

**FOR INFORMATION**

## FIFTH ITEM ON THE AGENDA

**Ratification and promotion of fundamental ILO Conventions**

1. The Declaration on Social Justice for a Fair Globalization adopted by the 97th Session (2008) of the International Labour Conference envisages that ILO Members, in the context of the implementation of the Decent Work Agenda at the national level, review their situation as regards the ratification of fundamental ILO Conventions. In his report to the Conference, *Decent work: Some strategic challenges ahead*, the Director-General also drew attention to the importance of accelerated ratification of these fundamental Conventions and proposed the goal of universal ratification by 2015.
2. These developments have reaffirmed the importance of the campaign to promote the ratification of the fundamental ILO Conventions. In the context of the campaign, the Director-General each year submits a report for information to the Governing Body on progress made in the ratification of the fundamental ILO Conventions during the previous year and on the prospects for the ratification of these instruments, based on information communicated by the member States.
3. On 21 July 2008, the Director-General sent a letter to the governments of the countries that had not ratified all the fundamental Conventions, asking them to indicate their position with regard to these Conventions.<sup>1</sup> As of 19 September, replies had been received from *Canada, China, Denmark, Gabon, India, Jordan, Kenya, Kiribati, Mexico, Morocco, Myanmar, New Zealand, Qatar, Sudan, Suriname, United Arab Emirates, United Kingdom and United States*.
4. Part II below consolidates information from the replies received, as well as information that had been reported to the Governing Body previously. Part II also includes information provided by governments in the context of the annual review under the follow-up to the Declaration on Fundamental Principles and Rights at Work or to the International Labour Conference, as well as information obtained by the ILO in the course of technical assistance and technical cooperation activities. Part III contains information from relevant member States regarding the prospects of extending the application of fundamental Conventions to non-metropolitan territories where this has not yet been done.

<sup>1</sup> With a view to avoiding multiple requests for information, the letter also invited governments to indicate their position with regard to non-ratified priority Conventions. Information received in reply to this request is not reported under this item. It is included in GB.303/LILS/6.

5. The information contained in this paper was up to date as at 19 September 2008. Further developments, if any, will be communicated orally to the Committee.

## I. Overview of progress made towards universal ratification

6. The number of ratifications – or confirmations of previous commitments – since the beginning of the campaign has reached 520. Since the 300th Session (November 2007) of the Governing Body, 12 new ratifications of fundamental Conventions have been registered.

	New ratifications	Total No. of ratifications
Convention No. 29	Samoa	173
Convention No. 87	Samoa	149
Convention No. 98	Samoa	159
Convention No. 100	Lao People's Democratic Republic, Samoa	166
Convention No. 105	Samoa	171
Convention No. 111	Lao People's Democratic Republic, Samoa	168
Convention No. 138	–	150
Convention No. 182	Brunei Darussalam, Guinea-Bissau, Samoa, Uzbekistan	169

7. While no ratifications of Convention No. 138 have been registered in the last year, six countries have submitted instruments of ratification concerning this Convention in recent years (Guinea-Bissau, Haiti, Samoa, Turkmenistan, Uzbekistan and Vanuatu). However, for reasons related to the declaration required pursuant to Article 2(1) of the Convention, these ratifications could not be registered.
8. To date, 1,305 ratifications of fundamental Conventions have been registered. In order to achieve the goal of *universal ratification*, a total of 1,456 ratifications (182 per Convention) are needed.
9. To date, of the Organization's 182 member States, 127 have ratified the eight fundamental ILO Conventions, 21 have ratified seven, nine have ratified six, and ten have ratified five. By comparison, four have ratified only one or two fundamental Conventions and eight have ratified three or four. Three countries that joined the ILO only recently have not yet ratified any of the fundamental Conventions.

## II. Position with regard to non-ratified fundamental Conventions

### A. States having ratified none of the fundamental Conventions

10. The *Marshall Islands* became a Member of the Organization on 3 July 2007.
11. *Timor-Leste* became a Member of the Organization on 19 August 2003. The Government indicated during the 93rd Session (2005) of the International Labour Conference that it was looking into the ratification of the eight Conventions concerned.

12. *Tuvalu* became a Member of the Organization on 27 May 2008.

**B. States having ratified one fundamental Convention**

13. *Brunei Darussalam* became a Member of the Organization on 17 January 2007. In December 2007, the Government indicated that it was taking preparatory steps to ratify the fundamental Conventions in the near future. On 9 June 2008, it ratified Convention No. 182.

