate disciplinary proceedings against any employee who discriminates on the grounds of real or perceived HIV status or who violates the enterprise policy on HIV/AIDS.

 - (g) *Confidentiality.* Employers should ensure that all HIV/AIDS-related information concerning job applicants and workers is kept only on medical files, where access to information complies with the ILO's Occupational Health Services Recommendation, 1985 (No. 171). Access to such information should be strictly limited to medical personnel and such information may only be disclosed if legally required.

 - (h) *Risk reduction and management.* Employers should ensure a safe and healthy working environment, including the application of Universal Precautions and measures such as the provision of protective equipment and first aid. To support behavioural change by individuals, employers should also make available male and female condoms, counselling, care, support and referral services. Where size and cost considerations make in-house provision of such risk management services difficult, employers and/or their organizations should investigate sources of outside funding, services, and innovative measures of pooling resources.

 - (i) *Reasonable accommodation.* Employers should take steps to adapt the workplace to accommodate workers with AIDS-related illnesses by applying measures such as the rearrangement of working time, job-sharing, the modification of the employee's duties, special equipment, opportunities for rest breaks, time off for medical appointments, flexible sick leave, part-time work, return-to-work arrangements, accepting a less than ideal level of performance as long as minimum standards are met.

 - (j) *Advocacy.* In the spirit of good corporate citizenship, employers and their organizations should, where appropriate, encourage fellow employers to act in accordance with this Code, and encourage governments to take all necessary action to stop the spread of HIV/AIDS and mitigate its effects. Other partnerships can support this process, such as joint business-trade union councils on HIV/AIDS.

 - (k) *Informal sector.* Employers in this sector should investigate and, where appropriate, develop prevention and care programmes through the mutual health funds that are established for small and micro-enterprises.

 - (l) *International.* Employers and their organizations should contribute to international partnerships in the fight against HIV/AIDS.

5.3. Workers and their organizations

- (a) *Workplace policy.* Workers and their representatives should consult with their employers and agree on the implementation of an appropriate policy for their workplace, which prevents the spread of the infection and protects all workers from discrimination related to HIV/AIDS. A checklist for workplace policy implementation appears in Appendix III.
- (b) *Collective bargaining.* Workers and their organizations should adhere to national law and practice when negotiating terms and conditions of employment relating to HIV/AIDS issues, and endeavour to include provisions on HIV/AIDS protection and prevention in national, sectoral and enterprise bargaining agreements.
- (c) *Information and education.* Workers and their organizations should use existing union structures and facilities to disseminate information on HIV/AIDS and the world of work, and develop educational materials and activities appropriate for workers and their families, including regularly updated information on workers' rights and benefits.
- (d) *Economic impact.* Workers and their organizations should cooperate with employers to develop appropriate strategies to understand, assess and respond to the economic impact of HIV/AIDS in their particular workplace and sector.
- (e) *Advocacy.* Workers and their organizations should encourage employers, their organizations and governments to take all necessary action to stop the spread of HIV/AIDS and mitigate its effects.
- (f) *Personnel policies.* Workers and their representatives should support and encourage employers in creating and implementing personnel policy or practices that treat workers with HIV/AIDS no differently from other workers.
- (g) *Training.* Workers and their organizations should develop and carry out training courses for their representatives on workplace issues raised by the epidemic, appropriate responses, and the general needs of people living with HIV/AIDS.
- (h) *Risk reduction and management.* Workers and their organizations should cooperate with employers to maintain a safe and healthy working environment, including the correct application of protective equipment and first aid. Workers should have information about voluntary testing, counselling, care, support and referral services where these are available.
- (i) *Confidentiality.* Workers have the right to access their own personal and medical files. Workers' organizations should not have access to personnel data relating to a worker's HIV status. In all cases, when carrying out trade union responsibilities and functions, the rules of confidentiality set out in the ILO's Occupational Health Services Recommendation, 1985 (No. 171), should apply.

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- (j) *Informal sector.* Workers and their organizations should extend their activities to the informal sector, in partnership with non-governmental and community-based organizations where appropriate, and support new initiatives which help both prevent the spread and mitigate the impact of HIV/AIDS.
 - (k) *International.* Workers' organizations should build solidarity across national borders by using sectoral, regional and international groupings to highlight HIV/AIDS and the world of work, and to include it in workers' rights campaigns.

