

**INTERNATIONAL LABOUR ORGANIZATION
CONVENTION NO. 182:
CONVENTION CONCERNING THE PROHIBITION AND
IMMEDIATE ACTION FOR THE ELIMINATION OF THE WORST
FORMS OF CHILD LABOUR DONE AT GENEVA ON 17 JUNE 1999
[1999] ATSD 4715**

Documents tabled on 8 October 2003:

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SUMMARY PAGE

International Labour Organization Convention No. 182: Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour done at Geneva on 17 June 1999

[1999] ATSD 4715

Date of Tabling of Proposed Treaty Action

1. 8 October 2003.

Nature and Timing of Proposed Treaty Action

2. The proposed binding treaty action is ratification of International Labour Organization (ILO) Convention No. 182 (the Convention), subject to legislation required for Australia to meet its obligations under the Convention being in place in all Australian jurisdictions prior to ratification. It is anticipated that the enactment of all legislation necessary for full compliance could take some time to complete.

3. Article 10 of the Convention provides that it shall come into force in international law 12 months after the date on which the ratifications of two members have been registered with the Director-General of the International Labour Office. The Convention entered into force on 19 November 2000.

4. Article 10 of the Convention also provides that it shall be binding only upon those Members of the ILO whose ratifications have been registered with the Director-General of the International Labour Office. The Convention would enter into force for Australia 12 months after registration of the instrument of ratification.

Overview and National Interest Summary

5. The Convention was adopted by the International Labour Conference on 17 June 1999 with the unanimous support of delegates voting in the plenary session. It commits ratifying ILO member States to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour, including slavery, trafficking, involvement in prostitution and pornography, and a range of other hazardous and exploitative activities. The Convention applies to all persons under 18 years of age.

6. Ratification of the Convention would be consistent with Australia's policy positions on the protection of universal human rights, and would demonstrate to the world Australia's abhorrence of the worst forms of child labour and commitment to their eradication.

Reasons for Australia to take the proposed treaty action

7. The ILO is a specialised agency of the United Nations. The ILO establishes and supervises international labour standards which are embodied in either Conventions or Recommendations (the latter are not legally binding). Australia has been a member of the ILO since its establishment in 1919 and has ratified 57 out of the ILO's 185 Conventions. Forty-eight of these Conventions remain in force for Australia.

8. The Convention has been included among the ILO's core Conventions for the purposes of the 1998 *Declaration on Fundamental Principles and Rights at Work*. The aim of the Declaration is to encourage member States to respect, promote and realise the ILO's fundamental principles, including the abolition of child labour, whether or not they have ratified the corresponding core Conventions. As the Convention is included among the ILO's core Conventions, ratification would give Australia an opportunity to demonstrate its *bona fides* in relation to human rights issues on child labour to the global community.

9. The ILO is committed to achieving universal ratification of the Convention as soon as possible. To date the Convention has been ratified by 144 of the 177 ILO member States, including the United States, the United Kingdom, Canada and New Zealand. Such a rate of ratification among recent ILO Conventions is unprecedented, and is indicative of the level of global support for its provisions. Australia is now the only western industrialised country that has not ratified the Convention.

Obligations

10. Each ratifying member is required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency (Article 1). The term 'child' refers to any person under the age of 18 years (Article 2).

11. The worst forms of child labour are defined in Article 3 as:

- a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and
- d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

12. The Convention states that the types of work covered under (d) above should be determined by national laws and regulations. These types of work must be periodically reviewed in consultation with employers' and workers' organisations (Article 4).

13 Ratifying member States are required to design and implement programs of action to eliminate, as a priority, the worst forms of child labour (Article 6); and establish or designate appropriate mechanisms to monitor the implementation of provisions giving effect to the Convention (Articles 5).

14. Ratifying member States are required to take all necessary measures to ensure effective implementation and enforcement of the Convention, and designate the competent authority responsible for implementation. Effective and time bound measures should be taken to prevent the engagement of children in the worst forms of child labour, to provide for the removal of children from such labour and to ensure their access to free, basic education (Article 7).

15. Ratifying member States are required to take appropriate steps to assist members in giving effect to the provisions of the Convention through enhanced international cooperation and/or assistance (Article 8).

Implementation

16. Implementation of the Convention's obligations falls partly within the jurisdiction of the Australian Government, but primarily within the jurisdictions of the State and Territory governments. All Australian jurisdictions implement most provisions of the Convention through legislation. However, legislation in some jurisdictions does not fully implement provisions of the Convention with respect to child pornography. Although State and Territory jurisdictions prohibit the use, procuring or offering of a child under 16 for the production of pornography or for pornographic performances, several jurisdictions do not protect 16 and 17 year olds as required by the Convention (Articles 1, 2 & 3(b)). There is also an issue regarding the national classification scheme which is discussed below.