14. The *Solomon Islands* has ratified Convention No. 29. The Government indicated in the context of the 2006 annual review under the Declaration on Fundamental Principles and Rights at Work that it intended to ratify the other fundamental Conventions soon.

**C. States having ratified two fundamental Conventions**

15. *Myanmar* has not yet ratified Conventions Nos 98, 100, 105, 111, 138 and 182. The Government stated in August 2008 that ratification of these Conventions would be considered at the appropriate moment.

16. The *United States* has not yet ratified Conventions Nos 29, 87, 98, 100, 111 and 138. The Government stated in August 2008 that there had been no further developments with regard to any of the unratified fundamental Conventions.

**D. States having ratified three fundamental Conventions**

17. *Afghanistan* has not yet ratified Conventions Nos 29, 87, 98, 138 and 182. During the 97th Session (2008) of the International Labour Conference, the Government indicated that the process for the ratification of Conventions Nos 138 and 182 had been initiated. Subsequently, the Office was informed in July 2008 that these two Conventions had been submitted to Parliament for ratification.

18. *Somalia* has not yet ratified Conventions Nos 87, 98, 100, 138 and 182. It has not yet provided information on the ratification campaign.

**E. States having ratified four fundamental Conventions**

19. *Bahrain* has not yet ratified Conventions Nos 87, 98, 100 and 138. The Government indicated in September 2006 that it was still examining these Conventions with a view to taking the necessary measures.

20. *China* has not yet ratified Conventions Nos 29, 87, 98 and 105. In September 2008, the Government indicated that cooperation with the ILO was continuing with regard to ratification of Conventions Nos 29 and 105. A series of awareness-raising activities in different parts of the country is planned.

21. *India* has not yet ratified Conventions Nos 87, 98, 138 and 182. In September 2008, the Government expressed its commitment to the elimination of child labour in all its forms.

Considering the nature and magnitude of the problem, a progressive approach was followed by first targeting children up to 14 years of age in hazardous work. Ratification of Conventions Nos 138 and 182 will be considered once the national laws are in conformity with the provisions of these Conventions. With respect to Conventions Nos 87 and 98, the Government reiterated its position that ratification was not possible as a result of the specific regulatory situation applying to government employees.

22. *Kiribati* has not yet ratified Conventions Nos 100, 111, 138 and 182. The Government indicated during the 97th Session (2008) of the International Labour Conference that amendments to Kiribati's labour laws had recently been adopted, paving the way for ratification of these four Conventions. The Government confirmed in August 2008 that the Conventions would be submitted to Cabinet for approval.
23. The *Republic of Korea* has not yet ratified Conventions Nos 29, 87, 98 and 105. The Government stated during the 96th Session (2007) of the International Labour Conference that it was fully aware of the importance of the fundamental Conventions and that it would continue to make efforts to bring its law and practice more fully into line with international labour standards.
24. *Oman* has not yet ratified Conventions Nos 87, 98, 100 and 111. The Government stated in August 2006 that, following the amendments to the Labour Code introduced by Decree No. 74/2006 of 8 June 2006, the Ministry of Manpower was in the process of issuing implementing regulations in conformity with international labour standards. It was further stated that the ratification of the remaining fundamental Conventions would be completed.

#### **F. States having ratified five fundamental Conventions**

25. *Canada* has not yet ratified Conventions Nos 29, 98 and 138. The Government stated in September 2008 that Canada's position concerning Convention No. 29 continued to be reviewed. With regard to Convention No. 98, the Government recalled that in a June 2007 decision, the Supreme Court of Canada found that freedom of association under section 2(d) of the Canadian Charter of Rights and Freedoms protects the right of employees to associate in order to achieve workplace goals through a process of collective bargaining. Following a tripartite round table held in February 2008 to discuss the decision's implications, the Government continued to monitor developments and pursue dialogue with provincial and territorial governments concerning the Convention. With regard to Convention No. 138, the situation remained unchanged.
26. The *Islamic Republic of Iran* has not yet ratified Conventions Nos 87, 98 and 138. The Government stated during the 97th Session (2008) of the International Labour Conference that there was a need for further studies regarding Conventions Nos 87 and 98. It indicated in the context of the 2006 annual review under the Declaration on Fundamental Principles and Rights at Work that it was studying the possibility of ratifying Convention No. 138.
27. The *Lao People's Democratic Republic* has not yet ratified Conventions Nos 87, 98 and 105. During the 97th Session (2008) of the International Labour Conference, the Government indicated that the authorities were focusing on the study and improvement of national legislation in order to create a basis for the implementation of Conventions Nos 87 and 98. It had previously stated that Convention No. 105 was also being examined.
28. *Malaysia* has not yet ratified Conventions Nos 87 and 111, and denounced Convention No. 105 in 1990. In August 2006, the Government stated that its position regarding ratification of these instruments remained unchanged.