6. Prevention through information and education

Workplace information and education programmes are essential to combat the spread of the epidemic and to foster greater tolerance for workers with HIV/AIDS. Effective education can contribute to the capacity of workers to protect themselves against HIV infection. It can significantly reduce HIV-related anxiety and stigmatization, minimize disruption in the workplace, and bring about attitudinal and behavioural change. Programmes should be developed through consultations between employers and workers and their representatives to ensure support at the highest levels and the fullest participation of all concerned. Information and education should be provided in a variety of forms, not relying exclusively on the written word and including distance learning where necessary. Programmes should be tailored to the age, gender and sectoral characteristics of the workforce and its cultural context, and delivered by trusted and respected individuals; peer education has been found particularly effective, as has the involvement of people living with HIV/AIDS.

6.1. Information and awareness-raising campaigns

- (a) Information programmes should, where possible, be linked to broader HIV/AIDS campaigns within the local community, sector, region or country. The programmes should be based on correct and up-to-date information about how HIV is and is not transmitted, the facts and myths about the epidemic, the impact of AIDS on individuals, and possibilities for care and the alleviation of symptoms.
- (b) As far as practicable, information programmes, courses and campaigns should be integrated into existing education and human resource programmes as well as occupational safety and health and anti-discrimination strategies.

6.2. Educational programmes

- (a) Educational strategies should be based on consultation between employers and workers, and their representatives and, where appropriate, government and NGOs with expertise in HIV/AIDS education, counselling and care. The methods should be as interactive and participatory as possible.

(b) Educational programmes should take place during paid working hours. Attendance should be considered as part of work obligations. This does not exclude out-of-hours courses.

(c) Programmes should:

- include activities to help individuals assess the risks that face them personally (both as individuals and as members of a group) and reduce these through decision-making, negotiation and communication skills;
- where appropriate, give special emphasis to risk factors, such as occupational mobility, that make certain groups of workers more susceptible to infection;
- give special emphasis to the vulnerability of women to HIV and prevention strategies that can lessen this vulnerability (see section 6.3);
- emphasize the debilitating effects of the virus and the need for all workers to be empathetic and non-discriminatory towards workers with HIV/AIDS;
- give workers the opportunity to express and discuss their reactions and emotions caused by HIV/AIDS;
- provide education about the prevention and management of STIs, not only because of the associated risk of HIV infection but also because STIs are treatable, thus improving the workers' general health and immunity;
- encourage peer education and informal education activities;
- promote personal hygiene and proper nutrition;
- promote safer sex practices, including the distribution of male and female condoms;
- be integrated, where feasible, into broader-based health programmes;
- be regularly monitored, evaluated, reviewed and revised where necessary.

6.3. Gender-specific programmes

(a) All programmes should be gender-sensitive. This includes targeting both women and men explicitly, or addressing either women or men in separate programmes, in recognition of the different types and degrees of risk for men and women workers.

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- (b) Information for women needs to alert them to and explain their higher risk of infection, in particular the special vulnerability of young women.
 - (c) Education should help both women and men to understand and act upon the unequal power relations between them in employment and personal situations; harassment and violence should be addressed specifically.
 - (d) Programmes should help women to understand their rights, both within the workplace and outside it, and empower them to protect themselves.
 - (e) Education for men should include awareness-raising, risk assessment and strategies to promote men's responsibilities regarding HIV/AIDS prevention.

6.4. Linkage to health promotion programmes

Educational programmes should be linked, where feasible, to health promotion programmes dealing with issues such as substance abuse, stress and reproductive health at the enterprise. Existing work councils or health and safety committees provide an entry point to HIV/AIDS awareness campaigns and educational programmes. This linkage should highlight the correlation between the use of contaminated needles in intravenous drug-taking and infection, as well as the perception that intoxication due to alcohol and drugs could lead to behaviour which increases the risk of HIV infection.

6.5. Practical measures to support behavioural change

- (a) In providing workers with sensitive, accurate and up-to-date education about risk reduction strategies, employers should make available male and female condoms at no cost to workers.
- (b) STI diagnosis, treatment and management should also be provided, where possible.
- (c) For women workers in financial need, education should include strategies to supplement low incomes, for example by supplying information on income-generating activities, tax relief and wage support.

