



# 110<sup>th</sup> Session of the International Labour Conference (May-June 2022)

## Agenda item IV

### Briefing Note for Workers' Delegates

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## A framework for quality apprenticeships

### Standard setting, double discussion – First year

#### 1. BACKGROUND

Noting regulatory gaps resulting from the replacement of ILO instruments, the ILO Governing Body discussed and approved a proposal to adopt a new legal instrument or instruments on apprenticeships at its 334th Session. Aspects of apprenticeships and traineeships, including internships, (A/T) had been regulated by, among other instruments, the superseded Apprenticeship Recommendation, 1939 (No. 60) and the Vocational Training Recommendation, 1962 (No. 117).

Apprenticeships were discussed in the 2012 ILC conclusions on “The youth employment crisis: A call for action”. The discussion had raised concerns about apprenticeships and traineeships as forms of low cost labour and called to improve “the range and types of apprenticeships by:

- (i) complementing learning at the workplace with more structured institutional learning;
- (ii) upgrading the training skills of master craftspersons and trainers overseeing the apprenticeships;
- (iii) including literacy training and livelihood skills; and
- (iv) strengthening community involvement, especially to open more occupations for young women and other vulnerable groups of young people.”

It also called for “[e]ngaging in collective bargaining on terms and conditions of work of interns and apprentices” and to “ensure they allow for a real learning experience and do not replace regular workers.”

In 2013, the G20 social partners, the Labour 20 and the Business 20, addressed a joint statement to the G20 Labour and Employment Ministers listing key elements of Quality Apprenticeships, including “compliance with core labour standards, appropriate remuneration and linkage with social benefit and occupational health and safety systems.” In their 2016 Beijing Declaration, the G20 Ministers agreed on language including “appropriate wages, labour contracts and social security coverage, as well as respect for labour rights and occupational safety and health.”

In the same year, the ILO’s Standards Review Mechanism Tripartite Working Group (SRM TWG) concluded that the absence of any provisions covering apprenticeships in up-to-date standards instruments is a normative gap. The 2018 Governing Body (ILO GB) then examined the issue and requested the Office to start a standard-setting process on apprenticeships. At the ILO GB, the Workers Group emphasised that the instrument should address the lack of clarity on the different forms of work-based learning by providing comprehensive guidance on all modalities rather than focusing just on apprenticeships. Employers preferred a focus on well-designed and well-executed vocational training, examining the criteria for effective vocational training and ensuring its scope extended beyond working conditions.

## 2. The rationale for standard-setting for Quality Apprenticeships

Quality Apprenticeships and traineeships (QAT) are effective ways of acquiring new skills and qualifications, work experience and increasing the employability of the persons receiving education and training. For the purpose of the discussion in the ILO, apprenticeships cover any form of on-the-job and off-the-job education and training that leads to a recognised qualification while traineeships, including internships do not lead to a recognised qualification. Although different, both have the objective of acquiring work experience and capabilities. Therefore, some provisions of the Recommendation are applicable to all, and others will be specific to apprenticeships.

On the educational side, among other things, QA/T are well-designed educational and practical programmes offering on-the-job and off-the-job training run under the supervision of qualified instructors or mentors and, in the case of apprenticeships, lead to certified qualifications. The quality of work-based training is assessed by independent and state institutions and should meet regulatory criteria. The terms of the employment relationship are laid out in a contract agreed jointly by the employer and the apprentice or trainee.

In the formal economy in countries with effective regulation, the provision of quality training, social dialogue and tripartite oversight, A/T often contributes to successful job transitions, skills development and higher levels of employability. In practice, many A/T do not meet training expectations and educational quality standards. Exploiting apprentices and trainees for menial tasks unrelated to skills development goals, lack of quality curricula, off-the-job training, and qualified supervision are all too common.

On the employment side, QA/T afford all workers' protections to apprentices and trainees and interns, including fundamental principles and rights at work, injury compensation, holiday leave and sick leave, insurance, and other rights. Having a decent work experience determines whether those in training can access professions and career opportunities. Unpaid and severely underpaid forms of A/T means that persons without the independent financial means are excluded or would have to depend on their employer - breeding grounds for exploitation and abuse.

Among other things, the quality of A/T depends on the employer, the level of protection, social dialogue, the contract, the quality of and access to educational institutions, and the implementation of a well-developed legal framework. In practice, A/T do often not meet these standards, and in the worst cases, persons in training are a source of cheap labour without real job prospects and are vulnerable to coercion by means of harassment and violence, including gender violence. The instrument should provide protections for apprentices and recognise them as training workers and carry through these protections to trainees, including interns.