29. *Qatar* has not yet ratified Conventions Nos 87, 98 and 100. The Government stated in August 2008 that updated information concerning Conventions Nos 87 and 98 would be included in its annual report under the Declaration on Fundamental Principles and Rights at Work. In the context of the 2006 annual review under the Declaration, the Government had indicated that ratification of Convention No. 100 was being prepared.
30. *Saudi Arabia* has not yet ratified Conventions Nos 87, 98 and 138. The Government indicated in August 2007 that no new developments had occurred. It had previously stated that it was in the process of examining the possibility of ratifying Convention No. 138 in the light of the provisions of the new Labour Code.
31. *Singapore* has not yet ratified Conventions Nos 87 and 111, and it denounced Convention No. 105 in 1979. In August 2006, the Government stated that it continued to engage with relevant government agencies, employers' organizations and trade unions to review the remaining Conventions with a view to ratifying them where possible. In 2007 and 2008, the Government consulted the Office on Conventions Nos 105 and 111.
32. *Suriname* has not yet ratified Conventions Nos 100, 111 and 138. In September 2008, the Government stated that the legislative review concerning these Conventions was still ongoing.
33. *Thailand* has not yet ratified Conventions Nos 87, 98 and 111. The Government indicated in October 2007 with regard to Conventions Nos 87 and 98 that, following the adoption of the new Constitution, further legislative changes would be made, including amendments to the Labour Relations Act and the Civil Service Act. With regard to Convention No. 111, the examination of national law and practice was still ongoing.
34. *Viet Nam* has not yet ratified Conventions Nos 87, 98 and 105. During the 97th Session (2008) of the International Labour Conference, the Government indicated that the conditions for a possible ratification of Convention No. 105 were being studied. As regards Conventions Nos 87 and 98, the Government indicated in August 2007 that research was under way to examine the consistency between the two Conventions and the draft law on associations. Ratification of both Conventions would be considered following adoption of the law.

## **G. States having ratified six fundamental Conventions**

35. *Guinea-Bissau* has not yet ratified Conventions Nos 87 and 138. An instrument of ratification regarding Convention No. 138 was received in August 2008. However, the ratification could not be registered in the absence of the declaration required under Article 2(1) of the Convention. The Office is in contact with the authorities regarding this matter. The Government stated in September 2006 that Convention No. 87 had been forwarded to the Council of Ministers.
36. *Japan* has not yet ratified Conventions Nos 105 and 111. The Government reiterated in September 2007 that further study regarding the relation between national legislation and these Conventions was required.
37. *Liberia* has not yet ratified Conventions Nos 100 and 138. The Government announced at the 95th Session (2006) of the International Labour Conference that Convention No. 100 was in the process of being submitted to the legislature. In the context of the 2006 annual review under the Declaration on Fundamental Principles and Rights at Work, the Government stated that Convention No. 138 was before Parliament for final approval.