6.6. Community outreach programmes

Employers, workers and their representatives should encourage and promote information and education programmes within the local community, especially in schools attended by workers' children. Participation in outreach programmes should be encouraged in order to provide an opportunity for people to express their fears and enhance the welfare

of workers with HIV/AIDS by reducing their isolation and ostracism. Such programmes should be run in partnership with appropriate national or local bodies.

7. Training

Training should be adapted to the different groups being trained: managers, supervisors and personnel officers; men and women workers; trainers of trainers (both male and female); peer educators; occupational health and safety officers; and factory/labour inspectors. Innovative approaches should be sought to defray costs. For example, enterprises can seek external support from national AIDS programmes or NGOs by borrowing instructors or having their own trained. Training materials can vary enormously, be adapted to local customs, the different circumstances of women and men, and restricted resources. They should draw on case studies and available good practice materials. The best trainers are often staff themselves and peer education is therefore recommended at all levels. It should become part of an enterprise's annual training plan, which should be developed in consultation with workers' representatives.

7.1. Training for managers, supervisors and personnel officers

In addition to participating in information and education programmes that are directed at all workers, supervisory and managerial personnel should receive training to:

- enable them to explain and respond to questions about the enterprise's HIV/AIDS policy;
- be well informed about HIV/AIDS so as to help other workers overcome misconceptions about the spread of HIV/AIDS at the workplace;
- enable them to help workers with HIV/AIDS to continue to work as long as possible or identify alternative working arrangements that are in the best interests of the infected worker, taking account of the needs of the enterprise;
- identify and manage workplace behaviour, conduct or practices which discriminate against or alienate workers with HIV/AIDS;
- explain reasonable accommodation options to help workers with HIV/AIDS, as appropriate, undertake alternative workplace activities or job functions that correspond to the effects of the virus;
- enable them to advise about the health services and social benefits which are available in the local community.

7.2. Training for peer educators

Peer educators should receive specialized training so as to:

- be sufficiently informed about the content and methods of HIV/AIDS prevention so that they can deliver, in whole or in part, the information and education programme to the workforce;
- be gender and culturally sensitive in developing and delivering their training;
- link into and draw from other existing enterprise policies, such as those on sexual harassment or managing disability in the workplace;
- enable their co-workers to identify factors in their lives that lead to increased risk of infection;
- be able to counsel workers living with HIV/AIDS about coping with their condition and its implications.

7.3. Training for workers' representatives

In addition to becoming familiar with general education programmes, workers' representatives should, during paid working hours, receive supplementary training which may be from a range of sources, as appropriate, so as to:

- enable them to explain and respond to questions about the enterprise's HIV/AIDS policy;
- identify individual workplace behaviour, conduct or practices which discriminate or alienate workers with HIV/AIDS in order to effectively combat such conduct;
- help provide workers with HIV/AIDS, as appropriate, with access to alternative workplace activities or job functions that correspond to the effects of the virus and to represent such workers;
- be able to counsel workers to identify and reduce risk factors in their personal lives;
- be well informed about HIV/AIDS in order to help other workers overcome misconceptions about the spread of HIV/AIDS;
- ensure that any information that they acquire about workers with HIV/AIDS in the course of performing their representative functions is kept confidential.

7.4. Training for health and safety officers

In addition to becoming familiar with the information and education programmes that are directed at all workers, health and safety officers should receive specialized training in order to:

- be able to assess the working environment and identify working methods or conditions which could be changed or improved in order to lessen the vulnerability of workers with HIV/AIDS;
- verify whether the employer provides and maintains a healthy and safe working environment for the workers, including safe first-aid procedures;
- ensure that HIV/AIDS-related information, if any, is maintained under conditions of strict confidentiality as with other medical data pertinent to workers and disclosed only in accordance with the ILO's Code of Practice on the Protection of Workers' Personal Data;
- be able to counsel workers to identify and reduce risk factors in their personal lives.

7.5. Training for factory/labour inspectors

The competent authority should ensure that the factory and labour inspectors undertake specialized training on HIV/AIDS prevention and protection strategies at the workplace as part of their advisory services and capacity-building training. Specifically, their training should include:

- information on relevant national laws and regulations;
- how to provide awareness about HIV/AIDS to workers and management;
- how to incorporate HIV/AIDS topics into their regular occupational safety and health briefings and workplace training;
- how to access available benefits and complete workers' compensation and other benefit forms.

