



## SECOND ITEM ON THE AGENDA

**The campaign for the ratification  
of the 1997 Instrument of Amendment  
to the ILO Constitution**

1. The 1997 Instrument for the Amendment of the Constitution of the International Labour Organization is part of an overall thrust to enhance the relevance, impact and coherence of the body of ILO standards. Once in force, it will empower the Conference to abrogate (i.e. terminate for the Organization) a Convention that it considers obsolete.<sup>1</sup> The Instrument of Amendment, which was adopted by the Conference nearly unanimously, currently needs ratification by only 21 additional member States to enter into force (see appendix); it has already obtained 100 ratifications or acceptances out of the 121 required to reach the required two-thirds majority of ILO member States (which now total 181).
2. The Governing Body at its 292nd Session (March 2005) invited the Director-General to launch, as a priority, a campaign for the ratification or acceptance of the 1997 Instrument of Amendment.<sup>2</sup> At the 297th Session (November 2006) of the Governing Body, the Committee on Legal Issues and International Labour Standards discussed information provided by the Office on campaign initiatives accomplished and planned. Committee members generally took the view that the entry into force of the Instrument of Amendment was important for the credibility of the ILO and called upon member States that had not yet done so to ratify the Instrument.<sup>3</sup>
3. The purpose of this document is to provide a further update on the ratification campaign and to suggest initiatives aimed at attaining the goal of entry into force of the Amendment as soon as possible.

<sup>1</sup> The Amendment would insert a new paragraph 9 in article 19 of the Constitution, to read as follows: "By a majority of two-thirds of the votes of delegates present, the Conference, acting on a proposal of the Governing Body, may abrogate any Convention adopted in accordance with the provisions of this article if it appears that the Convention has lost its purpose or that it no longer makes a useful contribution to attaining the objectives of the Organization."

<sup>2</sup> GB.292/10(Rev.), para. 110(a).

<sup>3</sup> GB.297/LILS/2 and GB.297/12(Rev.), paras 14–23.

## The campaign strategy for achieving entry into force of the 1997 Instrument of Amendment

4. The strategy of the campaign has entailed the following elements:
  - (a) a letter from the Director-General in December 2005 calling on member States to ratify or accept the Instrument of Amendment;
  - (b) development of promotional materials in the languages needed for the campaign;
  - (c) consultation with the social partners on ideas and initiatives for the campaign;
  - (d) involving the regions (in particular the office directors, standards specialists and employer and worker specialists), as well as related headquarters units carrying out advisory missions to countries;
  - (e) utilizing relevant events organized by the ILO (the International Labour Conference, Regional Meetings, the Governing Body sessions) – as well as appropriate public events that have provided opportunities for discussions with governments – as occasions to highlight the importance of the Amendment, to explain its provisions and to indicate how to ratify or accept it;
  - (f) targeting countries where ratification prospects appear to be best;
  - (g) regular reporting to the Governing Body, and through it to the Conference, on the campaign's progress towards the goal of entry into force of the 1997 Instrument of Amendment.
5. The campaign target announced in November 2006, i.e. entry into force by the end of 2007 – while in retrospect somewhat over-optimistic for the time frame – has served to galvanize efforts towards this goal. The pace of ratification/acceptance has accelerated since November 2006, and it will be important to keep up this momentum.
6. The availability of promotional materials in more languages will assist in this effort. With support from the ILO Regional Office for the Arab States and the ILO Office in Lisbon, Portugal, the explanatory brochure and model instrument of ratification/acceptance are now available in Arabic and in Portuguese.<sup>4</sup> The ILO Subregional Office in Moscow is currently preparing a translation of these materials into Russian.
7. The 96th Session of the International Labour Conference afforded an effective opportunity to raise awareness about the Instrument of Amendment and to encourage ratification or acceptance by the ILO member States that have not yet taken this step. The Office of the Legal Adviser briefed each governmental regional group on this issue. A series of supplements to the Daily Bulletin of the Conference provided information about the Instrument and progress in ratifications and acceptances, several of which were announced during the Conference. The Bureau for Workers' Activities provided briefings to workers' organizations of countries that had not yet ratified the Amendment through their representatives present at the Conference, as was also done for the Worker members of the Governing Body.
8. Moreover, in the same way as for the 16th American and 14th Asian Regional Meetings in 2006, the 11th Africa Regional Meeting (24–27 April 2007) served as an opportunity to

<sup>4</sup> These and the English, French and Spanish versions are available at: <http://www.ilo.org/public/english/bureau/leg/>.

provide briefings on the Instrument of Amendment and to respond to queries from ILO constituents.

## Progress of the campaign and factors influencing it

9. Since the Governing Body was last informed at its November 2006 session, ten Members have ratified or accepted the Constitutional Amendment: Algeria, Belgium, Brunei Darussalam, Cambodia, Lao People's Democratic Republic, Montenegro, Netherlands, South Africa, Tunisia and Vanuatu.
10. As suggested by the existence of the campaign itself, the time it is taking for this non-controversial, forward-looking amendment to enter into force is of concern to the Organization. One factor influencing the speed at which the goal of the campaign can be reached is the expansion in ILO membership. Since the Instrument of Amendment must be accepted by two-thirds of ILO member States, this target evolves when membership increases. When the Instrument of Amendment was adopted in June 1997, the ILO was comprised of 174 member States, which meant that 116 ratifications or acceptances were required at that time for its entry into force. Currently, the ILO has 181 member States, requiring 121 ratifications or acceptances (a two-thirds majority) for entry into force of this constitutional amendment. In countries where ratification involves parliamentary action, the constitutional amendment is one of many instruments competing for attention on busy government agendas.
11. The pace of progress of the campaign should also be seen in the context of resources available to pursue it: the campaign was launched in 2005 without any dedicated resources. This has meant leveraging the resources available in the regular budget of the Organization, through cooperative efforts of various units, and the supportive initiatives of the constituents themselves. In addition, many other important developments in the Organization have taken place since 1997 which have tended to overshadow this Instrument of Amendment.
12. The 2006 International Labour Conference marked renewed interest in the entry into force of the Amendment, as demonstrated by ratifications or acceptances. As the Director-General noted in his reply, "The commitment of the constituents to modernizing the body of ILO standards has been heartening."<sup>5</sup> He encouraged all Members which have not yet ratified this instrument to do so as soon as possible.