38. *Mexico* has not yet ratified Conventions Nos 98 and 138. The Government stated in September 2008 that no change had occurred regarding its position with respect to the ratification of Convention No. 98, recalling the Senate's reservations in relation to Article 1(2)(b) of the Convention. Furthermore, the existence of national legislation that is incompatible with the Convention continued to prevent the ratification of Convention No. 138.
39. *New Zealand* has not yet ratified Conventions Nos 87 and 138. The Government reiterated in August 2008 that no further decisions had been made concerning Convention No. 87. However, the Government was continuing to monitor both national and international developments, including ILO jurisprudence, with a view to future ratification. With regard to Convention No. 138, New Zealand continued to consult the Office.
40. *Sierra Leone* has not yet ratified Conventions Nos 138 and 182. In the context of the 2006 annual review under the Declaration on Fundamental Principles and Rights at Work, the Government stated that the process of ratification of Convention No. 182 was under way and that the ratification of Convention No. 138 had already been submitted to Parliament.
41. *Turkmenistan* has not yet ratified Conventions Nos 138 and 182. The instrument of ratification concerning Convention No. 138 had been received in 1997 but without the declaration required under Article 2(1) of the Convention. Information available to the ILO indicates that the Parliamentary Commission on Social Affairs and Employment has unanimously recommended the ratification of Convention No. 182 to the National Assembly.
42. The *United Arab Emirates* has not yet ratified Conventions Nos 87 and 98. In September 2008, the Government indicated that the Decent Work Country Programme currently being developed would cover the area of labour relations, including worker–employer consultative schemes.
43. *Uzbekistan* has not yet ratified Conventions Nos 87 and 138. An instrument of ratification regarding Convention No. 138 was received in July 2008. However, the ratification could not be registered for reasons related to the content of the compulsory declaration submitted by the Government under Article 2(1) of the Convention. The Office has written to the Government regarding the matter. In the initial phase of the campaign, the Government stated that documents relating to the ratification of Convention No. 87 had been submitted to the National Assembly.

## **H. States having ratified seven fundamental Conventions**

44. *Australia* has not yet ratified Convention No. 138. In August 2007, the Government informed the Office that there were no further developments concerning this Convention. It had previously indicated that Australian law and practice met the Convention's objectives, but for technical reasons Australia was unable to ratify.
45. *Bangladesh* has not yet ratified Convention No. 138. During an ILO mission to the country in August 2008, the Government indicated that a committee has been set up to look into the matter.
46. *Brazil* has not yet ratified Convention No. 87. The Government indicated in the context of the 2006 annual review under the Declaration on Fundamental Principles and Rights at Work that the reform proposals agreed on during the National Employment Forum (2003–04) would preclude ratification.

47. *Cape Verde* has not yet ratified Convention No. 138. While Parliament adopted the law approving ratification of the Convention in January 2006, signature by the President and publication in the *Official Journal* are still pending.
48. *Cuba* has not yet ratified Convention No. 182. The Government stated in August 2007 that it was continuing to study the possibility of ratification and that child labour did not exist in the country.
49. *Eritrea* has not yet ratified Convention No. 182. The Government stated in the context of the 2006 annual review under the Declaration on Fundamental Principles and Rights at Work that the Convention was still being considered by the National Assembly for possible ratification.
50. *Gabon* has not yet ratified Convention No. 138. The Government indicated in September 2008 that the procedure for the ratification of the Convention had been relaunched in January 2008.
51. *Ghana* has not yet ratified Convention No. 138. The Government announced its intention to ratify this Convention in the context of the 2005 annual review under the Declaration on Fundamental Principles and Rights at Work.
52. *Haiti* has not yet ratified Convention No. 138. Although an instrument of ratification had been received in 2008, the ratification could not be registered in the absence of the declaration required under Article 2(1) of the Convention. The Office is in contact with the authorities on this matter.
53. *Iraq* has not yet ratified Convention No. 87. The Government stated in the context of the 2006 annual review under the Declaration on Fundamental Principles and Rights at Work that it intended to ratify this Convention after the adoption of the new Labour Code.
54. *Jordan* has not yet ratified Convention No. 87. The Government stated in August 2008 that the work of the joint committee set up to propose amendments to the labour legislation was continuing its effort towards bringing the legislation into line with the Convention.
55. *Kenya* has not yet ratified Convention No. 87. The Government stated in August 2008 that Kenya had enacted legislation consistent with the Convention and that the decision on ratification would be made by the tripartite National Labour Board as soon as it was constituted.
56. *Kuwait* has not yet ratified Convention No. 100. The Government stated in September 2006 that ratification was still under consideration.
57. *Lebanon* has not yet ratified Convention No. 87. During the 97th Session (2008) of the International Labour Conference, the Government stated that the Convention continued to be discussed at all levels, with a view to its ratification. In September 2007, the Government indicated that it had endeavoured to update the civil service regulations and to revise the draft amendments to the Labour Code.
58. *Morocco* has not yet ratified Convention No. 87. The Government stated in September 2008 that it was currently studying measures to overcome the remaining obstacles to ratification (restrictions on the right to strike of certain categories of civil servants and the requirement of Moroccan citizenship for holding trade union office).