7.6. Special training for workers who may come into contact with blood and other body fluids

All workers should receive training about infection control procedures in the context of workplace accidents and first aid. The programmes should provide training:

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- in the provision of first aid;
 - about Universal Precautions to reduce exposure to blood and other body fluids (see Appendix II);
 - in the use of protective equipment;
 - in the correct procedures to be followed in the event of exposure to blood or body fluids,

and emphasize that the taking of precautions is not related to the perceived or actual HIV status of individuals.

8. Testing

Testing for HIV should not be carried out at the workplace. It is unnecessary and imperils the human rights and dignity of workers: test results may be revealed and misused, and the informed consent of workers may not always be fully free or based on an appreciation of all the facts and implications of testing. Outside the workplace there are public health reasons why testing should take place. In this case, the results should be held by medical personnel only, in conditions of the strictest confidentiality.

8.1. Prohibition in recruitment and employment

HIV testing should not be required at the time of recruitment or as a condition of continued employment. Any routine medical testing, such as testing for fitness carried out prior to the commencement of employment or on a regular basis for workers, should not include mandatory HIV testing.

8.2. Prohibition for insurance purposes

- (a) HIV testing should not be required as a condition of eligibility for national social security schemes, general insurance policies, occupational schemes, and health and life insurance.
- (b) Insurance companies should not require HIV testing before agreeing to provide cover for a given workplace. They may base their cost and revenue estimates and their actuarial calculations on available epidemiological data for the general population.

8.3. For purposes of epidemiological surveillance

The ban on workplace testing does not apply to anonymous sentinel surveillance for non-employment reasons, such as data collection for nationwide strategy planning or for actuarial studies in the insurance industry. Testing for these purposes should be carried out in the public health domain and not at the workplace.

8.4. Voluntary testing

There may be situations where workers wish to be tested. Voluntary testing should normally be carried out by the community health services and not at the workplace. Where adequate medical services exist, voluntary testing may be undertaken at the request and with the informed consent of a worker, with advice from the workers' representative. It should be performed by suitably qualified personnel with adherence to strict confidentiality and to disclosure requirements. Gender-sensitive counselling, which facilitates an understanding of the nature and purpose of the HIV tests, the advantages and disadvantages of the tests and the effect of the result upon the worker, should form an essential part of any testing procedure.

8.5. Tests and treatment after occupational exposure

- (a) Where an incident involving exposure to blood, body fluids or tissues occurs, the enterprise should have a procedure in place to manage the risk of exposure to infection.
- (b) Following a risk of exposure to infection at the workplace workers should be counselled. If they wish subsequently to be tested for the presence of the HIV antibody, they should again be offered confidential counselling. If they are tested positive, post-exposure prophylaxis should be offered.

9. Care and support

Many workplaces are not in a position to provide care and support services, and should therefore advise workers about where outside services are available to assist those with HIV/AIDS, including information about counselling, treatment and other forms of social support. Linkages such as this have the advantage of reaching beyond the workers to cover their families, in particular their children. Partnership between employers and governmental and non-governmental organizations also ensures effective delivery of services and saves costs.

9.1. Parity with other serious illnesses

- (a) HIV infection and clinical AIDS should be treated in the workplace no less favourably than any other serious illness or condition.
- (b) Compassion, care and assistance are critical elements of the principles that should guide an enterprise in responding to HIV/AIDS. In dealing with the epidemic, the social partners should:
 - promote the human rights and dignity of workers with HIV/AIDS;
 - ensure freedom from discrimination and stigmatization;
 - bear in mind the particular impact of the epidemic on women;
 - strive to improve work practices and procedures that take account of the effects of the virus on workers.
- (c) Mechanisms should be created to encourage openness, acceptance and support for those workers who disclose their HIV status, and ensure that they are not discriminated against or stigmatized.
- (d) Workers with HIV/AIDS should be treated no less favourably than workers with other serious illnesses in terms of benefits, workers' compensation and workplace accommodation.
- (e) As long as workers are medically fit for appropriate employment, they should enjoy normal job security and opportunities for transfer and advancement.

