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Legal Issues and International Labour Standards Section

LILS

FOR INFORMATION

Promotion of the ratification of the Instrument for the Amendment of the Constitution of the International Labour Organisation, 1986

Summary: In accordance with a request by the Governing Body for periodic reports, this document provides information on the promotion of the ratification of the 1986 Instrument for the Amendment of the Constitution of the International Labour Organisation.

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Related documents: GB.309/PV, GB.312/LILS/1.

1. The present document provides updated information on the ratification of the 1986 Instrument for the Amendment of the Constitution of the International Labour Organisation, outlines the Office's efforts to promote ratification, and provides explanatory information. It gives effect to a Governing Body request for periodic reports on the 1986 Instrument of Amendment ratification campaign.¹

Status of ratifications

2. To enter into force, the 1986 Amendment must be ratified or accepted by two-thirds of ILO member States, including at least five of the ten Members of chief industrial importance. As there are currently 185 member States, the 1986 Amendment needs to be ratified by 124 of them.
3. Since the last periodic report to the Governing Body in November 2011, seven new ratifications have taken place. As of 31 January 2014, 102 ratifications and acceptances have been registered, of which two are from Members of chief industrial importance (India and Italy). A complete list is provided in Appendix II. A further 22 ratifications or acceptances are therefore required for the 1986 Amendment to enter into force. These must include at least three from Members of chief industrial importance (from among Brazil, China, France, Germany, Japan, Russian Federation, United Kingdom and United States).

Promotional efforts

4. The Office has continued its efforts to promote ratification of the 1986 Instrument of Amendment, including the actions outlined in its earlier report of November 2011.² The Office maintains a dedicated web page to promote ratification,³ which includes the text of the Instrument, an explanatory brochure with questions and answers, a sample format for an Instrument of Ratification or Acceptance of the 1986 Instrument of Amendment, and a complete list of member States which have ratified the 1986 Instrument and those which have not yet ratified it. The text of the information brochure is attached as Appendix I.
5. The Office continues to distribute the brochure on the 1986 Instrument of Amendment and to meet with Government delegations with a view to promoting the ratification of the Instrument. To that end, it continues to seize the opportunities afforded by ILO meetings, in particular the International Labour Conference, the Governing Body and ILO Regional Meetings, and held dedicated information sessions to promote ratification at the 12th African Regional Meeting, the 15th Asia and the Pacific Regional Meeting and the Ninth European Regional Meeting.
6. As additional measures, the Office has been undertaking targeted promotional activities with new candidate member States, advising them on the ratification of the 1986 Instrument of Amendment in direct contacts and information materials. Furthermore, the Office is in the process of publishing a new brochure on becoming an ILO Member, which includes a substantial section on the Instruments for the Amendment of the ILO Constitution. The brochure reminds States wishing to become Members of the ILO that

¹ GB.309/PV, para. 357.

² GB.312/LILS/1.

³ <http://www.ilo.org/public/english/bureau/leg/amend/qna1986.htm>.

they should also consider ratifying or accepting the 1986 and 1997 Instruments of Amendment, and provides all the necessary information for them to do so.

Geneva, 31 January 2014

Appendix I

Explanatory brochure on the Instrument of Amendment to the ILO Constitution, 1986

What is the Amendment about and what would it do?

In 1986 the International Labour Conference adopted an Instrument of Amendment proposing changes that affect 11 of the 40 articles within the Constitution of the International Labour Organisation (ILO). The 1986 Amendment addresses four main areas:

- the composition and governance of the Governing Body of the Office;
- the procedure for appointment of the Director-General;
- voting at the International Labour Conference; and,
- rules governing how the Constitution may be amended.

Changes proposed by the 1986 Amendment

Governing Body composition

The principal aim of the proposed Amendment is to make membership of the Governing Body more representative by providing a means of appointment of its members taking into account the various geographic, economic and social interests of its constituent groups.

If the 1986 Amendment enters into force, the number of members of the Governing Body under the Constitution will increase from 56 to 112 – and the manner of their allocation will also be affected. Of the 112 seats, 56 would be allocated to Government representatives and 28 each to Employer and Worker representatives. There would no longer be seats guaranteed for the member States of chief industrial importance.

Of the 56 seats reserved for Governments, 54 would be distributed among four geographic regions – Africa, the Americas, Asia and Europe – with a minimum of 12 and a maximum of 15 seats for each region. Distribution of seats would be weighted by taking into account the number of member States within the region, their total population and their economic activity assessed by appropriate criteria (gross national product or contributions to the budget of the Organization). The initial allocation provided for is 13 seats for Africa, 12 for the Americas, 14 for Asia and 15 for Europe. The two remaining seats would rotate: one between Africa and the Americas and the other between Asia and Europe.

Under the proposed Amendment, Government delegates representing the member States from each of the four regions would form an electoral college to fill seats for each region. Each electoral college would need to ensure that a substantial number of members appointed to fill the regional allocation of seats are chosen on the basis of population size and to take into account an equitable geographical distribution. Other factors, such as economic activity of the members in accordance with the special characteristics of the region, should also be taken into consideration.

At the same time, the 1986 Amendment makes allowances for special characteristics within regions where subdivisions may be formed on a subregional basis to appoint Members separately to fill the seats assigned to the subregion. It is important to note

however that the four regions can be adjusted by mutual agreement among all governments concerned.

