UNITED NATIONS
HUMAN RIGHTS
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HUMAN RIGHTS 75

Ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)

A toolkit

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About the Toolkit

The 75th anniversary of the Universal Declaration of Human Rights celebrated in 2023 is an occasion to renew the ground-breaking commitments made by States when they adopted the text in 1948. The Declaration has inspired the norms and standards that are embodied in the core human rights treaties and their optional protocols. These instruments aim to realize the rights contained in the Declaration, by making human rights universal legal entitlements with legally binding obligations for States.

Ratifying these instruments is an essential means to translating the human rights enshrined in the Declaration into reality on the ground, while conveying a message of commitment to human rights to the international community.

Human Rights 75 is an initiative led by UN Human Rights and its partners. It seeks, among others, to promote universality and renewed commitment, including through a campaign advocating for the ratification of the core human rights treaties and their optional protocols. In this context, States are called upon to demonstrate their commitment to the protection and respect of human rights by ratifying outstanding human rights instruments.

This toolkit presents the benefits of ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, answers questions on its content and application, provides a simplified version of the provisions of the Convention and provides practical information on ratification and accession of treaties.



Why Ratify?

The International Convention on the Protection of the Rights of All Migrant Workers and their Families is a legally binding instrument. Its purpose is to promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms of migrant workers and their families.

Ratifying the International Convention on the Protection of the Rights of All Migrant Workers and their Families:

1. Guarantees the protection of human rights of migrant workers and their families *by providing an international legal framework for labour-migration related laws, policies and practices.*

2. *Promotes safe, orderly, regular, sustainable and human rights-based migration and labour mobility frameworks that* ***address challenges of irregular migration, trafficking of persons and smuggling of migrants****, including by tackling issues such as labour exploitation, abusive working conditions, and unauthorized employment.*

Why Ratify?



3. *Contributes to the establishment of frameworks and systems for States to* ***ensure fair treatment of migrant workers and their families and to prevent abuse and exploitation****, taking into account the marginalisation and discrimination that many migrant workers and their families face in all aspects of life.*

4. Contributes to achieving the goals and targets of the 2030 Agenda, *especially Sustainable Development Goals 8 and 10 but also 1, 3, 4, 5, 11, 16, and 17, and promotes targeted measures for migrant workers and their families in line with the leave no one behind the principle.*



5. Fosters economic growth and prosperity *through enabling the participation of migrant workers and their families in the economic life of both the State of origin and employment.*

6. Strengthens local communities *by ensuring the economic and social rights of migrant workers and their families through promoting family reunification, improving working conditions, and enhancing welfare, social, and economic integration, thereby fostering safer, more stable, and prosperous communities with long-term sustainability and cohesion.*



7. Helps to mitigate and manage challenges related to global migration *due to global and regional conflicts, climate change, and economic disparities, while ensuring the protection of vulnerable populations.*

8. Promotes international cooperation *between States parties of origin, transit and employment by providing common standards for the treatment of migrant workers and their families, and enabling them to share good practices of and to address the challenges arising from international labour-migration.*

Frequently Asked Questions



What are the main rights protected by the Convention on Migrant Workers?

The Convention protects a range of rights for migrant workers and their families. Some of the main rights include the rights to:

- *Equal treatment with nationals of the State of employment in terms of employment and working conditions;*
- *Just and favourable conditions of work, including safe and healthy working conditions;*
- *Access to social security, medical care, and education for children;*
- *Protection from discrimination, exploitation, and abuse, including forced labour, trafficking, and violence against women;*
- *Family unity and the right to reunite with family members.*

Several other universal human rights treaties have already been protecting the same rights. What is the purpose of ratifying the Convention on Migrant Workers?

The Convention expands and unfolds in detail the rights of migrant workers and their family members, who may not be adequately protected by general provisions under national laws. Furthermore, other human rights instruments may not be specific enough on the scope of protection for migrant workers and their family members, including those in particular situations such as frontier workers (art. 58), seasonal workers (art. 59), itinerant workers (art. 60), project-tied workers (art. 61), specified-employed workers (art. 62), self-employed workers (art. 63) or those in particular jurisdictions such as States of origin, transit and employment.