17. Australian Government treaty-making policy provides that Australia cannot become party to a treaty where the laws in any Australian jurisdiction, Commonwealth, State or Territory, would be at variance with obligations to be assumed under the proposed treaty when it enters into force for Australia. Any legislation required for Australia to meet its treaty obligations must be in place before Australia consents to be bound by the treaty. Further, it is long standing practice in relation to ILO Conventions to obtain the formal agreement of the State and Territory governments before ratifying a Convention.

18. The Commonwealth, States and Territories may need to make modifications to components of the national classification scheme. However, any amendments to the scheme would not be required prior to ratification of the Convention, as this falls under the obligation to eliminate the worst forms of child labour, rather than the obligation to prohibit. If required, amendments would have to be made within a reasonable time following ratification.

Costs

19. There are no costs associated with the ratification of the Convention (apart from the introduction of amending legislation concerning a change in the relevant age in several jurisdictions), as Australia already substantially complies with the provisions of the Convention.

Consultation

20. This proposed action will have an impact on the States and Territories. The main impact will be that a number of States and Territories will be required to amend legislation in order to prohibit the involvement of children under 18 in pornographic performances and/or the production of pornographic products to ensure compliance with the Convention. As indicated above, there may also be an impact on States and Territories regarding the national classification scheme following ratification.

21. All States and Territories, and the most representative employer and worker organisations, support ratification of the Convention. The consultation process is documented in the attachment.

Regulation Impact Statement

22. The Office of Regulation Review (Productivity Commission) has been consulted and confirms that a Regulation Impact Statement is not required.

Future Treaty Action

23. No future treaty action is expected to arise out of the ratification process. Any future revision of the Convention would require a decision of the Governing Body of the ILO to place such revision on the agenda of the annual International Labour Conference. In this regard, Article 14 of the Convention provides that, at such times as it may consider necessary, the Governing Body shall present to the International Labour Conference a report on the working of the Convention and shall examine the desirability of placing on the Conference agenda the question of its revision in whole or in part.

Withdrawal or denunciation

24. Article 11 of the ILO Convention permits its denunciation by a ratifying member State during one-year intervals every 10 years after coming into force internationally. The next opportunity to denounce the Convention would be during the 12 month period commencing 19 November 2010.

Contact details

International (ILO) Section
Workplace Relations Policy and Legal Group
Department of Employment and Workplace Relations

**International Labour Organization Convention No. 182:
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CONSULTATIONS

1. On 27 September 1999, the Department of Employment, Workplace Relations and Small Business formally requested the views of the Australian Chamber of Commerce and Industry (ACCI) and the Australian Council of Trade Unions (ACTU) in respect of the proposed treaty action. The ACCI and the ACTU are, respectively, the employer and worker organisations which represent Australia in the ILO.
2. The ACTU advised by letter of 1 October 1999 that it strongly supports Australia taking immediate steps to ratify this Convention.
3. The ACCI advised by letter of 8 August 2000 that it would support ratification of the Convention provided that all States and Territories so agree and that all relevant legislation is compatible with the Convention.
4. On 16 May 2001 the Minister for Employment, Workplace Relations and Small Business wrote to the State and Territory Ministers responsible for Workplace Relations matters formally requesting that governments agree to ratification of the Convention and take appropriate action to ensure compliance. State and Territory governments subsequently provided their formal agreements to ratification on the following dates:
 - New South Wales – 10 July 2001;
 - Victoria – 22 June 2001;
 - Queensland – 12 November 2002;
 - Western Australia – 30 April 2002;
 - South Australia – 5 December 2002;
 - Tasmania – 28 August 2001;
 - The Northern Territory – 14 June 2001, reconfirmed 29 August 2003;
 - The Australian Capital Territory – 5 March 2003.
5. Responses indicated that, while the State and Territory governments were supportive of ratification, several jurisdictions were not in compliance.
6. At a meeting of the Workplace Relations Ministers' Council (WRMC) held on 8 November 2002, the Commonwealth, State and Territory Ministers all expressed their support for ratification of Convention No. 182 and agreed to provide their governments' formal agreement to ratification and commitment to achieve compliance where appropriate. At the WRMC meeting in March 2003, Ministers renewed their commitments to ratify Convention 182 and agreed to do whatever they could to fast-track this process.
7. The various jurisdictions are still in the process of preparing these commitments at the time this document was prepared. An update will be provided to the Joint Standing Committee on Treaties at an appropriate time.

8. Ratification of Convention 182 was discussed at the meeting of the Standing Committee on Treaties held in Sydney on 28 May 2003.

