



**2015 ANNUAL REVIEW UNDER THE FOLLOW-UP  
TO THE ILO 1998 DECLARATION  
COMPILATION OF BASELINE TABLES**

**EXAMEN ANNUEL (2015) DANS LE CADRE DU SUIVI  
DE LA DÉCLARATION DE L'OIT DE 1998  
COMPILATION DES TABLEAUX DE RÉFÉRENCE**

**EXAMEN ANUAL (2015) EN EL MARCO DEL SEGUIMIENTO  
DE LA DECLARACION DE LA OIT DE 1998  
COMPILACION DE LOS CUADROS DE REFERENCIA**



**Freedom of association and the effective recognition of the right  
to collective bargaining**

**La liberté d'association et la reconnaissance effective du droit  
de négociation collective**

**La libertad de asociación y la libertad sindical y el reconocimiento  
efectivo del derecho de negociación colectiva**



## **35 REPORTING STATES (AND THE CONVENTIONS NOT YET RATIFIED BY THEM)**

1. Afghanistan (C.87 & C.98)
2. Barhain (C.87 & C.98)
3. Brazil (C. 87)
4. Brunei Darussalam (C.87 & C.98)
5. Canada (C.98)
6. China (C.87 & C.98)
7. Guinea-Bissau (C.87)
8. India (C.87 & C.98)
9. Iran, Islamic Republic of (C.87 & C.98)
10. Iraq (C.87)
11. Jordan (C.87)
12. Kenya (C.87)
13. Korea, Republic of (C.87 & C.98)
14. Lao People's Democratic republic (C.87 & C.98)
15. Lebanon (C.87)
16. Malaysia (C.87)
17. Marshall Islands (C.87 & C.98)
18. Mexico (C.98)
19. Morocco (C.87)
20. Myanmar (C.98)
21. Nepal (C.87)
22. New Zealand (C.87)
23. Oman (C.87 & C.98)
24. Palau, Republic of (C.87 & C.98)
25. Qatar (C.87 & 98)
26. Saudi Arabia (C.87 & C.98)
27. Singapore (C.87)
28. South Sudan (C.87)
29. Sudan (C.87)
30. Thailand (C.87 & C.98)
31. Tuvalu (C.87 & C.98)
32. United Arab Emirates (C.87 & C.98)
33. United States (C.87 & C.98)
34. Uzbekistan (C.87)
35. Viet Nam (C.87 & C.98)



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: AFGHANISTAN**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the 2005 Annual Reviews, except for the 2011 AR.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Chamber of Commerce of Afghanistan (CCA) (except for the 2006 AR), the Chamber of Commerce of Kabul (CCK), the Afghanistan Chamber of Commerce and Industries (ACCI), the All Afghanistan Federation of Trade Unions (AAFTU), the National Union of Afghanistan Employees (NUAE locally called AMKA) through consultations or communication of the Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the ACCI. <b>2013 AR:</b> Observations by the CCA. <b>2009 AR:</b> Observations by CCK. <b>2007 AR:</b> Observations by the CCA.
	<b>Workers' organizations</b>	<b>2014 AR:</b> Observations by NUAE (AMKA). <b>2013 AR:</b> Observations by NUAE (AMKA). <b>2012 AR:</b> Observations by NUAE (AMKA). <b>2010 AR:</b> Observations by AAFTU. Observations by NUAE (AMKA). <b>2009 AR:</b> Observations by AAFTU. Observations by NUAE (AMKA). <b>2008 AR:</b> Observations by the AAFTU. <b>2007 AR:</b> Observations by the AAFTU.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Afghanistan has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>YES, since 2005, for both C.87 and C.98.</b></p> <p><b>2015 AR:</b> Revision of labour law has been finalized and sent to the Ministry of Justice. Ratification of C.87 and C.98 will be considered after the adoption of the new labour law and the establishment of the High Labour Council.</p> <p><b>2014 AR:</b> According to the Government: The revisions of the labour laws and regulations are at their final stage. The Government aims to establish the first tripartite body in the country, the High Labour Council, before the end of 2013. Following the submission of the legal revisions to the Ministry of Justice and the establishment of the High Labour Council, prospects for ratification of C.87 and C.98 will improve and the Government will be enabled to move forward with the ratification process.</p> <p>According to the ACCI: Freedom of association and recognition of the right to collective bargaining are already provided for by the Constitution.</p> <p>The NUAE (AMKA) expressed its strong support for the ratification of C.87 and C.98, and underlined the crucial need for ILO technical cooperation to support the Government in moving ahead with the ratification process.</p> <p><b>2013 AR:</b> According to the Government: Labour laws and regulations are currently being reviewed. ILO's assistance is essential to the ratification of C.87 and C.98.</p> <p>The CCA expressed its support for the ratification of C.87 and C.98, and indicated that the absence of political will is slowing down the ratification process.</p> <p>The NUAE (AMKA) indicated its support for the ratification of C.87 and C.98 by Afghanistan. However, the NUAE (AMKA) stated that before ratifying the two Conventions, the Government should ensure that the conditions for implementing the principle and right (PR) are met in Afghanistan.</p> <p><b>2012 AR:</b> According to the Government: ILO's assistance would be needed to ensure and support the ratification process for C.87 and C.98.</p> <p>The NUAE (AMKA) indicated their support for the ratification of all fundamental Conventions, particularly C.87 and C.98.</p> <p><b>2010 AR:</b> According to the Government: ILO's assistance would be needed to ensure and support the ratification process for C.87 and C.98.</p> <p>The AAFTU and the AMKA Workers' Confederation indicated their support for the ratification of all fundamental Conventions, particularly C.87 and C.98.</p> <p><b>2009 AR:</b> According to the Government: The Council of Ministers has assigned a special committee to review the issue of ratification of C.87 and C.98. This review is being undertaken.</p> <p>The CCK and the NUAE expressed their support for the ratification of C.87 and C.98 by Afghanistan.</p>