9.2. Counselling

- (a) Employers should encourage workers with HIV/AIDS to utilize expertise and assistance outside the enterprise for counselling or, where available, its own occupational safety and health unit or other workplace programme, if they offer specialized and confidential counselling.
- (b) To give effect to this, employers should consider the following actions:
 - identify professionals, self-help groups and services within the local community or region which specialize in HIV/AIDS-related counselling and the treatment of HIV/AIDS;

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- identify community-based organizations, both of a medical and non-medical character, that may be useful to workers with HIV/AIDS;
 - suggest that the worker contact his or her doctor for initial assessment and treatment if not already being treated, or help the worker locate a doctor if he or she does not have one.
- (c) Employers should provide workers with HIV/AIDS with reasonable time off for counselling and treatment in conformity with minimum national requirements.
- (d) Counselling should be adapted to the different needs and circumstances of women and men.
- (e) Workers' representatives should, if requested, assist a worker with HIV/AIDS to obtain professional counselling.
- (f) Counselling services should inform all workers of their rights and benefits in relation to statutory social security programmes and occupational schemes and any life-skills programmes which may help workers cope with HIV/AIDS.
- (g) In the event of occupational exposure to HIV, employers should provide workers with reasonable paid time off for counselling purposes.

9.3. Occupational health services

- (a) Few employers are in a position to assist their workers with access to antiretroviral drugs. On the other hand, where medical services exist at the workplace these should offer treatment for the relief of symptoms and for the more common opportunistic infections.
- (b) Existing health services at the workplace should offer guidance about caring for people living with HIV/AIDS and managing financial issues relating to sickness and the needs of dependants.

9.4. Linkages with self-help and community-based groups

- (a) Employers, workers' organizations and occupational health personnel should facilitate the establishment of self-help groups within the enterprise or the referral of workers affected by HIV/AIDS to self-help groups and support organizations in the local community.
- (b) Employers should ensure that this facilitation is kept confidential.

9.5. Benefits

- (a) Governments, in consultation with the social partners, should ensure that benefits under national laws and regulations apply to workers with HIV/AIDS no less favourably than to workers with other serious illnesses. They should also explore the sustainability of new benefits specifically addressing the progressive and intermittent nature of HIV/AIDS.
- (b) Employers and employers' and workers' organizations should pursue with governments the adaptation of existing benefit mechanisms to the needs of workers with HIV/AIDS, including wage subsidy schemes.

9.6. Social security coverage

- (a) Employers and employers' and workers' organizations should take all steps necessary to ensure that workers with HIV/AIDS and their families are not excluded from the full protection and benefits of social security programmes and occupational schemes because of their HIV status.
- (b) These programmes and schemes should provide similar benefits for workers with HIV/AIDS as for workers with other serious illnesses. Benefits should include free access to public health services or the reimbursement of medical care and health-related expenses associated with the management and control of infection.

9.7. Privacy and confidentiality

- (a) Employers should ensure that information relating to counselling, care, treatment and receipt of benefits is kept confidential, as with medical data pertinent to workers, and accessed only in accordance with the ILO's Occupational Health Services Recommendation, 1985 (No. 171).
- (b) Third parties, such as trustees and administrators of social security programmes and occupational schemes, should keep all HIV/AIDS-related information confidential, as with medical data pertinent to workers, in accordance with the ILO's Code of Practice on the Protection of Workers' Personal Data.

9.8. Family assistance

- (a) The enterprise should establish a family assistance programme in cooperation with the workers and/or their representatives, in accordance with its needs and resources. The programme should include compassionate leave and should recognize that women normally undertake the major part of caring for those with AIDS-related illnesses. It should respond to the needs of children who have lost one or both parents to AIDS, and who may then drop out of school, be forced to work, and become

increasingly vulnerable to sexual exploitation. The programme may be in-house, or enterprises could support such programmes collectively or contract out for such services from an independent enterprise. Existing employee assistance programmes could extend their services to workers with HIV/AIDS.

(b) The family assistance programme may include:

- invitations to participate in information and education programmes;
- referrals to support groups, including self-help groups;
- assistance to families of workers to obtain alternative employment for the worker or family members provided that the work does not interfere with schooling;
- specific measures, such as vocational training and apprenticeships, to meet the needs of children and young persons who have lost one or both parents to AIDS;
- coordination with NGOs and community-based organizations including the schools attended by the workers' children;
- direct or indirect financial assistance;
- legal information and advice;
- helping families to deal with social security programmes and occupational schemes;
- provision of advanced payments due to the worker;
- directing families to relevant legal and health authorities or providing a list of recommended authorities.