Countries have developed legal and promotional frameworks governing apprenticeships and, in fewer cases, internships and traineeships, as well as linkages with TVET, and established rights for those undertaking work-based training. Although the ILO has various instruments referring to different forms of work-based training, none addresses Quality A/T comprehensively providing definitions, affording protections, and offering clear guidance on how quality training is guaranteed. Further to this, there is almost no guidance or regulation regarding the implementation of QA/T in the informal economy and the fast-growing platform economy. The newly elected director general has made transitioning workers from the informal to the formal economy one of his central goals. Starting with QA/T would lay a firm foundation for this.

National practice varies widely and creates de facto a justification for global regulation. Lack of quality work-based training means workers have less meaningful paths to decent work and career opportunities, skill gaps in the labour market persist, and national development is impeded or leaves potential unfulfilled. A high-quality Recommendation on Apprenticeships and Traineeships that builds on existing

national law and practice would provide guidance for legal frameworks and social partners, clarify acceptable and non-acceptable practice and, ideally, cover all other normative gaps.

### 3. The Office Reports

The Office has prepared two reports to serve as a basis for the first-year discussion. Report IV (1) *A framework for quality apprenticeships*<sup>1</sup> (White Report) documented the law and practice in ILO member states. A questionnaire accompanied the Report.

These replies have been summarised in Report V(2), *A framework for quality apprenticeships*<sup>2</sup> (Yellow Report) which also contains the “Proposed Conclusions” prepared based on the received replies. These proposed conclusions will be the subject of the ILC Committee on Quality Apprenticeships in June 2022.

The final drafting of the instrument will take place at the next 2023 ILO Conference based on the agreed conclusions that will be reached in the first discussion in 2022. This “double discussion” gives Conference participants time to examine the draft instrument and propose amendments with a view to strengthen them.

### 4. Proposed Conclusions

The “Proposed Conclusions” can be found on page 137 of the English version of Report V(2). A summary of the replies received to the questionnaire is contained in the pages before. The Office commentary, following immediately after the responses to each question, provides information on how the Office treated each question based on the comments received and how it reflected them in the proposed conclusions. In preparing the proposed conclusions, the Office considered the input and views expressed in the questionnaire. It was answered by 96 Governments (66 of which consulted with the most representative employers’ and workers’ organisations), 16 Employers’ organisations, and 41 Workers’ organisations.

The proposed conclusions come in 4 parts:

- A. A Form of the Instrument
- B. Content of the Instrument
  - I. Definitions, scope and implementation
  - II. Regulatory framework for quality apprenticeships
  - III. The apprenticeship agreement
  - IV. Equality and diversity in quality apprenticeships
  - V. Promotion of quality apprenticeships and international cooperation
  - VI. Traineeships
- C. Appendix

In the Yellow report responses, agreement on several questions among the three groups is evident. On many other points, the Workers’ Group and Governments tend to agree while the Employers’ Group is alone in disagreement. This provides a solid basis of support for workers’ positions and increased leverage

<sup>1</sup> [https://www.ilo.org/ilc/ILCSessions/110/reports/reports-to-the-conference/WCMS\\_731155/lang--en/index.htm](https://www.ilo.org/ilc/ILCSessions/110/reports/reports-to-the-conference/WCMS_731155/lang--en/index.htm)

<sup>2</sup> [https://www.ilo.org/ilc/ILCSessions/110/reports/reports-to-the-conference/WCMS\\_835970/lang--en/index.htm](https://www.ilo.org/ilc/ILCSessions/110/reports/reports-to-the-conference/WCMS_835970/lang--en/index.htm)

in these areas; however, for the instrument's practical value and in good faith, the Workers' Group remains committed to reaching, as much as possible, agreements by consensus.

Several areas will be contentious, such as the definitions of A/T, rights and protections, wages, the apprentices-to workers' ratio, intermediaries' role, and TVET institutions' role. A key issue will be the title and scope of the proposed conclusions, mainly whether it includes comprehensive guidance on all modalities rather than just on apprenticeships.

## 5. Comments on the proposed conclusions

Some preliminary comments are provided on the proposed conclusions for further discussion by the Workers' Group in June.

### A. FORM OF THE INSTRUMENTS (POINTS 1 AND 2)

Out of 95 governments that responded to the questionnaire, the majority (48) favour a Recommendation and a significant number (33) support a Convention supplemented by a Recommendation. Most employers prefer a Recommendation. Workers' relative majority (20 out of 41) also favour a Recommendation, and another 10 of those unions that responded supported a Convention supplemented by a Recommendation, 8 in favour of a Convention, and the remaining three preferring other options. In light of this, the Office proposes that the instrument should be a Recommendation.

