



EIGHTH ITEM ON THE AGENDA

**Form for reports on the application
of unratified Conventions
(article 19 of the Constitution)**

**The Protection of Wages Convention, 1949
(No. 95), and Recommendation (No. 85)**

1. In accordance with the decision taken by the Governing Body at its 279th (November 2000) Session, the Committee is requested to examine the appended draft form to be used as a basis for the reports on the Convention and Recommendation which member States will be required to submit in accordance with the recommendations made by the Committee.
2. *The Committee is invited to decide on the report form for the Protection of Wages Convention, 1949 (No. 95) and Recommendation (No. 85), and to submit this report form to the Governing Body for approval.*

Geneva, 22 February 2001.

Point for decision: Paragraph 2.

Appendix

**Appl. 19.
C.95 R.85**

INTERNATIONAL LABOUR OFFICE

REPORTS ON

UNRATIFIED CONVENTIONS AND RECOMMENDATIONS

(Article 19 of the Constitution of the International Labour Organization)

REPORT FORM FOR THE FOLLOWING INSTRUMENTS:

Protection of Wages Convention, 1949 (No. 95)

and the

Protection of Wages Recommendation, 1949 (No. 85)

GENEVA
2001

INTERNATIONAL LABOUR OFFICE

Article 19 of the Constitution of the International Labour Organization relates to the adoption of Conventions and Recommendations by the Conference, as well as to the obligations resulting therefrom for the Members of the Organization. The relevant provisions of paragraphs 5, 6 and 7 of this article read as follows:

5. In the case of a Convention:

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- (e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

6. In the case of a Recommendation:

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- (d) apart from bringing the Recommendation before the said competent authority or authorities, no further obligation shall rest upon the Members, except that they shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.

7. In the case of a federal State, the following provisions shall apply:

- (a) in respect of Conventions and Recommendations which the federal government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;
- (b) in respect of Conventions and Recommendations which the federal government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces or cantons rather than for federal action, the federal government shall:

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- (iv) in respect of each such Convention which it has not ratified, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise;

- (v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Recommendation, showing the extent to which

effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

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In accordance with the above provisions, the Governing Body of the International Labour Office examined and approved the present form of report. This has been drawn up in such a manner as to facilitate the supply of the required information on uniform lines.

REPORT

to be made no later than 30 April 2002, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of, on the position of national law and practice in regard to the matters dealt with in the following instruments:

Protection of Wages Convention, 1949 (No. 95);¹

and the

Protection of Wages Recommendation, 1949 (No. 85)

adopted by the International Labour Conference at its 32nd Session (Geneva), 1949.²

- I. Please indicate whether any legislative, administrative or other provisions exist in your country in regard to all or some of the matters dealt with in the Convention and the Recommendation.

- II. (1) If so, please give in summarized form information concerning the legislation, regulations and practice existing in your country which may facilitate an appreciation of the extent to which effect has been given to the Convention and the Recommendation particularly to the questions raised below:
 - (a) Please indicate if there are any specific national regulations pertaining to the protection of wages, at the exclusion of methods of wage-fixing or standards of remuneration.
 - (b) Please indicate the definition given to the term "wages", or any other similar term used to designate workers' remuneration or earnings, by national law or practice.
 - (c) Please state whether any categories of persons are excluded from the scope of application of all or any of national laws or regulations regarding wage protection and, if so, please specify the reasons for their exclusion.
 - (d) Please indicate the legislative or regulatory provisions guaranteeing that wages payable in money must be paid in legal tender. Please also specify whether there is any prohibition on the payment of wages in the form of promissory notes, vouchers or coupons, or in any other form alleged to represent legal tender.
 - (e) Please indicate whether the payment of wages in the form of allowances in kind is permitted under national laws or regulations. If so, please specify: (i) the industries

¹ Government of countries which have ratified the Convention and from which a report is due under article 22 of the Constitution will use the present form only with regard to the Recommendation. It will not be necessary to repeat information already provided in connection with the Convention.

² The texts of the Convention and Recommendation are appended.

or occupations in which such practice is authorized; (ii) whether the payment of wages in the form of specific goods or supplies such as alcoholic beverages or drugs is not permitted in any circumstances; (iii) the proportion, if any, of the wage which may be paid in the form of allowances in kind; (iv) the measures, if any, guaranteeing that the allowances are appropriate for the personal use and benefit of the worker and his/her family and that the value attributed to such allowances is fair and reasonable.