Appendix I

Basic facts about the epidemic and its implications

Facts about HIV transmission

The Human Immunodeficiency Virus (HIV) which causes AIDS is transmitted through body fluids – in particular blood, semen, vaginal secretions and breast milk. It has been established that transmission takes place in four ways: unprotected sexual intercourse with an infected partner (the most common); blood and blood products through, for example, infected transfusions and organ or tissue transplants, or the use of contaminated injection or other skin-piercing equipment; transmission from infected mother to child in the womb or at birth; and breastfeeding. HIV is not transmitted by casual physical contact, coughing, sneezing and kissing, by sharing toilet and washing facilities, by using eating utensils or consuming food and beverages handled by someone who has HIV; it is not spread by mosquitoes or other insect bites.

HIV weakens the human body's immune system, making it difficult to fight infection. A person may live for ten years or more after infection, much of this time without symptoms or sickness, although they can still transmit the infection to others. Early symptoms of AIDS include: chronic fatigue, diarrhoea, fever, mental changes such as memory loss, weight loss, persistent cough, severe recurrent skin rashes, herpes and mouth infections, and swelling of the lymph nodes. Opportunistic diseases such as cancers, meningitis, pneumonia and tuberculosis may also take advantage of the body's weakened immune system. Although periods of illness may be interspersed with periods of remission, AIDS is fatal. Research is currently under way into vaccines, but none is viable as yet. Antiretroviral drugs are available that slow the progression of the disease and prolong life, but these are very expensive and consequently unavailable to most sufferers. HIV is a fragile virus, which can only survive in a limited range of conditions. It can only enter the body through naturally moist places and cannot penetrate unbroken skin. Prevention therefore involves ensuring that there is a barrier to the virus, for example condoms or protective equipment such as gloves and masks (where appropriate), and that skin-piercing equipment is not contaminated; the virus is killed by bleach, strong detergents and very hot water (see Appendix II).

Demographic and labour force impact

At the end of 2000, over 36 million people were living with HIV/AIDS, two-thirds of them in sub-Saharan Africa. Nearly 22 million people have died from AIDS; there were 3 million deaths worldwide for the 12 months of 2000.

All regions are affected: adults and children with HIV/AIDS number over 6 million in Asia; nearly 2 million in Latin America and the Caribbean; just under 1 million in North America; half a million in Western Europe; nearly three-quarters of a million in Eastern Europe and Central Asia; nearly half a million in North Africa and the Middle East. Although the dominant mode of transmission may vary, regions are experiencing increased rates of infection.

The consequences of AIDS deaths for total population numbers in Africa are clear: by 2010, for 29 countries with prevalence rates of over 2 per cent, the total population will be 50 million fewer than in the absence of AIDS. There are sex and age consequences as well, as in many countries women often become infected at a younger age than men; in Africa over half of new infections are among women. The age group worst affected everywhere is the 15-49 year-olds, the

active population, whose contributions to the family, society and the economy are thus being lost. The size of the labour force in high-prevalence countries will be between 10 and 30 per cent smaller by 2020 than it would have been without AIDS, and an increased number of children who have lost their parents to AIDS will be forced to work.

HIV/AIDS has an enormous impact on infected individuals and their families, as well as on the community at large. The implications are serious for the old and young dependants of infected family members. The impact at the individual and household level is mirrored at the enterprise level and, increasingly, in the national economy. The epidemic manifests itself in the world of work in many ways: disruption of production, discrimination in employment, the worsening of gender inequalities, and increased incidence of child labour; other manifestations are depleted human capital, pressure on health and social security systems, and threatened occupational safety and health.

Conditions that contribute to vulnerability

General factors

AIDS thrives where economic, social and cultural rights are violated, and also where civil and political norms are ignored. On the economic side, poverty merits highlighting as a major factor: the illiteracy and marginalization of the poor make them more vulnerable to infection, and poverty puts pressure on women to survive and support their families by engaging in unsafe sex. Poor diet, inadequate housing and lack of hygiene make HIV-infected persons even more vulnerable to AIDS-related diseases. On the social and cultural side, inequality in personal and working relations leads to unwanted sex in conditions of risk. There is also widespread evidence of added vulnerability to HIV infection in situations of high drug (especially intravenous drugs) use and alcohol abuse. The stigmatization of people living with HIV/AIDS fuels a natural desire to keep quiet about infection, thus helping its spread. Cultural pressures and denial mask the extent of infection locally and nationally, thus making it harder to plan an effective response for communities as well as individuals.