### B. PREAMBLE (POINT 3 A-F)

The preamble sets the framing for the interpretation of the Recommendation but does not take precedence over operative provisions. It points to reasons for reskilling and upskilling: youth unemployment, rapid transformations, the pandemic's impact and the skills mismatches it produced. However, this is a narrow understanding of the need for QA/T. Individuals have the right to make personal, professional, and career choices and quality work-based training should become available to enable life-transforming decisions. Market skills needs are dynamic by nature, and rapid transformations, including a Just Transition, the future of work agenda, and the pandemic's scarring effect, further the need for quality work-based training. Skills mismatches are an important issue; however, it offers only a limited view to frame this discussion. The following paragraph discusses the potential benefits of quality apprenticeships.

Introducing some elements of quality apprenticeships, point (c) discusses that the framework should require "equitable" funding and guarantees of inclusiveness, gender equality, "appropriate remuneration", and social protection coverage, and lead to recognised qualifications. Point (d) stresses the importance of regulation to ensure quality and protection. The following two points include references to ILO instruments and Declarations that are being considered in interpreting the Recommendation.

### I. DEFINITIONS, SCOPE AND IMPLEMENTATION (POINTS 4-7)

These points introduce the discussion on the definition of the terms "apprenticeship", "intermediary", "pre-apprenticeship programme", "recognition of prior learning", and "traineeship". The Office extracted from the questionnaire responses the following terms for potential definition: extracted are "educational institution/providers of off-the-job training", "pre-apprenticeship training", "work-based learning", "internship", "apprenticeship agreement", "workplace",

“supervisor/mentor of the apprentice”, “adequate remuneration”, “quality apprenticeship” and “dual system” should be defined.

It is crucial to define *quality* apprenticeships, internships, and traineeships and a few more terms relevant to the understanding and interpretation of the Recommendations. It would be in the discussion’s interest to focus on comprehensively defining key terms rather than discussing a long list of them. The process should create a shared understanding of the necessary terms for the discussion to be concluded successfully.

Point 5 mentions that “[t]he instrument should apply to apprenticeships and traineeships in all enterprises and sectors of economic activity.” Developing the application of A/T in informal settings would be an issue to be discussed in conjunction with Point 23 and 25 and possibly other parts of the text. Promoting access for individuals in the informal economy is one aspect of the greater role QA/T could be playing in formalisation strategies. The conclusions should not omit the role of apprenticeships provided in the informal economy, the digital platform economy, and emerging sectors.

Point 7 refers to implementing the instrument with social dialogue and would probably enjoy broad support from all constituents.

## II. REGULATORY FRAMEWORK FOR QUALITY APPRENTICESHIPS (POINTS 8-17)

The following three points introduce a stipulation for regulatory frameworks, competent regulating authorities with clear tasks joining forces with other labour institutions, including social protection, occupational safety and health, and employment services. The points include two references to social partners’ involvement in all the stages of quality apprenticeship systems and the institutions competent in quality apprenticeships.

Point 11 discusses the process for recognising an occupation as suitable for quality apprenticeships and things to consider. The conditions to be considered should take into account new sectors.

Point 12 lists occupation-specific standards for quality apprenticeships that need to be discussed in the Recommendation. It includes a few *decent-work-related* aspects such as minimum age and the ratio of apprentices to workers in the workplace. It also introduces *education-related* elements, including the ratio of off-the-job learning to on-the-job learning, learning outcomes and curricula “based on market needs”, qualifications and experience required for teachers and in-company trainers, and procedures for assessing and certifying competencies acquired. It also discusses educational qualifications or prior learning, minimum and maximum duration, and their relation. One subpoint refers to the promotion of apprenticeships in SMEs. The discussion of this point is key to the quality of the Recommendation to the extent that it establishes high-quality standards for education and other occupation-specific standards. Collective bargaining, especially on a sectoral level could iron out details about qualification assessment, recognition, and certification.

Point 14 is decisive in whether the Recommendation will ensure *quality* in the employment side of quality work-based training. It introduces several worker protections, but it also refers to “having regard to national circumstances” in each chapeau, watering down whatever follows. It introduces appropriate remuneration, “which may be adjusted at different stages of the apprenticeship”, and other protections: work hours, holidays with pay, paid sick leave, and compensation for work-related injuries.

