



International
Labour
Organization



Handbook of procedures relating to international labour Conventions and Recommendations

**Excerpts related to the ratification of the
fundamental OSH Conventions**

International Labour Standards Department

International Labour Office Geneva

Ratification of the fundamental OSH Conventions

Excerpts from the Handbook of procedures relating to international labour Conventions and Recommendations

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III. Ratification of Conventions and acceptance of obligations

Procedure

20. Article 19 of the Constitution provides:

5.

...

- (d) if the Member obtains the consent of the authority or authorities within whose competence the matter lies, it will communicate the formal ratification of the Convention to the Director-General and will take such action as may be necessary to make effective the provisions of such Convention.

Form of communication of ratifications ³¹

21. No specific requirements as to form are laid down in the Constitution. Each State will have its own constitutional provisions and practice. In order to be registered, an instrument of ratification must nevertheless:

- (a) clearly identify the Convention being ratified;
- (b) be an original document (on paper, not a facsimile or photocopy) signed by a person with authority to engage the State (such as the Head of State, Prime Minister, Minister responsible for Foreign Affairs or Labour);
- (c) clearly convey the Government's intention that the State should be bound by the Convention concerned and its undertaking to fulfil the Convention's provisions, preferably with a specific reference to article 19(5)(d) of the ILO Constitution.

An instrument of ratification must always be communicated to the Director-General of the ILO, in order for the ratification to become effective in *international* law. If this is not done, it may be that a Convention is regarded by a State as "ratified" in its *internal* legal system, but this will be of no effect in the *international* legal system. An instrument of ratification might thus contain the following statement: "The Government of ... hereby ratifies the ... Convention and undertakes, in accordance with article 19, para. 5(d), of the Constitution of the ILO, to fulfil its obligations in this respect".

[...]

Ratification of Protocols

25. A Protocol is an instrument which partially revises a Convention. It is open to ratification by a State already bound by or simultaneously ratifying and becoming bound by the Convention in question. Two Protocols so far adopted by the Conference effectively introduce greater flexibility into the two respective Conventions. They are:

³¹ See Appendix I for a model instrument.

- (i) P089 – Protocol of 1990 to the Night Work (Women) Revised Convention, 1948;
- (ii) P110 – Protocol of 1982 to the Plantations Convention, 1958.

Four other Protocols extend the obligations under the corresponding Conventions:

- (iii) P081 – Protocol of 1995 to the Labour Inspection Convention, 1947;
- (iv) P147 – Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976;
- (v) P155 – Protocol of 2002 to the Occupational Safety and Health Convention, 1981;
- (vi) P029 – Protocol of 2014 to the Forced Labour Convention, 1930.

Inadmissibility of reservations

26. Conventions contain various provisions ensuring flexibility (see paragraphs 8 and 9 above), including some specifically enabling ratifying States to limit or qualify the obligations assumed on ratification (paragraphs 21–24). However, no limitations on the obligations of a Convention other than those specifically provided for (i.e. no *reservations*) are possible.

Registration of ratifications and acceptances of obligations

27. The final provisions of all Conventions contain Articles on the registration of ratifications by the Director-General, their notification to member States and the communication of particulars to the Secretary-General of the United Nations for registration in accordance with article 102 of the United Nations Charter. All ratifications are reported to the Governing Body and are notified to member States through publication in the *Official Bulletin*. *Declarations* and other acts accepting or modifying obligations referred to in paragraphs 21–24 above are dealt with in the same way.

Entry into force

28. Each Convention contains a provision as to how it comes into force. Most often, since 1928, Conventions come into force 12 months after registration of the second ratification and afterwards for each State 12 months after its ratification. [...]

Obligations arising out of ratification

29. The obligation under article 19, paragraph 5(d), of the Constitution is to “take such action as may be necessary to make effective the provisions” of a ratified Convention.³⁴ This means ensuring their implementation in practice, as well as giving them effect in law or other means that are in accordance with national practice (such as court decisions, arbitration awards or collective agreements).

³⁴ See also the obligation to report under article 22 of the Constitution (paras 35–46 below). With regard to the termination of obligations under a ratified Convention through *denunciation*, see paras 79–83 below.

Incorporation in internal law

30. In some countries, the Constitution gives the force of internal law to ratified Conventions. In those cases, it will still be necessary to take specific measures:

- (a) to eliminate any conflict between the provisions of the Convention and earlier national law and practice;
- (b) to give effect to any provisions of the Convention which are not *self-executing* (e.g. provisions requiring given matters to be prescribed by national laws or regulations or determined by the competent authorities, or requiring special administrative arrangements);
- (c) to prescribe penalties, where appropriate;
- (d) to ensure that all interested persons and authorities (e.g. employers, workers, labour inspectors, courts, tribunals, other administrative bodies) are informed of the incorporation of the Convention into internal law and where necessary given guidance.

Consultation of employers' and workers' organizations

31. Paragraph 5(c) of Recommendation No. 152 provides for consultation of representatives of employers' and workers' organizations, subject to national practice, on the preparation and implementation of legislative or other measures to give effect to Conventions – especially when ratified – and Recommendations. This applies in particular as regards measures implementing provisions as to consultation and collaboration with employers' and workers' representatives.

Non-metropolitan territories

32. Article 35 of the Constitution provides for *declarations* to be made by member States as to the application of Conventions to non-metropolitan territories for whose international relations they are responsible.

Effect of withdrawal from the ILO

33. Article 1, paragraph 5 (last sentence), of the Constitution provides:

... When a Member has ratified any international labour Convention, ... withdrawal (from the Organization) shall not affect the continued validity for the period provided for in the Convention of all obligations arising thereunder or relating thereto.

Information on ratifications

34. Regularly updated information on ratifications and denunciations is available on the Office's website ([NORMLEX database](#)).

[...]

IV. Reports on ratified Conventions

[...]

37. [...] *Permitted exclusions, exceptions or other limitations.* Several Conventions [including Convention No. 155] allow given categories of people, economic activities or geographical areas to be exempted from application, but require a ratifying State which intends to make use of such limitations to indicate *in its first article 22 report* the extent to which it has recourse to them. It is therefore essential for the first report to include indications in this respect, since, if it does not, the limitations will no longer be possible. The same Conventions may call for information to be included in subsequent article 22 reports indicating the extent to which effect is nevertheless given to the Convention in respect of the excluded persons, activities or areas.

Appendix I

D.33 (A).1995

MODEL INSTRUMENT

CONCERNING THE RATIFICATION OF AN ILO CONVENTION¹

Whereas the (title of the Convention)
.....was adopted by the International Labour Conference at its
.....Session in (place)on (date)
.....

The Government of, having
considered the aforesaid Convention, hereby confirm and ratify the same and
undertake, in accordance with Article 19, paragraph 5 (d) of the Constitution of the
International Labour Organisation, faithfully to perform and carry out all the
stipulations therein contained.

(signed) _____
President of the Republic

Minister of Foreign Affairs

¹ This model may call for adaptation to take account particularly of:

- (a) any provisions in the Convention concerned requiring specified indications to be included in the ratification;
- (b) national provisions and practice concerning ratification on international instruments.

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