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**Handbook of procedures relating to
international labour Conventions
and Recommendations**



International Labour Standards Department

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I. Adoption of international labour standards

Nature and constitutional basis of Conventions and Recommendations

1. Conventions are instruments which on ratification create legal obligations. Recommendations are not open to ratification, but give guidance as to policy, legislation and practice. Both kinds of instrument are adopted by the International Labour Conference,¹ and article 19 of the Constitution provides:

1. When the Conference has decided on the adoption of proposals with regard to an item on the agenda, it will rest with the Conference to determine whether these proposals should take the form: (a) of an international Convention, or (b) of a Recommendation to meet circumstances where the subject, or aspect of it, dealt with is not considered suitable or appropriate at that time for a Convention.

2. In either case a majority of two-thirds of the votes cast by the delegates present shall be necessary on the final vote for the adoption of the Convention or Recommendation, as the case may be, by the Conference.

Placing an item on the Conference agenda

2. The agenda of the Conference is settled by the Governing Body (Constitution, article 14). In cases of special urgency or other special circumstances (this has been the case, for example, where a draft Protocol is being considered) the Governing Body may decide to refer a question to the Conference with a view to a single discussion; but otherwise there will be a double discussion (i.e. discussion at two sessions of the Conference) (Standing Orders (SO),² article 34(4), (6) and (7)). The Governing Body may also decide to refer a question to a preparatory technical conference (Constitution, article 14(2); SO, articles 34(5) and 36). The Conference itself may also, by two-thirds of the votes cast by the delegates present, decide to include a subject on the agenda of the following session (Constitution, article 16(3)).

Double discussion procedure

3. These are the stages in a *double discussion*:³
 - (a) The Office prepares a report on law and practice in the different countries, together with a questionnaire. The report and questionnaire request governments to consult the

¹ As, occasionally, are Protocols, which are partial and optional revisions or amendments of earlier Conventions.

² Standing Orders of the International Labour Conference, incorporating relevant Standing Orders of the Governing Body.

³ The normal time limits for the various stages in this procedure may be varied where a question has been included on the agenda less than 18 months before the opening of the session at which the first discussion is to take place or where less than 11 months separate the two sessions concerned (SO, article 39(5) and (8)).

most representative organizations of employers and workers before finalizing their replies and are communicated to governments at least 18 months before the relevant session of the Conference (SO, article 39(1)).

- (b) To be reflected in the report, governments' replies must reach the Office not less than 11 months before the relevant session (see SO, article 39(2)).
- (c) The Office prepares a further report on the basis of replies received, indicating the principal questions for consideration by the Conference. This report is communicated to governments normally not less than four months before the relevant session (SO, article 39(3)).
- (d) These reports are considered by the Conference – usually in committee – and if the Conference decides the matter is suitable for a Convention or Recommendation it adopts conclusions and either decides to include the question on the agenda of its following session or asks the Governing Body to include it on the agenda of a later session (SO, article 39(4)).
- (e) On the basis of both the replies and the first Conference discussion, the Office drafts Conventions or Recommendations and communicates them to governments within two months of the end of the Conference session (SO, article 39(6)).⁴
- (f) Governments are again asked to consult the organizations of employers and workers and have three months to suggest amendments and make comments (SO, article 39(6)).
- (g) On the basis of further government replies, a final report containing the (amended) text of Conventions or Recommendations is communicated to governments at least three months before the session of the Conference at which they are to be discussed (SO, article 39(7)).
- (h) The Conference decides whether to base its second discussion on the Conventions or Recommendations drafted by the Office and how to consider them – usually in committee in the first place. Each clause of a Convention or Recommendation is placed before the Conference for adoption, and the drafts thus adopted are referred to the Drafting Committee for preparation of final texts.⁵ Texts of instruments approved by the Drafting Committee are submitted to the Conference for final adoption in accordance with article 19 of the Constitution (see paragraph 1 above and SO, article 40).
- (i) The Conference may, if it rejects a Convention contained in the report of a committee, refer it again to the committee for transformation into a Recommendation (SO, article 40(6)).

⁴ If there is less than 11 months between the two sessions, a programme of reduced intervals may be approved by the Governing Body or its Officers (SO, article 39(8)). At the same time as it asks governments for their comments on proposed Conventions and Recommendations, the Office consults the United Nations and other specialized agencies as to any proposed provisions affecting their activities and brings any comments they make before the Conference together with the government replies (SO, article 39bis).

⁵ See SO, article 6.

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- (j) If a Convention fails on a final vote to obtain the necessary two-thirds majority but does obtain a simple majority, the Conference decides whether to refer it to the Drafting Committee for redrafting as a Recommendation (SO, article 41).

Single discussion procedure

4. These are the stages in a *single discussion*:⁶

- (a) The Office prepares a summary report on law and practice in the different countries, together with a questionnaire with a view to the preparation of Conventions or Recommendations,⁷ for communication to governments at least 18 months before the relevant Conference session. Governments are requested to consult the most representative organizations of employers and workers (SO, article 38(1)).⁸
- (b) Governments' replies must reach the Office not less than 11 months before the relevant session (SO, article 38(1)).
- (c) On the basis of governments' replies, a final report containing the text of Conventions or Recommendations⁹ is communicated to governments at least four months before the opening of the Conference session (SO, article 38(2)).
- (d) If the question has been considered at a preparatory technical conference, the Office may either, according to Governing Body decision, communicate to governments a summary report and questionnaire (see (a) and (b) above); or, on the basis of the work of the preparatory technical conference, draft a final report (see (c) above – SO, article 38(4)).
- (e) The final consideration and adoption of Conventions and Recommendations under the double-discussion procedure follow paragraph 3(h) to (j) above.

Revision of Conventions and Recommendations

5. Separate procedures for the revision of Conventions and Recommendations are included in articles 43-45 of the Standing Orders. However, they are substantially the same as those described in paragraphs 3 and 4 above, and in practice reference is made to the same articles of the Standing Orders.

⁶ The normal time limits for the various stages in this procedure may be varied where a question has been included on the agenda less than 26 months before the opening of the session at which the discussion is to take place, and a programme of reduced intervals may be approved by the Governing Body or its Officers (SO, article 38(3)).

⁷ Or a Protocol.

⁸ At the same time as it asks governments for their comments on proposed Conventions and Recommendations, the Office consults the United Nations and other specialized agencies as to any proposed provisions affecting their activities and brings any comments they make before the Conference together with the government replies (SO, article 39bis).

⁹ Or Protocols.