



## FOR INFORMATION

### SECOND ITEM ON THE AGENDA

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

1. As foreseen by the Governing Body at its 295th Session (March 2006),<sup>1</sup> this document provides information on steps taken in relation to the ratification of the Instrument of Amendment to the ILO Constitution that was adopted by the International Labour Conference in 1997 with overwhelming support from the tripartite constituents.<sup>2</sup>
2. *Why ratification is important; what is needed.* The 1997 Amendment will be a key tool in ILO efforts to maintain a body of international labour standards that is up to date, relevant and coherent. Once in force, the Amendment will permit the Conference, acting on a two-thirds majority vote, to abrogate (or “terminate”) an international labour Convention that has become obsolete.<sup>3</sup>
3. With current ILO membership now standing at 179 countries, the Amendment needs a total of 120 ratifications or acceptances to enter into force.<sup>4</sup> To add to the 89 ratifications that the Instrument had already obtained by 15 September 2006, an additional 31 ratifications or acceptances are still needed for this to occur.

<sup>1</sup> GB.295/10, paras. 66 and 96.

<sup>2</sup> The Instrument of Amendment was adopted on 19 June 1997 by 381 votes in favour, 3 against and 5 abstentions.

<sup>3</sup> The Instrument provides for a new paragraph 9 to article 19 of the ILO Constitution, which governs the adoption of Conventions and Recommendations and Members' related obligations. The new paragraph would state: “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>4</sup> For an amendment to the ILO Constitution to enter into force it must, under article 36, be ratified by two-thirds of the member States, including five of the ten Members represented on the Governing Body as Members of chief industrial importance (six have done so). Under this article, an amendment can be “ratified or accepted” – a matter to be determined under the national law of each member State.

**4. A target of 2007 for entry into force.** The campaign, launched on the encouragement of the Governing Body, aims at having the Amendment enter into force by the end of 2007. Since progress towards this goal has been steady but slow, efforts have now moved beyond the official correspondence that has been sent over the years to member States beginning in 1997 (with particular efforts made in 2000 and in 2005), to include other initiatives. It appears that entry into force of this non-controversial innovation for the standards system has been delayed simply because it has slipped from the top of countries' priorities. A renewed effort is therefore required.

**5.** The measures to encourage ratification thus include:

- (a) preparation of materials to explain what the Amendment entails and why it is important to ratify it as a contribution to enhancing the contemporary relevance of ILO standards;
- (b) targeted dissemination of these materials, coupled with outreach to constituents and other decision-makers;
- (c) reporting on progress towards the goal of entry into force.

In the absence of specifically dedicated funding, the campaign involves leveraging the action of the regions with that of the Office of the Legal Adviser, which leads the campaign, and of the International Labour Standards Department, which provides technical support through the international labour standards specialists in the regions. They are using the information resources<sup>5</sup> produced at headquarters to facilitate ratification or acceptance in targeted ILO member States. In addition, these field standards specialists work in close collaboration with employer and worker specialists on the issue. Furthermore, informal consultations have explored how to associate organizations of employers and workers more closely in efforts to encourage further ratifications. Several field offices have included the 1997 Instrument of Amendment on the agenda of workshops and seminars. A number of countries have identified ratification among their priorities for future action (in 2006, for example, Brazil, Cape Verde, Mali, Mongolia, Paraguay, Senegal and Uruguay).

**6. Materials.** A question and answer brochure on the Instrument of Amendment explains in simple terms what the Amendment provides, how it was adopted by the Conference, its procedural guarantees, the effect of abrogation and why urgent action is needed. To assist governments, the brochure contains a sample form for ratification or acceptance, and points to sources of further information. Recently, the ILO Lisbon Office provided a Portuguese version of the brochure that complements those originally available in English, French and Spanish; an Arabic version is under preparation. More recently, a one-page summary has been placed on the ILO web site; it is appended as Appendix I. A Powerpoint presentation on the Instrument of Amendment is available in English.

**7. Targeted dissemination.** The Director-General addressed a circular letter to every member State that had not yet ratified the Instrument of Amendment in December 2005, along with a copy of the brochure. During the March 2006 session of the Governing Body and the 95th Session of the International Labour Conference (May-June 2006), an information table featured the brochure along with a map showing which countries had already ratified the Instrument of Amendment.