The Committee on Migrant Workers is an international group of independent experts that ensures State parties follow the rules of the Convention. The Committee assesses how well each country protects the human rights of migrant workers and their families.

Frequently Asked Questions



Do only "countries of origin" ratify the CMW?

Any State can ratify or accede to the Convention following its laws and processes regarding ratification of or accession to international treaties. As of 1 September 2024, 59 States, including countries of origin, transit, and employment/destination, had ratified the Convention. The growing number of States parties to the Convention and changes in migratory patterns have expanded the protection of the Convention to migrant workers and their family members in many countries.

Does the Convention include a reporting procedure?

Yes. The State must periodically submit a report to the Committee on Migrant Workers. These reports outline the legislative, judicial, policy, and other measures taken to guarantee the enjoyment of the rights contained in the Convention. The State is often requested to provide detailed and disaggregated data on the degree to which the rights are implemented, and challenges encountered.

The State can solicit support from OHCHR for preparing reports and streamlining national processes related to other international and regional reporting obligations, including those under the 2030 Agenda.

What are the financial implications of ratifying or acceding to the Convention?

Although the ratification of the Convention itself does not create financial obligations at the international level, there may be costs at the national level that are associated with legal and policy reforms and implementation measures to give effect to the Convention. Some of these financial implications at the national level may be absorbed into existing national policies and programmes, including those related to labour and migration.

Simplified Version

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW)



Entry into force: 1 July 2003, in accordance with article 87(1).
Registration: 1 July 2003, No. 39481
Status as of September 2024: Signatories : 40. Parties : 59

Procedural provisions of the Convention have been omitted.

PART I: Scope and definitions (Arts. 1 to 6)

Applicability (Art. 1):

This Convention applies to all migrant workers and their families without discrimination, throughout the entire migration process, including preparation for migration, departure, transit, the period of stay and remunerated activity in the State of employment, and return to the State of origin or the State of habitual residence.

Definition of migrant worker and their families (Arts. 2 to 5):

These articles define key terms used throughout the Convention:
"Migrant worker" is someone who works for pay in a country they are not citizens nationals of. There are different types of migrant workers, including frontier workers, seasonal workers, seafarers, offshore installation workers, itinerant workers, project-tied workers, specified-employment workers, and self-employed workers. Migrant workers and their families are classified as documented or regular if they are authorized to enter and work in the State of employment according to its laws and international agreements. They are considered non-documented or irregular if they do not meet these conditions.

- *"Members of the family": spouse or partner of the migrant worker and their dependent children or other dependent persons recognized by the law or agreements between the States concerned.*
- *The articles clarify that the Convention does not apply to people who:*
- *Work for international organizations or a State outside its territory to perform official functions;*

- *Work for a State or on its behalf outside its territory as part of a development or cooperation program, if their status is regulated by an agreement with the State of employment according to which they are not considered migrant workers;*
- *Move to a different State as investors;*
- *Refugees and stateless persons, unless national legislation or international instruments that are in force in the State consider them as migrant workers;*
- *Students, trainees, or seafarers and offshore installation workers who have not been admitted to take up residence and work in the State of employment.*

Definitions relevant to the Convention (Art. 6):

- *"State of origin" means the country of the migrant worker's nationality;*
- *"State of employment" means the country where the migrant worker has worked, is working or will work;*
- *"State of transit" means any country that the migrant worker passes through on their journey to or from the State of employment or State of origin.*

PART II: Non-discrimination concerning Rights (Art. 7)

Non-discrimination (Art. 7):

States should respect and ensure the rights provided in the Convention to all migrant workers and their families within their territory or under their jurisdiction, without discrimination based on factors such as sex, race, religion, nationality, age, economic position, marital status or other status.

PART III: Human Rights of all Migrant Workers and Members of their Families (Arts. 8 to 35)

Freedom of movement (Art. 8):

Migrant workers and their families have the right to leave any country, including their own. This right can only be limited by laws that protect national security, public order, health, morals, or the rights of others. Migrant workers also have the right at any time to enter and stay in their State of origin.