## Fine-tuning the campaign in the near future

13. As the campaign comes ever closer to its goal, it will need to focus on strategic opportunities. One is afforded by the action of ILO member States that have already ratified or accepted the 1997 Instrument of Amendment to encourage other Members to do the same. For example, the Netherlands organized an information session during the International Labour Conference in 2007 for representatives of seven governments that have not ratified the Instrument.<sup>6</sup> On this occasion, the Legal Adviser explained the

<sup>5</sup> Reply by the Director-General to the discussion of his Report, International Labour Conference, 96th Session (Geneva, 2007), *Provisional Record* No. 24/8.

<sup>6</sup> Costa Rica, Georgia, Indonesia, Kenya, Latvia, Paraguay and Poland. It should be noted that according to the Government, Poland's Parliament has ratified the Instrument of Amendment which is with the President for signature.

Amendment and distributed relevant materials, followed up by correspondence with the participants.

14. Another strategic aspect is closer consideration of the relevant national procedures of the countries that have not yet ratified or accepted the Instrument. Where acceptance of such an instrument is possible under the country's constitutional regime without parliamentary approval, rapid action can be taken by a representative of an authority having the power to bind the State.<sup>7</sup> If ratification authorized by national parliaments is required by the domestic legal order, the process is necessarily longer and could be assisted by Office accompaniment over time. Here the standards specialists in the regions, supported by their directors, the International Labour Standards Department and the Office of the Legal Adviser, will continue to play a critical role. Extra efforts could be deployed in relation to new ILO member States, which may be less familiar with applicable procedures for ratification or acceptance of an amendment to the ILO Constitution.
15. Informal consultations between the Office and Employer and Worker constituents on this topic have explored how the social partners can urge governments to ratify or accept the Instrument of Amendment. The Employer and Worker specialists in the regions can assist – as they have already been doing in some instances – in explaining how the Amendment will contribute to maintaining a relevant body of international labour standards.
16. *In light of this progress report on the ratification campaign, the Committee may wish to recommend to the Governing Body to:*
  - (a) *call on all governments that have not yet ratified or accepted the 1997 Instrument of Amendment to the ILO Constitution to do so without delay;*
  - (b) *request the Office to redouble its efforts to encourage ratification or acceptance, in particular by:*
    - (i) *encouraging systematic inclusion of the question of ratification or acceptance of the 1997 Instrument of Amendment in consultations with the governments, employers and workers in the countries concerned;*
    - (ii) *organizing a brief special event at the 97th Session of the International Labour Conference (2008), financed out of approved resources, at which countries can deposit their instruments of ratification or acceptance with the Director-General, and at which all countries having ratified or accepted the instrument can be publicly recognized;*
    - (iii) *taking other appropriate initiatives to achieve the goal of entry into force of the 1997 Instrument of Amendment in the nearest possible future.*

Geneva, 1 October 2007.

*Point for decision:* Paragraph 16.

<sup>7</sup> This was reflected in the acceptances by Brunei Darussalam and Montenegro during the 2007 International Labour Conference.

## Appendix

### Member States that have not yet ratified the 1997 Instrument of Amendment to the ILO Constitution (by region)

As at 1 October 2007, 21 of the member States listed below are needed to ratify or accept the Instrument of Amendment in order to attain the two-thirds majority (121 of 181) of member States required for the Amendment to enter into force. In some of the countries listed, the ratification process is already well under way.

#### Africa

Angola	Equatorial Guinea	Niger
Burkina Faso	Eritrea	Rwanda
Burundi	Gabon	Sao Tome and Principe
Cameroon	Gambia	Senegal
Cape Verde	Ghana	Sierra Leone
Central African Republic	Kenya	Somalia
Chad	Lesotho	Sudan
Côte d'Ivoire	Liberia	Swaziland
Democratic Republic of the Congo	Madagascar	Tanzania, United Republic of
Djibouti	Mali	Uganda
	Mozambique	

#### Americas

Bahamas	El Salvador	Paraguay
Belize	Grenada	Saint Lucia
Bolivia	Guatemala	United States
Brazil	Haiti	Uruguay
Colombia	Honduras	Venezuela, Bolivarian Republic of
Costa Rica	Jamaica	

#### Europe

Armenia	Israel	Slovenia
Belarus	Kazakhstan	The former Yugoslav Republic of Macedonia
Bosnia and Herzegovina	Kyrgyzstan	Turkmenistan
Croatia	Latvia	Ukraine
Georgia	Poland	Uzbekistan
Germany	Russian Federation	
Greece	Serbia, Republic of	

#### Asia and Pacific

Afghanistan	Kiribati	Papua New Guinea
Fiji	Marshall Islands	Samoa
Indonesia	Mongolia	Solomon Islands
Iran, Islamic Republic of	Myanmar	Timor-Leste
Iraq	Oman	