On the civil and political side, conflict situations, breakdown of law and order, poor legal frameworks and enforcement mechanisms, together with the denial of organizational rights and collective bargaining, hamper development in general and undermine essential health promotion measures in particular. In many countries, poorly resourced health systems, already weakened by debt and structural adjustment, have been unable to provide the care or the prevention needed.

In summary, a climate of discrimination and lack of respect for human rights leaves workers more vulnerable to infection and less able to cope with AIDS because they will not seek voluntary testing, counselling, treatment or support; they will also be unavailable to take part in advocacy and prevention campaigns.

Factors that increase the risk of infection for certain groups of workers

Certain types of work situations are more susceptible to the risk of infection than others although the main issue is one of behaviour, not occupation. The following is an indicative list:

- work involving mobility, in particular the obligation to travel regularly and live away from spouses and partners;

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- work in geographically isolated environments with limited social interaction and limited health facilities;
 - single-sex working and living arrangements among men;
 - situations where the worker cannot control protection against infection;
 - work that is dominated by men, where women are in a small minority;
 - work involving occupational risks such as needle-stick injury and infected blood exposure, where Universal Precautions are not followed and/or equipment is inadequate.

To this list could be added “non-work”, in order to cover situations where: unemployed workers, congregating in urban centres in the hope of obtaining any kind of small income, are exposed to HIV-susceptible pressures, or displaced persons and refugee camp inhabitants, likewise unoccupied and feeling abandoned, may turn to sex or be forced into it, especially the many single mothers in such situations.

The special needs of the informal sector

Informal workers are especially likely to suffer from the consequences of AIDS, first, because there are no health facilities or social protection arrangements at their workplaces; second, because their activities are rarely based on or lead to financial security; and third, because the transient and vulnerable nature of their work means that any absence will probably result in the loss of the means of trading or production. For small and micro-businesses, the loss of one or more employees may have major consequences leading to the collapse of the enterprise. If the owner contracts HIV, becomes ill and dies, the diversion of the enterprise’s capital into treatment, care and funeral costs may ruin future reinvestment, cause bankruptcy, and leave dependant employees and family members bereft. In the rural informal sector, the burden of care often results in the diversion of labour away from agricultural activities, while labour losses due to AIDS lead to lower food production and declining longer term food security. Overall, the downward economic spiral is felt particularly hard by small and micro-enterprises when the following pattern emerges: markets contract as consumers die or retain minimal disposable income because of the costs of health treatment and care.

The gender dimension

HIV/AIDS affects women and men differently. Women and girls are affected disproportionately compared to men. There are structural inequalities in the status of women that make it harder for them to take measures to prevent infection, and also intensify the impact of AIDS on them.

- Many women experience sexual and economic subordination in their marriages or relationships, and are therefore unable to negotiate safe sex or refuse unsafe sex.
- The power imbalance in the workplace exposes women to the threat of sexual harassment.

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- Poverty is a noted contributing factor to AIDS vulnerability and women make up the majority of the world's poor; in poverty crises, it is more likely to be a girl child who is taken out of school or sold into forced labour or sex work.
 - Women's access to prevention messages is hampered by illiteracy, a state affecting more women than men worldwide – twice as many in some countries.
 - Women make up over half of the migrants within countries and, together with children, they represent over three quarters of refugees; both of these states are associated with higher than average risks of HIV infection. In conflict situations there is an increasing incidence of the systematic rape of women by warring factions.
 - The burden of caring for HIV-infected family and community members falls more often on women and girls, thus increasing workloads and diminishing income-generating and schooling possibilities.
 - Sexist property, custody and support laws mean that women living with HIV/AIDS, who have lost partners or who have been abandoned because they are HIV positive, are deprived of financial security and economic opportunities; this may, in turn, force them into "survival sex"; the girl child is especially vulnerable to commercial sexual exploitation.
 - Studies show the heightened vulnerability of women, compared to men, to the social stigma and ostracism associated with AIDS, particularly in rural settings, thus leaving them shunned and marginalized; this again increases the pressure on them to survive through sex.
 - The work that women carry out – paid or unrecognized – is more easily disrupted by AIDS: for example, women dominate the informal sector where jobs are covered neither by social security nor any occupational health benefits.
 - Fewer women than men are covered by social security or occupation-related health benefits.
 - Men are often victims of stereotypes and norms about masculine behaviour which may lead to unsafe sex and/or non-consensual sex.
 - Men are over-represented in a number of categories of vulnerable workers, and may also find themselves through their employment in situations which expose them to unsafe sex between men.
 - Given the prevailing power relations between men and women, men have an important role to play in adopting and encouraging responsible attitudes to HIV/AIDS prevention and coping mechanisms.