Appointment of the Director-General

Under the 1986 Amendment, the Director-General of the ILO would continue to be appointed by the Governing Body but the appointment would be submitted to the International Labour Conference for approval.

Rules governing how the Constitution may be amended

The 1986 Amendment proposes changes to article 36 of the Constitution covering future amendments and sets out voting and ratification requirements for amendments related to specific considerations.

Adoption of any amendment relating to the fundamental purposes of the Organization, the permanent establishment of the Organization, the composition and functions of its collegiate organs and the appointment and responsibilities of the Director-General, constitutional provisions relating to international labour Conventions and Recommendations and the provisions of the amendment article, would require three-fourths of the votes cast and would have to be ratified or accepted by three-quarters of the Members of the Organization in order it come into effect.

For any other amendment to the Constitution, two-thirds of the votes cast and ratification by two-thirds of the Members would be required to take effect.

Relationship between the 1995 Amendment to the Standing Orders of the International Labour Conference and the 1986 Amendment to the Constitution

The adoption in 1995 of the Amendment to the Standing Orders of the International Labour Conference by the International Labour Conference increased the number of seats in the Governing Body by creating the category of deputy members and may seem to some to make the entry into force of the 1986 Amendment unnecessary. However, the 1995 reform does not offer the full range of changes proposed by the 1986 Amendment, in particular, it does not affect powers of Members of chief industrial importance. It also does not alter the manner in which constitutional amendments are made, nor the process for the appointment of the Director-General.

How can a member State accept the 1986 Amendment to the Constitution?

The consent of the member State must be expressed by the representatives of the State having power to bind the State in external relations and done in a manner that is consistent with the requirements of the national constitutional order.

This document and other relevant information, such as an up-to-date list of member States that have ratified or accepted the amendment, is available on the ILO website (please see <http://www.ilo.org/public/english/bureau/leg/amend/qna1986.htm>).

Appendix II

Ratification/acceptance status (at 31 January 2014)

A. Member States which have ratified/accepted the 1986 Instrument for the Amendment of the ILO Constitution (by region)

Africa

Algeria	Ethiopia	Namibia
Angola	Gabon	Niger
Benin	Ghana	Nigeria
Botswana	Guinea	Rwanda
Burkina Faso	Guinea-Bissau	Senegal
Burundi	Kenya	Sierra Leone
Cameroon	Lesotho	South Sudan
Chad	Libya	Sudan
Comoros	Madagascar	Swaziland
Congo	Malawi	Tanzania, United Republic of
Côte d'Ivoire	Mali	Togo
Democratic Republic of the Congo	Mauritius	Tunisia
Egypt	Mauritania	Uganda
Equatorial Guinea	Morocco	Zambia
Eritrea	Mozambique	Zimbabwe

Americas

Argentina	Costa Rica	Guatemala
Barbados	Cuba	Mexico
Chile	Ecuador	Suriname
Colombia	Grenada	Trinidad and Tobago

Europe

Austria	Iceland	San Marino
Belarus	Italy	Serbia
Belgium	Luxembourg	Slovenia
Bosnia and Herzegovina	Malta	Sweden
Croatia	Montenegro	Switzerland
Cyprus	Netherlands	The former Yugoslav Republic of Macedonia
Denmark	Norway	Turkey
Finland	Poland	Ukraine
Hungary	Romania	

Asia and the Pacific

Bahrain	Jordan	Qatar
Bangladesh	Kuwait	Saudi Arabia
Cambodia	Malaysia	Singapore
India	Mongolia	Sri Lanka
Indonesia	Myanmar	Thailand
Iraq	New Zealand	United Arab Emirates
	Pakistan	

B. Member States which have not yet ratified/accepted the 1986 Instrument for the Amendment of the ILO Constitution (by region)

Africa

Cabo Verde	Gambia	Seychelles
Central African Republic	Liberia	Somalia
Djibouti	Sao Tome and Principe	South Africa

Americas

Antigua and Barbuda	El Salvador	Peru
Bahamas	Guyana	Saint Kitts and Nevis
Belize	Haiti	Saint Lucia
Bolivia, Plurinational State of	Honduras	Saint Vincent and the Grenadines
Brazil	Jamaica	United States
Canada	Nicaragua	Uruguay
Dominica	Panama	Venezuela, Bolivarian Republic of
Dominican Republic	Paraguay	

Europe

Albania	Greece	Russian Federation
Armenia	Ireland	Slovakia
Azerbaijan	Israel	Spain
Bulgaria	Kazakhstan	Tajikistan
Czech Republic	Kyrgyzstan	Turkmenistan
Estonia	Latvia	United Kingdom
France	Lithuania	Uzbekistan
Georgia	Moldova, Republic of	
Germany	Portugal	

Asia and the Pacific

Afghanistan	Lao People's Democratic Republic	Samoa
Australia	Lebanon	Solomon Islands
Brunei Darussalam	Maldives, Republic of	Syrian Arab Republic
China	Marshall Islands	Timor-Leste

Fiji	Nepal	Tuvalu
Iran, Islamic Republic of	Oman	Vanuatu
Japan	Palau	Viet Nam
Kiribati	Papua New Guinea	Yemen
Korea, Republic of	Philippines	