Simplified Version

Right to life and prohibition of torture, ill-treatment, and slavery (Arts. 9 to 11):
Migrant workers and their families have the right to life, protected by law. They cannot be tortured or treated cruelly, inhumanely, or degradingly. Migrant workers and their families cannot be held in slavery or servitude, nor can they be required to perform forced or compulsory labour.

Freedom of thought, conscience, and religion, freedom of opinion and expression, and right to privacy (Arts. 12 to 15):
Migrant workers and their families have the right to freedom of thought, conscience, and religion. They have the right to hold opinions and express themselves freely. Migrant workers and their families have the right to privacy and protection against unlawful interference or attacks on their reputation, and they cannot have their property taken away arbitrarily.

Right to liberty and security (Arts. 16 and 17):
Migrant workers and members of their families have the right to liberty and security of the person. The State shall provide effective protection to migrant workers and members of their families from violence by public officials or private persons, groups or institutions.

The arrest, detention, and imprisonment of migrant workers and members of their families are subject to minimum legal safeguards, and they shall be treated with humanity and respect for their dignity and cultural identity when deprived of their liberty.

Right to a fair trial (Arts. 18 to 20):
Migrant workers and their families have the right to equality with nationals of the State before the courts, including the right to a fair and public hearing by a competent, independent and impartial court, and the minimum legal safeguards in the determination of any criminal charges against them.
Migrant workers and members of their families shall not be guilty of a criminal offence that did not constitute an offence at the time when it was committed.

Migrant workers or their family members shall not be imprisoned solely on the grounds of inability to fulfil a contractual obligation, nor shall they be expelled or have their authorization of residence or work permit taken away for that reason, unless the fulfilment of the contractual obligation is a condition for the authorization.

Documents of migrant workers (Art. 21):

It is unlawful for anyone, except authorized officials, to take or damage identity documents, entry, or work permits of migrant workers or their families. Authorized confiscations by officials shall only take place with delivery of a detailed receipt. Passports or similar documents cannot be destroyed under any circumstance.

Expulsion (Arts. 22 and 23):

Migrant workers and their families cannot be collectively expelled, and each case of expulsion should be examined and decided individually by the competent authority in accordance with law. The decision to expel migrant workers and members of their families is subject to certain legal safeguards. In case of expulsion, migrant workers should have an opportunity before or after departure to settle any claims for wages and other entitlements.

Migrant workers and their families have the right to seek assistance from consular or diplomatic authorities of their State of origin if their rights under this Convention are violated. This includes the right to seek assistance in case of expulsion, which the expelling State should facilitate the migrant workers and their family members' right to seek consular assistance.

Treatment of nationals and migrant workers and their recognition before the law (Arts. 24, 25 and 27):

Migrant workers and their families have the right to recognition before the law everywhere. They should be treated no less favourably than nationals regarding remuneration, working conditions, and other terms of employment as stipulated by national laws and practices.

Migrant workers and members of their families shall be treated equally with nationals of the State of employment regarding social security, as long as they meet the

requirements set by that State's laws or any relevant treaties. The State of origin and the State of employment can establish necessary arrangements to guarantee equal treatment in access to social security.

Freedom of association (Art. 26):
Migrant workers have the right to participate and freely join any trade unions and other associations to protect their interests.

Urgent medical care (Art. 28):
Migrant workers and their families have the right to receive urgent medical care on an equal basis with nationals of the country they are in.

Migrant workers' children (Arts. 29 and 30):
Migrant workers' children have the right to a name, registration of birth, and nationality, as well as the right to access education like nationals of the State concerned.

Cultural identity (Art. 31):
The State shall respect the cultural identity of migrant workers and their families and it shall not prevent them from maintaining their cultural links with their State of origin.

Right to transfer their money, belongings, and savings (Art. 32):
Migrant workers and their families have the right to transfer their money, belongings, and savings when leaving the State of employment, according to the laws of the States concerned.

Right to be informed about their rights (Art. 33):
Migrant workers and members of their families have the right to be informed about their rights under the Convention and the conditions of their admission, their rights and obligations under the law and practice of the States concerned.