**8.** Regional Meetings are also being used for targeted dissemination. In 2006, the American Regional Meeting and the Asian Regional Meeting of the ILO have served as platforms for

<sup>5</sup> These may be consulted at <http://www.ilo.org/public/english/bureau/leg>.

distribution of the brochure and other materials, and contact was made with representatives of governments that have not yet ratified and the social partners included in delegations. An information session on the constitutional Amendment formed part of the programme at the Asian Regional Meeting, and in a side meeting on international labour standards organized with the Pacific Island States, their ratification was encouraged. Similar types of initiatives are proposed for the African Regional Meeting in 2007.

- 9. *Progress towards the goal.*** One important hurdle to entry into force has already been overcome, since six (five are required) of the ten Members represented on the Governing Body as Members of chief industrial importance have ratified the Instrument. The second hurdle is ratification by two-thirds of the membership. The ILO now has five more member States than it had in 1997, which means that the bar for achieving ratification by two-thirds of all member States is now set higher. However, even with the larger membership of 179 countries, the current target of a total of 120 ratifications (which would require 31 additional ones) is within reach. (See Appendix II for the pattern of ratification since 1997, and Appendix III for the list of 89 countries that have already ratified the Instrument of Amendment and the 90 that still have the opportunity to do so.)
- 10.** The 1997 Amendment will enter into force when 31 more ILO member States decide to ratify or accept the Instrument of Amendment. States that have already ratified it can encourage those that have not yet done so. The Office remains available to provide information and assistance to constituents to support their efforts to reach the target of entry into force of the Instrument of Amendment by 2007.

Geneva, 26 September 2006.

*Submitted for information.*



## Appendix I

### Ratification campaign for the 1997 Instrument of Amendment to the ILO Constitution

*Why?* The ILO Governing Body has asked the Office to launch a ratification campaign for the 1997 Instrument of Amendment to the ILO Constitution because progress towards its entry into force has been slow, although steady.

The campaign goal is 31 additional ratifications by 2007, the tenth anniversary year of the adoption of the Instrument by the International Labour Conference. The Amendment can enter into force upon ratification or acceptance by 120 States out of a total membership of 179 – the two-thirds majority of ILO Members required.

*What?* The Amendment is part of an overall thrust to enhance the relevance, impact and coherence of the body of ILO standards. With a new paragraph 9 added to article 19 of the ILO Constitution, it would become possible for the Conference to abrogate (or “terminate”) a Convention that it has declared obsolete.

A Convention would be obsolete if it has lost its purpose or if it no longer makes a useful contribution to attaining the objectives of the Organization.

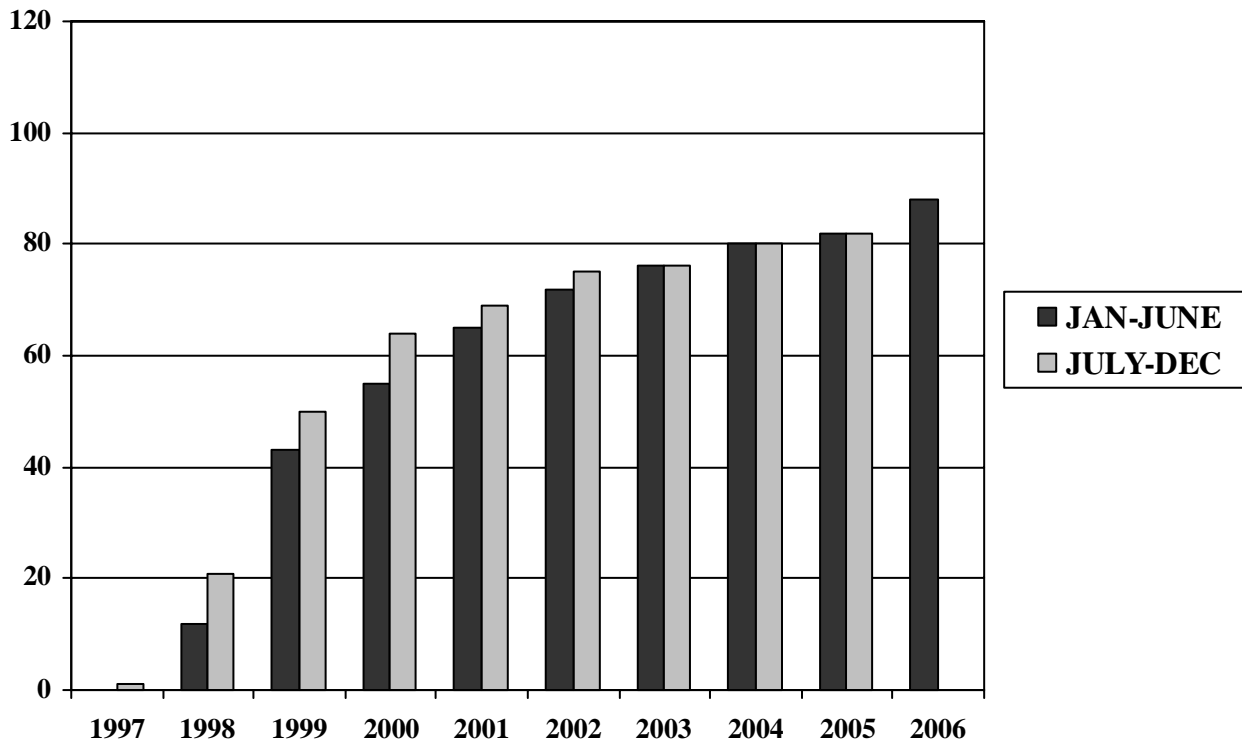
Guarantees for employers and workers are built into this initiative. The Amendment enjoyed almost universal support when it was adopted by the Conference in 1997. A determination that a particular Convention is obsolete would require a two-thirds majority by the tripartite Conference; consultation of the social partners should take place at the national level prior to the Conference. Finally, even when a Convention is abrogated, countries can – if they so wish – keep in place legislation or other measures related to it.