The proposed conclusions introduce differentiated treatment of OSH as well as discrimination, violence, and harassment against which apprentices are afforded “the same protection and receive the same training as others in the workplace”. It is a problematic distinction as it implies that remuneration and leave are lesser rights while equal treatment is retained only for life-threatening

issues, like OSH and protection from violence. The legal grounds that justify such a distinction are unclear. The Report also misses that for bad-faith employers, low or zero wages and rights abuses, disregard for apprentice safety, and harassment exist in the same workplace. The instrument cannot protect only “as much” just because their work comes under a training agreement or arrangement. Point 14 also omits protection of the right to organise and to collectively bargain, and maternity or parental leave depending on the duration.

Central to this discussion would be three points relating to the practice unions observe on the ground: that most A/Ts are a form of cheap labour, particularly of women, and the fact that without protections, they de facto exclude anyone who cannot afford low-paid, unpaid training programmes and, as an extension, from decent work and the career opportunities, and finally that low-quality A/T not meet the educational expectations of apprentices, interns, and trainees.

Points 15 discusses conditions for enterprises that offer apprenticeships, educational and training institutions that may provide off-the-job training, and intermediaries that assist in delivering apprenticeships. The following point includes a commitment to continuously developing and strengthening capacities. Point 17 is about regular monitoring and evaluation and needs to be expanded.

### **III. THE APPRENTICESHIP AGREEMENT (POINTS 18-20)**

This section recognises the need for a written agreement between apprentices and employers and suggests that its contents should clarify roles, rights and obligations. It provides for apprenticeship duration, remuneration, working hours, leave entitlements, occupational safety and health, social security, dispute resolution, and the agreement’s termination. The section also mentions that agreements should be registered under a competent authority and that model agreements facilitate consistency, uniformity and compliance.

Agreements and contracts can clarify many aspects of the employment relation, and so the Workers’ Group must include all significant elements that would ensure quality education and decent work in A/T. Further, grievance and complaints mechanisms should be discussed to protect apprentices, interns, and trainees and improve the quality of work-based training. A missing key aspect is collective bargaining, the most fair and effective method of negotiating and agreeing contracts from the national and sectoral (model contracts) to the enterprise-level.

### **IV. EQUALITY AND DIVERSITY IN QUALITY APPRENTICESHIPS (POINTS 21-23)**

This section introduces a discussion on potential grounds of discrimination and mentions that Members should take measures to promote gender equality and diversity. It covers “measures to promote equality”. It could be far more precise on the reason for unequal access to A/T: the lack of financial means to do so when most forms of work-based training are inadequately paid. Among other criteria, the Recommendation’s value will be determined by the extent to which it increases labour market participation, especially for members of underrepresented groups. The committee should expand on the proposed conclusions to cover all means and ways that produce more inclusive results.

Point 23 refers to access to formal education and training and quality apprenticeships for persons in the informal economy through recognition of prior learning. This point will be contextualised by the discussion of points 5 and 25.

**V. PROMOTION OF QUALITY APPRENTICESHIPS AND INTERNATIONAL COOPERATION (POINTS 24-26)**

Section V covers a few non-contentious areas of cooperation and some which need to be qualified. On point 24(d), it is questionable whether the incentives mentioned are effective. In any case, financial incentives to the private sector should be conditional on decent work, quality results, and the participation of representative unions. Cost-sharing should not be understood as an “incentive” because its arrangement determines access to A/T and the quality of A/T.

On point 24(e), “encouraging intermediaries, including through financial support, to participate in the provision, coordination and support of apprenticeships” should be further qualified. Intermediaries are private enterprises, and performance requirements and other government procurement rules should apply. Further, workforce development, a key industrial policy goal, requires public institutions. The pandemic highlighted the skill gaps created by decades of deregulation, underfunding of public services, and privatisation of education and vocational training.

Point 25 is about promoting quality apprenticeships in the informal economy. In 25(a), the authors recognise the need to strengthen the capacity of micro and small economic units, and 25(b) refers to access to off-the-job learning through intermediaries or other enterprises. The omission of TVET institutions is evident. Point 25(c) discusses strengthening SME associations, including through financial support, to perform quality assurance. Social dialogue is not the only element missing.

**VI. TRAINEESHIPS (POINT 27)**

Point 27 opens the discussion about traineeships. Similarly to apprenticeships, it requires a written agreement with the host enterprise or public administration, receive appropriate remuneration, not exceed specified work hours; be entitled to holidays with pay, sick leave, and work-related injuries. As with apprentices, the authors afford “the same protection and receive the same training as others in the workplace” only in respect of OSH and discrimination, violence and harassment”.

**Conclusive comments**

The Workers’ Group Spokesperson and her team invite views, insights, and experiences/examples, to argue for and defend protections for apprentices and trainees, including interns, and guarantee quality education. Please address your communications to the ITUC colleagues, Georgios Altintzis and Monica Tepfer.