- (f) Please indicate whether under national law wages must be paid directly to the worker. If there are any exceptions, please specify.
- (g) Please indicate the legislative or regulatory provisions expressly prohibiting the employer from limiting the freedom of the worker to dispose of his/her wages.
- (h) If works stores for the sale of commodities to the workers are established or services are operated in connection with an undertaking, please specify how it is ensured that workers are free from any coercion to make use of such stores or services.
- (i) Please indicate the conditions under which deductions from wages may be permitted and specify the maximum amount or proportion of wages which may be deducted. Please also indicate the manner in which workers are informed of the conditions under which and the extent to which such deductions may be made.
- (j) Please state whether national laws or regulations expressly prohibit any deductions from wages representing payment by the worker to the employer or his/her representative or to any intermediary for the purpose of securing or retaining employment.
- (k) Please give information regarding the manner and limits that may have been prescribed, by national laws and regulations, for the attachment or assignment of wages.
- (l) Please indicate: (i) whether wages constitute privileged debts in the event of the bankruptcy or judicial liquidation of an undertaking; (ii) the exact scope of such privilege; and (iii) the order of priority of wage claims determined by national laws or regulations. If workers' claims in the event of the insolvency of their employer are protected by means of a wage guarantee institution, please provide relevant information in this regard. In this connection, if it is intended to consider ratification of the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173), please mention it.
- (m) Please indicate the legislative provisions or other arrangements providing for the regular payment of wages. Please supply information on any difficulties experienced with respect to wage arrears, and any specific measures designed to resolve and prevent such situations. Please describe also the manner in which the final settlement of wages is to be effected upon the termination of a contract of employment.
- (n) Please indicate the legislative or regulatory provisions concerning the periodicity, time and place of wage payments. Please specify whether payment of wages in taverns and similar establishments or retail stores and places of amusement is prohibited.
- (o) Please describe the manner in which workers are informed of the wage conditions before they enter employment and when any changes take place. Please specify whether national laws or regulations provide for wage statements to be issued at the time of each payment of wages informing the workers of the particulars of their wages for the pay period concerned, insofar as such particulars may be subject to change.

- (p) Please describe the measures taken to make available for the information of the persons concerned the laws and regulations pertaining to the protection of wages.
- (q) Please indicate whether national laws or regulations provide for the maintenance of adequate records, for instance wage registers or payroll records.
- (r) Please give particulars concerning any other aspect of national law and practice which you might consider relevant for the purposes of the present report although not specifically related to points (a)-(q) above.
- (2) Please supply information on the impact any economic structural reform or transition programme toward a market economy may have had on the national law and practice regarding wage protection.
- (3) If copies of the legislation, regulations, collective agreements or court decisions cited in the present report have not already been supplied to the International Labour Office, please attach the same together with any other available documents concerning the effect given to the provisions of the Convention and the Recommendation.
- (4) Please specify which authority or authorities are entrusted with the supervision of the application of the legislation and regulations and indicate the manner in which the social partners may be called upon to cooperate in this application.
- (5) Please indicate the sanctions prescribed by national laws or regulations for violation of the legislation regarding wage protection. Please provide appropriate statistical information, particularly up-to-date results of inspection visits, the number and nature of violations observed and the penalties imposed.
- III. (1) Please indicate whether any modifications have been made in the national legislation or practice with a view to giving effect to all or some of the provisions of the Convention or of the Recommendation.
- (2) Please state also whether it is intended to adopt measures to give further effect to the provisions of the Convention or of the Recommendation.
- (3) Please state, where appropriate, any difficulties due to the Convention, to the legislation, to the national practice or to any other reason, which may prevent or delay the ratification of the Convention.
- IV. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.

Please state whether you have received from the organizations of employers or workers concerned any observations concerning the effect given, or to be given, to the instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.

Federal States

- (1) Please indicate whether the provisions of the Convention or of the Recommendation are regarded by the federal government as appropriate, under the constitutional system, for federal action or as appropriate, in whole or in part, for action by the constituent States, provinces or cantons, rather than for federal action.
- (2) Where federal action is appropriate, please give the information specified in points I, II, III and IV of this form.

- (3) Where action by the constituent units is regarded as appropriate, please supply general information corresponding to points I, II, III and IV of the form. Please indicate also any arrangements it has been possible to make within the federal State, with a view to promoting coordinated action to give effect to all or some of the provisions of the Convention and of the Recommendation, giving a general indication of any results achieved through such action.