59. *Namibia* has not yet ratified Convention No. 100. According to the Government's report submitted for the 2005 annual review under the Declaration on Fundamental Principles and Rights at Work, ratification was not being considered at that time.
60. *Nepal* has not yet ratified Convention No. 87. During the 96th Session (2007) of the International Labour Conference, the Government announced that the ratification of Convention No. 87 would soon be submitted to Parliament for final approval.
61. *Samoa* ratified all the fundamental Conventions in June 2008, except for Convention No. 138. Although an instrument of ratification was received, the ratification could not be registered in the absence of the declaration required under Article 2(1) of the Convention. The Office is in contact with the authorities on this matter.
62. *Saint Lucia* has not yet ratified Convention No. 138. The Government stated, in reply to the 2001 campaign letter, that it had initiated consultations on the ratification of the Convention and intended to submit the matter to Cabinet for consideration.
63. *Sudan* has not yet ratified Convention No. 87. In its reply to the 2008 campaign letter, the Government indicated that a process of labour law revision was under way. The tripartite committee set up in this context was expected to complete its work soon.
64. *Vanuatu*. In August 2006, the Office received the instrument of ratification in respect of Convention No. 138. However, the ratification could not be registered in the absence of the declaration required under Article 2(1) of the Convention. The Office has drawn the Government's attention to this matter.

### III. Non-metropolitan territories

65. A review of the status of fundamental Conventions with regard to non-metropolitan territories shows that in several instances the application of these Conventions has not yet been extended to such territories. The appendix provides an overview of the current situation in this regard.
66. The Government of *Australia* indicated in 2007 that the consultations with the Government of Norfolk Island in relation to Convention No. 111 had not yet been completed, while those in relation to Convention No. 182 had not yet commenced.
67. The Government of *China* stated in September 2008 that the Government of the Hong Kong Special Administrative Region, China, was conducting a feasibility study concerning the extension of the application of Conventions Nos 100 and 111.
68. The Government of *Denmark* stated in September 2008 that the home rule authorities of the Faeroe Islands and Greenland have commenced preparations for the possible extension of the application of the fundamental Conventions.
69. The Government of *France* indicated in October 2007 that it had launched a process of consultation with a view to extending the application of the fundamental Conventions to non-metropolitan territories.
70. The *Netherlands* explained in 2007 that the Netherlands Antilles were in a transition period, as the territory would be dissolved as of 15 December 2008. The islands of Curaçao and St. Maarten would achieve the same status as Aruba, while Bonaire, St. Eustatius and Saba would be part of the Netherlands. The Government stated that it

would continue to pursue this matter and assist the Governments of Aruba, Curaçao and St. Maarten to ratify the fundamental Conventions.

71. The Government of *New Zealand* indicated in August 2008 that no changes have occurred with regard to the decision not to extend Conventions Nos 98 and 182 to Tokelau.
72. The extension of the application of Convention No. 182 to the Falkland Islands (Malvinas) was registered on 14 May 2008, following receipt of a declaration to this effect from the Government of the *United Kingdom*. The Government indicated in September 2008 that it continued to encourage non-metropolitan territories, where appropriate, to accept extension where the fundamental Conventions have not yet been extended to them. The Isle of Man, Guernsey and Jersey were currently examining the matter.
73. The Government of the *United States* reiterated in 2008 that no steps have been taken to extend Conventions Nos 105 and 182.

Geneva, 7 October 2008.

*Submitted for information.*

## Appendix

### Status of fundamental Conventions in respect of non-metropolitan territories

Member concerned	Non-metropolitan territory	Ratified Conventions not yet extended
Australia	Norfolk Island	111, 182
China	Hong Kong SAR	100, 111
Denmark	Faeroe Islands Greenland	100, 111, 138, 182 98, 100, 111, 138, 182
France	French Guiana, French Polynesia, Guadeloupe, Martinique, New Caledonia, Réunion, St. Pierre and Miquelon	138, 182
	French Southern and Antarctic Territories	29, 100, 105, 138, 182
Netherlands	Aruba Netherlands Antilles	98, 100, 111, 182 98, 100, 111, 138, 182
New Zealand	Tokelau	98, 182
United Kingdom	Anguilla, Bermuda, British Virgin Islands, Isle of Man, Jersey, Montserrat, St. Helena	100, 111, 138, 182
	Falkland Islands (Malvinas), Guernsey Gibraltar	100, 111, 138, 111, 138, 182
United States	American Samoa, Guam, Northern Mariana Islands, Puerto Rico, United States Virgin Islands	105, 182