Appendix II

Infection control in the workplace

A. *Universal blood and body-fluid precautions*

Universal blood and body fluid precautions (known as “Universal Precautions” or “Standard Precautions”) were originally devised by the United States Centers for Disease Control and Prevention (CDC) in 1985, largely due to the HIV/AIDS epidemic and an urgent need for new strategies to protect hospital personnel from blood-borne infections. The new approach placed emphasis for the first time on applying blood and body-fluid precautions universally to all persons regardless of their presumed infectious status.

Universal Precautions are a simple standard of infection control practice to be used in the care of all patients at all times to minimize the risk of blood-borne pathogens. Universal Precautions consist of:

- careful handling and disposal of sharps (needles or other sharp objects);
- hand-washing before and after a procedure;
- use of protective barriers – such as gloves, gowns, masks – for direct contact with blood and other body fluids;
- safe disposal of waste contaminated with body fluids and blood;
- proper disinfection of instruments and other contaminated equipment; and
- proper handling of soiled linen.

B. *Selected guidelines and Universal Precautions on infection control*

Bednarsh, H.S.; Eklund, K.J.: “Infection control: Universal Precautions reconsidered”, in *American Dental Hygienists’ Association: Access* (Chicago, 1995) Vol. 11, No. 1.

Centers for Disease Control and Prevention (CDC)/National Center for HIV, STD and TB Prevention/Division of HIV/AIDS Prevention: *Preventing occupational HIV transmission to health care workers* (updated June, 1999).

South African Law Commission: *Aspects of the law relating to AIDS* (Project No. 85): Universal workplace infection control measures (Universal Precautions) (1997).

WHO: *WHO guidelines on AIDS and first aid in the workplace*, WHO AIDS series 7 (Geneva, 1990).

WHO/UNAIDS/ICN (International Council of Nurses): *HIV and the workplace and Universal Precautions*, Fact sheets on HIV/AIDS for nurses and midwives (Geneva, 2000).

Appendix III

A checklist for planning and implementing the workplace policy on HIV/AIDS

Employers, workers and their organizations should cooperate in a positive, caring manner to develop a policy on HIV/AIDS that responds to and balances the needs of employers and workers. Backed by commitment at the highest level, the policy should offer an example to the community in general of how to manage HIV/AIDS. The core elements of this policy, developed in sections 6–9 of this Code, include information about HIV/AIDS and how it is transmitted; education to encourage understanding of personal risk and promote enabling strategies; practical prevention measures which encourage and support behavioural change; measures for the care and support of affected workers, whether it is they or a family member who is living with HIV/AIDS; and the principle of zero tolerance for any form of stigmatization or discrimination at the workplace.

The following steps may be used as a checklist for developing a policy and programme:

- HIV/AIDS committee is set up with representatives of top management, supervisors, workers, trade unions, human resources department, training department, industrial relations unit, occupational health unit, health and safety committee, and persons living with AIDS if they agree;
- committee decides its terms of reference and decision-making powers and responsibilities;
- review of national laws and their implications for the enterprise;
- committee investigates the needs of the enterprise by carrying out a baseline study among the workers and checking what health and information services are already available – both at the workplace and in the local community;
- committee formulates a draft policy; draft circulated for comment then revised and adopted;
- committee draws up a budget, seeking funds from outside the enterprise if necessary and identifies existing resources in the local community;
- committee establishes plan of action, with timetable and lines of responsibility, to implement policy;
- policy and plan of action are widely disseminated through, for example, notice boards, mailings, pay slip inserts, special meetings, induction courses, training sessions;
- committee monitors the impact of the policy;

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- committee regularly reviews the policy in the light of internal monitoring and external information about the virus and its workplace implications.