Obligation to comply with laws and regulations (Art. 34):
The articles of this Convention do not relieve migrant workers and members of their families from their obligation to comply with the laws and regulations of any State of transit or employment, nor their obligation to respect the cultural identity of these States' inhabitants.

Status of undocumented and migrant workers on irregular situation (Art. 35):
The articles of this Convention do not imply the regularization of the situations of migrant workers or members of their family who are non-documented or in an irregular situation or any right to such regularization of their situation.

PART IV: Other Rights of Migrant Workers and Members of their Families who are Documented or in a Regular Situation (Arts. 36 to 56)

Migrant workers who are documented or in a regular situation (Art. 36):
Migrant workers and their family members authorized to work in a country have the same rights as outlined in part III of the Convention and those specified in this section.

Right to be informed about their rights (Art. 37):
Migrant workers and their family members have the right to be informed about the conditions of their admission and stay in the State of employment.

Temporary absence and liberty of movement (Arts. 38 and 39):
Migrant workers and members of their families shall be allowed to take temporary absences without affecting their stay or work authorization. They shall have the right to move freely and choose their residence within the State of employment.

Civil and political rights of documented migrant workers (Arts. 40 to 42):
Migrant workers and their family members have the right to establish trade unions and associations in the State of employment. They also have the right to participate in the public affairs of their State of origin, including the rights to vote and be elected in accordance with that State's laws. States should consider creating processes or organizations that address the particular needs, obligations, and aspirations of

migrant workers and their families. Migrant workers may enjoy political rights in the State of employment if that State grants them such rights.

Social and cultural rights of documented migrant workers (Arts. 43 to 45):

Migrant workers have the right to equal treatment with nationals in the State of employment regarding education, vocational guidance, training, housing, social and health services, cooperatives, and cultural life. States shall protect the unity of migrant worker families by taking appropriate measures. States shall facilitate the reunification of migrant workers with their spouses, partners, and minor dependent unmarried children. Additionally, migrant workers' family members have the right to equal treatment with nationals of the State of employment regarding education, vocational training, social and health services, and access to and participation in cultural activities.

Right to transfer their money, belongings, and savings (Arts. 46 to 48):

Migrant workers and their family members have the right to be exempted from import and export taxes and duties for their personal belongings and equipment required for their job in the State of employment. They have the right to transfer their earnings and savings, including funds to support their families, from their State of employment to their State of origin or any other State and in conformity with national laws and international agreements applicable in the States concerned. Migrant workers and members of their families shall not be subjected to taxes, duties, or charges higher than those of nationals of the State of employment in similar circumstances.

Authorization of residence (Art. 49):

Migrant workers should be given residence authorization for the same period as their authorization to work. Migrant workers who are allowed to freely choose their employment in the State of employment shall not be considered in an irregular situation nor lose their authorization of residence solely as a result of the termination of their employment prior to the expiration of their work permit or residence authorization. Migrant workers in such situations shall be provided with sufficient time to find alternative employment.

Authorization of residence in case of death or divorce of migrant worker (Art. 50):
If a migrant worker dies or their marriage ends, their family members living in the State of employment should be given favourable consideration for authorization to stay based on family reunification, considering their length of residence. If such authorization is not granted, family members of the migrant worker shall have reasonable time to settle their affairs before departing the State of employment.

Authorization of residence for migrant workers with specific permits (Art. 51):
Migrant workers who are not permitted to freely choose their employment cannot be considered in an irregular situation nor lose their authorization of residence solely as a result of the termination of their employment prior to the expiration of their work permit or residence authorization, except when their authorization is expressly tied to a specific employment activity. Migrant workers in such situations shall be provided with sufficient time to find alternative employment.

Freedom to choose employment (Art. 52):
Migrant workers in the State of employment have the right to choose their work freely, however with certain restrictions.

Authorization of employment for family members of migrant workers (Art. 53):
If the family members of the migrant worker themselves have been granted by the State of employment an authorization of residence or admission that is unlimited or automatically renewable, then the family member shall be able to work under the same conditions as the migrant worker. If a migrant worker has not been permitted to freely choose their employment, the State shall favourably consider granting their family members permission to engage in employment.