			<p><b>2008 AR:</b> The Government indicated that ratification of C.87 and C.98 was currently under evaluation by the Council of Ministers in consultation with employers' and workers' organizations and will be subsequently submitted to Parliament after approval by this Council.</p> <p><b>2007 AR:</b> According to the Government: Ratification of C.87 and C.98 will be submitted to the newly established Parliament.</p> <p>The CCA supported ratification of C.87 and C.98 by Afghanistan.</p> <p>The AAFTU supported ratification of C.87 and C.98 by Afghanistan, and hoped that the Government would accelerate this process.</p> <p><b>2006 AR:</b> According to the Government: C.87 and C.98 are in the process of ratification.</p> <p>The AWA supported the ratification of C.87 and C.98 by Afghanistan and hoped that this would take place soon.</p>	
<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>		<p><b>YES</b>, according to the Government: The 2004 Constitution guarantees freedom of association to employers' and workers' organizations.</p>	
	<p><b>Policy, legislation and/or regulations</b></p>		<p><b>Legislation:</b> A special Law on Freedom of Association that was adopted in 2004 relate to the principle and right (PR).</p> <p><b>2014 AR:</b> According to the Government: Revisions of labour laws and regulations have been undertaken in close collaboration with the ILO and the social partners to ensure inclusion of the provisions of C.87 and C.98. The revision process is at its final stage and the draft amendments will be submitted to the Ministry of Justice in a near future.</p>	
	<p><b>Basic legal provisions</b></p>		<p>(i) Constitution, 2004; (ii) Law on Freedom of Association, 2004.</p>	
	<p><b>Judicial decisions</b></p>		<p><b>NIL.</b></p>	
<p><b>Exercise of the principle and right</b></p>	<p><b>At national level (enterprise, sector/ industry, national)</b></p>	<p><b>For Employers</b></p>	<p><b>2005 AR:</b> Prior government authorization is necessary to operate employers' organizations. All categories of employers can set up their organizations.</p>	
		<p><b>For Workers</b></p>	<p><b>2005 AR:</b> Prior government authorization is necessary to operate workers' organizations. Freedom of association can be exercised by all workers in the public service; medical professionals; teachers; agricultural workers; workers in export processing zones (EPZs) or enterprises/industries with EPZ status, migrant workers, workers of all ages, and all categories of employers. However, workers engaged in domestic work or workers in the informal economy, cannot exercise it as the Labour Code does not cover them. Workers in the informal economy can exercise the right to collective bargaining.</p>	



			<p><b>Special attention to particular situations</b></p> <p><b>2014 AR:</b> According to the ACCI: Special attention is given to large enterprises.  <b>2005 AR:</b> According to the Government: Women.</p>
			<p><b>Information/ Data collection and dissemination</b></p> <p><b>2005 AR:</b> According to the Government: There is a lack of information and data.</p>
		<b>At international level</b>	<p><b>2005 AR:</b> According to the Government: There are no particular restrictions for the international affiliation of employers' and workers' organizations.</p>
	<b>Involvement of the social partners</b>	<p><b>2015 AR:</b> According to the Government: Good tripartite cooperation, policies and strategies discussed with partners.</p> <p><b>2014 AR:</b> According to the Government and NUAE (AMKA): Tripartite consultations are ongoing in close collaboration with the ILO. The social partners have been involved in the revisions of the labour legislation; the draft amendments enjoy tripartite support. Social dialogue has been strengthened over the last year and the relationship between the Government and the social partners has improved. Furthermore, the Government has initiated the creation of the first tripartite body in Afghanistan, the High Labour Council, which should institutionalise social dialogue. The High Labour Council, expected to be established before the end of 2013, is set out to deal with all labour-related issues. One of its initial assignments will be to review and provide guidance on ratification of C.87 and C.98.</p> <p><b>2013 AR:</b> According to the Government: Tripartite partners are fully involved in the drafting of new labour Bills.</p> <p><b>2007 AR:</b> The CCA stated that it had participated in the May 2008 workshop and in the labour law review process.</p>	