*How?* Constituents can obtain more information about the simple ratification formalities from the Office of the Legal Adviser web site: [www.ilo.org/public/english/bureau/leg/](http://www.ilo.org/public/english/bureau/leg/) or email [jur@ilo.org](mailto:jur@ilo.org), and from international labour standards specialists in the regions.

A brochure of questions and answers contains a sample form for ratification of the 1997 Instrument of Amendment and fuller explanations. The brochure is available in English, French, Spanish and Portuguese at the web site shown above. The Instrument already exists in Arabic, and a translation of the brochure is being prepared.

## Appendix II

### Ratifications/acceptances of the 1997 Instrument of Amendment to article 19 of the ILO Constitution



## Appendix III

Ratification status (15 September 2006)

### A. *Member States that have ratified the 1997 Instrument of Amendment to the ILO Constitution (by region)*

#### Africa

Benin	Guinea-Bissau	Namibia
Botswana	Libyan Arab Jamahiriya	Nigeria
Congo	Malawi	Seychelles
Comoros	Mauritania	Togo
Egypt	Mauritius	Zambia
Ethiopia	Morocco	Zimbabwe
Guinea		

#### Americas

Antigua and Barbuda	Dominica	Panama
Argentina	Dominican Republic	Peru
Barbados	Ecuador	Saint Vincent and the Grenadines
Canada	Guyana	Suriname
Chile	Mexico	Trinidad and Tobago
Cuba	Nicaragua	

#### Europe

Austria	Hungary	Romania
Azerbaijan	Iceland	San Marino
Albania	Ireland	Slovakia
Bulgaria	Italy	Spain
Cyprus	Lithuania	Sweden
Czech Republic	Luxembourg	Switzerland
Denmark	Malta	Tajikistan
Estonia	Moldova, Republic of	Turkey
Finland	Norway	United Kingdom
France	Portugal	

#### Asia and the Pacific

Australia	Kuwait	Saudi Arabia
Bahrain	Lebanon	Singapore
Bangladesh	Malaysia	Sri Lanka
China	Nepal	Syrian Arab Republic
India	New Zealand	Thailand
Japan	Pakistan	United Arab Emirates
Jordan	Philippines	Viet Nam
Republic of Korea	Qatar	Yemen

**Total:** 89 (out of 120 ratifications or acceptances needed for the Amendment to enter into force)

**B. Member States that have not yet ratified**  
(by region)

Out of these, 31 additional ratifications are needed.

**Africa**

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

**Americas**

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

**Europe**

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

**Asia and Pacific**

Afghanistan	Kiribati	Papua New Guinea
Cambodia	Lao People's Democratic	Samoa
Fiji	Republic	Solomon Islands
Indonesia	Mongolia	Timor-Leste, Democratic
Iran, Islamic Republic of	Myanmar	Republic of
Iraq	Oman	Vanuatu