Equal treatment of documented migrants and nationals (Arts. 54 and 55):
Migrant workers should be treated equally to the citizens of the State of employment when it comes to protection from dismissal, access to unemployment benefits, access to public work schemes, and access to alternative employment in the loss of employment. Migrant workers shall have the right to address their case to the competent authorities of the State of employment if they believe the terms of their contract have been violated

by their employer. Migrant workers with work authorization should be treated equally with nationals of the State of employment in the exercise of their employment.

Expulsion of documented migrants (Art. 56):

Migrant workers and their families may be expelled from the State of employment only for reasons permitted by the laws of that State and with the safeguards set out in the Convention. In considering whether to expel a migrant worker or a member of their family, the State of employment shall take into account humanitarian considerations and the length of time that the person concerned has already resided in the State.

PART V: Provisions Applicable to Particular Categories of Migrant Workers and Members of their Families (Arts. 57 to 63)

Particular categories of migrant workers and members of their families (Arts. 57 to 63):

Migrant workers and their family members who are in a documented or regular situation have the same rights as outlined in parts III and IV of the Convention, with some modifications specified. Frontier workers, seasonal workers, and project-tied workers, (as defined under article 2, paragraph 2) benefit from specific provisions outlined in Part IV of the Convention. These specified-employment workers are entitled to the rights outlined in Part IV, with the exception of some specific provisions. Self-employed workers shall also be entitled to the rights provided in Part IV, except those rights that only apply to workers with an employment contract.

PART VI: Promotion of sound, equitable, humane, and lawful conditions in connection with international migration of workers and members of their families (Arts. 64 to 71)

Fair and humane conditions for international migrant workers and their families (Arts. 64 and 65):

States shall consult and collaborate with each other to promote sound, equitable and humane conditions for international migration of workers and their families. This involves considering labour needs and resources, social, economic, and cultural needs of migrants, and the impact of their migration on the affected communities. States shall maintain services to handle inquiries regarding international migration of workers and their families.

Recruiting workers for employment in another State (Art. 66):

The right to undertake operations to recruit workers for employment in another State is restricted to public services or bodies of the State where the recruitment takes place, public services, or bodies of the State of employment with an agreement between the States, or a body established by a bilateral or multilateral agreement. Agencies, prospective employers or persons acting on their behalf may be permitted to undertake such operations only if authorized, approved and supervised by the public authorities of the State concerned in line with its laws and practice.

Irregular and regular migrant workers (Arts. 67 to 70):

States shall cooperate to make sure that migrant workers and their families can return to their State of origin in a safe and orderly manner if they choose to leave, if their legal permission to stay or work expires, or if they are in the State of employment in an irregular situation.

States shall cooperate to prevent and eliminate illegal movements and employment of irregular migrant workers, including by sanctioning employers of such persons. States shall also consider the possibility of regularizing the situation of such persons in accordance with applicable laws and agreements.

States shall ensure that working and living conditions for migrant workers and their families in a regular situation are in line with the standards of safety, health, and human dignity and are not less favourable than those provided to nationals. States should assist in repatriating deceased migrant workers or their family members and provide appropriate compensation in case of death.

PART VII: Application of the Convention (Arts. 72 to 78)

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (Art. 72):

The Convention establishes the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, which consists of ten and, after the entry into force of the Convention for the forty-first State Party, of fourteen experts elected by the States parties to the Convention from their nationals for four years, with a possibility of re-election.

Reporting procedure (Arts. 73 and 74):

States shall submit reports on the implementation of the Convention one year after the Convention enters into force for the State party and subsequently every five years. The Committee reviews reports from each State Party and may request additional information.

Inter-State complaints procedure (Art. 76):

A State may recognize the competence of the Committee to receive and consider complaints on non-fulfilment of the Convention by another State party.

Individual complaints procedure (Art. 77):

A State may recognize the competence of the Committee to receive and consider communications from individuals under its jurisdiction who claim to be victims of a violation of the Convention by the State party.

