

International Labor Organization Convention No. 155: Occupational Safety and Health

Introduction

- 5.1 The purpose of *International Labour Organization Convention No. 155: Occupational Safety and Health, 1981* (the Convention) is to ensure ratifying states formulate, implement and periodically review a coherent national policy on occupational safety and health in the work environment following consultation with the most representative organisations of employers and workers. The aim of the policy is to prevent workplace accidents and injury to health by minimising, as far as possible, the causes of hazards inherent in the work environment.
- 5.2 Ratification of the Convention will demonstrate that Australian governments are committed to ensuring the safety of people at work, and maintaining proper laws and practices for achieving such safety.¹

1 Mr Rex Hoy, *Transcript of Evidence*, 15 September 2003, p. 17.

Background

- 5.3 The National Interest Analysis (NIA) states that the International Labour Organization (ILO) adopted Convention No. 155 on 22 June 1981 and that it entered into force generally on 11 August 1983. The Committee was advised at the public hearing held on 15 September 2003 that 40 countries had ratified the Convention.²
- 5.4 The Commonwealth Government brought about compliance at that level with Convention No. 155 soon after 1983. Mr John Rowling from the Department of Employment and Workplace Relations advised the Committee that in 1985 the Commonwealth Government introduced the *National Occupational Health and Safety Commission Act 1985*, establishing the National Occupational Health and Safety Commission, and the required national structures in relation to the Convention.³ In 1991 and 1993, the Australian Government also introduced legislation in relation to Commonwealth employees and seafarers in compliance with the Convention.⁴
- 5.5 State and Territory governments formally agreed to ratify the Convention over a period of twelve years between 1989 and 2001. Western Australia was the first to agree in 1989 and New South Wales was the last to formally comply in 2001.⁵ During this time, the Convention was considered at the meetings of Australian, State and Territory officials responsible for ILO matters.⁶ Mr Rex Hoy, from the Department of Employment and Workplace Relations, advised the Committee that the 12 year time-frame was the result of State and Territory governments bringing their legislation into compliance with the Convention.⁷
- 5.6 In May 2002, the National Occupational Health and Safety Commission released the *National OHS Strategy 2002-2012*. The Strategy commits Commonwealth, State and Territory governments, industry, the Australian Council of Trade Unions (ACTU) and the Australian Chamber of Commerce and Industry (ACCI) to work together on national priorities to improve occupational health and

2 Mr Rex Hoy, *Transcript of Evidence*, 15 September 2003, p. 17.

3 Mr John Rowling, *Transcript of Evidence*, 15 September 2003, p. 19.

4 *Occupational Health and Safety (Commonwealth Employment) Act 1991*, and *Occupational Health and Safety (Maritime Industry) Act 1993*.

5 National Interest Analysis (NIA) Annexure 1 - Consultations.

6 NIA Annexure 1 - Consultations.

7 Mr Rex Hoy, *Transcript of Evidence*, 15 September 2003, pp. 17-18.

safety and to meet minimum national targets for reducing the incidence of work-related fatalities (a reduction of at least 20% by 30 June 2012) and workplace injuries (a reduction of at least 40% by 30 June 2012).⁸ The National OHS Strategy will be periodically reviewed and evaluated, in accordance with the Convention.

5.7 Annexure 1 of the NIA states that at the meeting of the Workplace Relations Ministers' Council in March 2003, all governments agreed to support ratification of the Convention, subject to the International Labour Conference in June 2003 reconfirming the Convention in substantially the same terms. The Conference Committee on Occupational Safety and Health subsequently endorsed the up-to-date status of the Convention.

5.8 The Committee was advised that Australia is one of the leaders in occupational health and safety performance compared to the 40 countries that have ratified the Convention, notwithstanding that Australia has not ratified as yet. Mr Hoy observed, however, that ratification would serve:

to underline Australia's determination to improve occupational health and safety outcomes and to achieve the targets set with the agreement of the states and territories, business and unions in the National Occupational Health and Safety Strategy 2002-12.⁹

Features of the Convention

5.9 The Convention:

- moves from prescriptive, industry-specific regulation, to a legislative framework covering all employers, employees and workplaces
- imposes general duties on employers, employees and others to ensure workplace safety
- establishes workplace arrangements for employee participation in safety issues.¹⁰

8 <http://www.nohsc.gov.au/nationalstrategy/>

9 Mr Rex Hoy, *Transcript of Evidence*, 15 September 2003, p. 17.

10 NIA, para. 8.

- 5.10 The NIA states that Articles 4 to 7 define the main areas of action in the national policy, identifying detailed provisions concerning action at the national level and that of the workplace. Article 11 of the Convention requires the progressive implementation of certain functions as part of the national policy, namely:
- the determination of conditions governing the design, construction, layout and safety of workplaces
 - the determination of prohibited work processes and substances
 - the establishment of procedures for the notification of industrial accidents and diseases by employers and insurers and the production of annual statistics
 - the holding of inquiries into serious occupational accidents
 - the annual publication of information on measures taken in pursuance of the national policy.¹¹

Costs

- 5.11 The NIA states that there are no additional costs associated with the ratification of the Convention, as Australian law and practice already complies with the provisions of the Convention.¹²

Consultations

- 5.12 The NIA states that all State and Territory governments have been consulted and support the proposed treaty action. Further, Mr Hoy advised the Committee that the ACCI and ACTU, which are Australia's most representative organisations of employers and workers for the ILO's purposes, have been consulted and support the Convention.¹³

11 NIA, para. 11.

12 NIA, para. 19.

13 Mr Rex Hoy, *Transcript of Evidence*, 15 September 2003, p. 18.

Entry into force

- 5.13 Implementation of obligations under the Convention in Australia lies partly with the Commonwealth, and primarily with the State and Territory governments, as the latter are responsible for regulating and enforcing workplace health and safety.
- 5.14 The NIA states that law and practice at Commonwealth, State and Territory levels of government are consistent with Australia's obligations under the Convention.¹⁴ Therefore there are no additional legislative requirements that would result following ratification of the proposed treaty action.
- 5.15 ILO Convention No. 155 would enter into force 12 months after the date on which Australia's instrument of ratification is registered with the Director-General of the International Labour Office.¹⁵

Conclusions and Recommendation

- 5.16 The Committee notes that ILO Convention No. 155 is supported by Commonwealth, State and Territory governments and representative organisations of employers and workers, and that ratification would demonstrate Australian government's commitment to the occupational health and safety of Australians.

Recommendation 5

The Committee supports the *International Labour Organization Convention No. 155: Occupational Safety and Health, 1981*, and recommends that binding treaty action be taken.

14 NIA, para. 16 and Annexure 1 - Consultations.

15 NIA, para. 4.