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CURRENT STATUS LIST

as at 18 September 2003

RATIFYING COUNTRIES AND DATE OF RATIFICATION

Albania	02:08:2001	Croatia	17:07:2001
Algeria	09:02:2001	Cyprus	27:11:2000
Angola	13:06:2001	Czech Republic	19:06:2001
Antigua and Barbuda	16:09:2002	Denmark	14:08:2000
Argentina	05:02:2001	Dominica	04:01:2001
Austria	04:12:2001	Dominican Republic	15:11:2000
Bahamas	14:06:2001	Ecuador	19:09:2000
Bahrain	23:03:2001	Egypt	06:05:2002
Bangladesh	12:03:2001	El Salvador	12:10:2000
Barbados	23:10:2000	Equatorial Guinea	13:08:2001
Belarus	31:10:2000	Estonia	24:09:2001
Belgium	08:05:2002	Ethiopia	02:09:2003
Belize	06:03:2000	Fiji	17:04:2002
Benin	06:11:2001	Finland	17:01:2000
Bolivia	06:06:2003	France	11:09:2001
Bosnia and Herzegovina	05:10:2001	Gabon	28:03:2001
Botswana	03:01:2000	Gambia	03:07:2001
Brazil	02:02:2000	Georgia	24:07:2002
Bulgaria	28:07:2000	Germany	18:04:2002
Burkina Faso	25:07:2001	Ghana	13:06:2000
Burundi	11:06:2002	Greece	06:11:2001
Cameroon	05:06:2002	Grenada	14:05:2003
Canada	06:06:2000	Guatemala	11:10:2001
Cape Verde	23:10:2001	Guinea	06:06:2003
Central African Republic	28:06:2000	Guyana	15:01:2001
Chad	06:11:2000	Honduras	25:10:2001
Chile	17:07:2000	Hungary	20:04:2000
China	08:08:2002	Iceland	29:05:2000
Congo	23:08:2002	Indonesia	28:03:2000
Democratic Republic of the Congo	20:06:2001	Islamic Republic of Iran	08:05:2002
Costa Rica	10:09:2001	Iraq	09:07:2001
Côte d'Ivoire	07:02:2003	Ireland	20:12:1999
		Italy	07:06:2000
		Japan	18:06:2001

Jordan	20:04:2000	Qatar	30:05:2000
Kazakhstan	26:02:2003	Romania	13:12:2000
Kenya	07:05:2001	Russian Federation	25:03:2003
Republic of Korea	29:03:2001	Rwanda	23:05:2000
Kuwait	15:08:2000	Saint Kitts and Nevis	12:10:2000
Lebanon	11:09:2001	Saint Lucia	06:12:2000
Lesotho	14:06:2001	Saint Vincent and the Grenadines	04:12:2001
Liberia	02:06:2003	San Marino	15:03:2000
Libyan Arab Jamahiriya	04:10:2000	Saudi Arabia	08:10:2001
Luxembourg	21:03:2001	Senegal	01:06:2000
The former Yugoslav Republic of Macedonia	30:05:2002	Serbia and Montenegro	10:07:2003
Madagascar	04:10:2001	Seychelles	28:09:1999
Malawi	19:11:1999	Singapore	14:06:2001
Malaysia	10:11:2000	Slovakia	20:12:1999
Mali	14:07:2000	Slovenia	08:05:2001
Malta	15:06:2001	South Africa	07:06:2000
Mozambique	16:06:2003	Spain	02:04:2001
Mauritania	03:12:2001	Sri Lanka	01:03:2001
Mauritius	08:06:2000	Sudan	07:03:2002
Mexico	30:06:2000	Swaziland	23:10:2002
Republic of Moldova	14.06.2002	Sweden	13:06:2001
Mongolia	26:02:2001	Switzerland	28:06:2000
Morocco	26:01:2001	Tanzania United Republic of	12:09:2001
Namibia	15:11:2000	Thailand	16:02:2001
Nepal	03:01:2002	Togo	19:09:2000
Netherlands	14:02:2002	Trinidad and Tobago	23:04:2003
New Zealand	14:06:2001	Tunisia	28:02:2000
Nicaragua	06:11:2000	Turkey	02:08:2001
Niger	23:10:2000	Uganda	21:06:2001
Nigeria	02:10:2002	Ukraine	14:12:2000
Norway	21:12:2000	United Arab Emirates	28:06:2001
Oman	11:06:2001	United Kingdom	22:03:2000
Pakistan	11:10:2001	United States	02:12:1999
Panama	31:10:2000	Uruguay	03:08:2001
Papua New Guinea	02:06:2000	Viet Nam	19:12:2000
Paraguay	07:03:2001	Yemen	15:06:2000
Peru	10:01:2002	Zambia	10:12:2001
Philippines	28:11:2000	Zimbabwe	11:12:2000
Poland	09:08:2002		
Portugal	15:06:2000		

NON-RATIFYING COUNTRIES

Afghanistan
Armenia
Australia
Azerbaijan
Cambodia
Colombia
Comoros
Cuba
Djibouti
Eritrea
Guinea-Bissau
Haiti
India
Israel
Jamaica
Kiribati
Kyrgyzstan

Lao People's Dem. Rep.
Latvia
Lithuania
Myanmar
Sao Tome and Principe
Sierra Leone
Solomon Islands
Somalia
Suriname
Syrian Arab Republic
Democratic Republic of Timor-Leste
Tajikistan
Turkmenistan
Uzbekistan
Venezuela
Vanuatu