PART VIII: General provisions (Arts. 79 to 84)

General provisions (Arts. 79 to 84):

The Convention shall not affect the right of each State Party to establish criteria for the admission of migrant workers and their families. As for other matters related to the legal situation of migrant workers and members of their families, States shall be subject to the limitations of the Convention. The Convention shall not affect more favourable rights that have been granted to migrant workers and their families by the law or practice of a State Party or by any existing treaty. The rights of migrant workers and their families, as outlined in the Convention, cannot be given up or renounced.

Remedies (Art. 83):

States shall provide an effective remedy for violations of rights and freedoms recognized in the Convention.

Process for Ratification and Accession

What is ratification?

When a State ratifies an international human rights treaty, it legally commits to implement its provisions. By depositing instruments of ratification, a State expresses its consent to be bound by the treaty. Ratification is preceded by the signature of the treaty. Upon the signature, the State is obliged not to act contrary to the object and purpose of the treaty. The State may use the time between the signature and ratification to enact the necessary legislation to ensure the application of the treaty nationally.

What is accession?

Accession is the act by which a State accepts to become a party to a treaty that has already been negotiated and signed by other States. It has the same legal effect as ratification. Accession usually takes place after the treaty has entered into force.

What are the steps for formalizing a ratification or accession?

*Model instruments of ratification or accession can be found on the **United Nations Treaty Collection** website. These templates are available in all six UN languages. The date indicated in the instrument of ratification or accession is the date on which the State becomes bound by the treaty. More information is available in the **Treaty Handbook**. The annexes to the model instruments of full powers, ratification and accession are also available in this toolkit.*

*Once completed and signed by the competent authority in the State, e.g., the Head of State or Government or the Minister for Foreign Affairs, the signed copy of the original instrument can be emailed to **treatysection@un.org** for deposit. However, the originals must be delivered to the Treaty Section as soon as they arrive at the Permanent Mission in New York. The Depositary Unit office is at 2 UN Plaza, 323 E 44th Street, 5th Floor, Room DC2-0500, Tel: 1-212 963 504. New York, NY 10017 USA.*

*The Permanent Representative in New York may deliver instruments of ratification or accession. There may be a ceremony for the deposit of instruments (**pictures**). Alternatively, the Government may wish to deposit the instruments at the Treaty Event held during the opening of the General Assembly, which will provide a high-level setting for this treaty action and give visibility to the Government's commitment to human rights.*

ANNEX I

MODEL INSTRUMENT OF FULL POWERS

(To be signed by the Head of State, Head of Government or Minister for Foreign Affairs)

FULL POWERS

_____

I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs],

HEREBY AUTHORIZE [name and title] to [sign [2], ratify, denounce, effect the following declaration in respect of, etc.] the [title and date of treaty, convention, agreement, etc.] on behalf of the Government of [name of State].

Done at [place] on [date].

[Signature]

[2] * Subject to the provisions of the treaty, one of the following alternatives is to be chosen: [subject to ratification] or [without reservation as to ratification]. Reservations made upon signature must be authorized by the full powers granted to the signator

ANNEX II

MODEL INSTRUMENT OF RATIFICATION, ACCEPTANCE OR APPROVAL

(To be signed by the Head of State, Head of Government or Minister for Foreign Affairs)

[RATIFICATION / ACCEPTANCE / APPROVAL]

_____

WHEREAS the [title of treaty, convention, agreement, etc.] was [concluded, adopted, opened for signature, etc.] at [place] on [date],

AND WHEREAS the said [treaty, convention, agreement, etc.] has been signed on behalf of the Government of [name of State] on [date],

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that the Government of [name of State], having considered the above-mentioned [treaty, convention, agreement, etc.], [ratifies, accepts, approves] the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of [ratification, acceptance, approval] at [place] on [date].

[Signature]

ANNEX III

MODEL INSTRUMENT OF ACCESSION

(To be signed by the Head of State, Head of Government or Minister for Foreign Affairs)

ACCESSION

_____

WHEREAS the [title of treaty, convention, agreement, etc.] was [concluded, adopted, opened for signature, etc.] at [place] on [date],

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that the Government of [name of State], having considered the above-mentioned [treaty, convention, agreement, etc.], accedes to the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of accession at [place] on [date].

[Signature]

Treaty Body Capacity Building Programme, September 2024.