	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: Various workshops and media campaigns have been carried out on the PR in cooperation with trade unions.</p> <p><b>2014 AR:</b> According to the Government and NUAE (AMKA): Tripartite workshops and training activities focusing on the PR have been conducted at national and provincial levels. At provincial level, local populations and leaders were invited to participate. Nation-wide awareness raising campaigns on the PR have been conducted with the support of the media. The NUAE (AMKA) added that training of trainers had been conducted at national level and was planned to be provided to local trainers.</p> <p>According to the ACCI: Training activities sensitizing employers on the PR have been conducted in collaboration with the Government. The ACCI also conducts lobbying activities promoting ratification of C.87 and C.98 and the necessary legal revisions.</p> <p><b>2013 AR:</b> According to the Government: Awareness raising campaigns were organized together with trade unions to promote international labour standards (ILS), including the fundamental principles and rights at work (FPRW). Workshops and forums were organized on the PR to help workers better understand the importance of C.87 and C.98.</p> <p>The CCA indicated that more than 2, 500 delegations from all over the country had met to elect the governing board of the Chamber of Commerce.</p> <p><b>2012 AR:</b> According to the Government and the NUAE (AMKA): A national tripartite workshop on ILS, including FPRW, was organized in May 2011 in cooperation with the ILO. Other similar workshops on labour laws were organized in cooperation with the Asian Foundation.</p> <p><b>2010 AR:</b> According to the Government: A Senior Officer of the Ministry of Labour and Social Affairs, Martyrs and Disabled participated in the ILO/Turin Course on International Labour Standards (ILS) during which issues concerning the Declaration and its follow-up had been addressed, including those relating to C.87 and C.98. At national level, a tripartite workshop on international labour standards and the 1998 ILO Declaration will be organized in cooperation with the ILO. In addition, the tripartite partners have participated in a training session on social dialogue in India.</p> <p><b>2009 AR:</b> According to the Government: A tripartite workshop was organized in collaboration with the ILO in May 2008 on ILS and the Declaration's Follow-up.</p> <p>The CCK and the NUAE stated that they had participated in the May 2008 National Workshop on ILS and the Declaration's Follow-up.</p> <p><b>2008 AR:</b> According to the Government, a tripartite workshop was organized in collaboration with the ILO in May 2007 on ILS and the Declaration's Follow-up.</p> <p><b>2007 AR:</b> According to the Government: A national tripartite workshop on international labour standards, the Declaration and social dialogue was also organized in 2006 in cooperation with the ILO.</p> <p>The CCA stated that it had participated in this workshop and in the labour law review process.</p> <p>The AAFU mentioned that it had participated in this workshop, and that it was also working for the improvement of workers' rights.</p> <p><b>2006 AR:</b> According to the Government: A national tripartite seminar on ILS, including ILO fundamental Conventions was organized in Kabul in May 2005 with ILO technical assistance.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2007 AR:</b> According to the Government: The Ministry of Martyrs, Disabled and Social Affairs drafted a new Labour Law in 2006, in cooperation with the social partners, and the ILO, the comments of which have been integrated in the final text. A new employers' organization have been established in 2005: the Chamber of Commerce of Afghanistan. Several sectorial* organizations (teachers, engineers, shop keepers, journalists, writers, doctors, lawyers, etc.) and additional national workers' organizations exist now in the country. The Government organized separate consultations with sectorial organizations that are not federated.</p> <p>The AAFTU mentioned that it was working to improve workers' rights in Afghanistan, and its major objective was the realization of the fundamental principles and rights at work (FPRW) in the country.</p> <p><b>2006 AR:</b> According to the Government: Following the adoptions of the Law on Freedom of Association in 2004, some 170 associations have been registered, including employers' and workers' organizations and cooperatives.</p> <p><b>2005 AR:</b> According to the Government: In the public sector, workers that have been laid off as a result of structural adjustment have obtained good allowances and/or retirement benefits following a national demonstration that puts pressure on the Government during negotiations.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014 AR:</b> According to the ACCI: Challenges are related to: (i) insecurity; (ii) lack of political will; and (iii) lack of labour inspection and monitoring.</p> <p><b>2013 AR:</b> According to the CCA: The main challenges encountered in the realization of the PR are: (i) corruption; (ii) the informal economy; (iii) insecurity; (iv) lack of legal transparency; (v) unemployment; (vi) lack of good governance; (vii) lack of political will; and (viii) lack of tripartite capacities.</p> <p><b>2009 AR:</b> The CCK stated that following its request together with the NUAE, the Law on Freedom of Association, 2004, was in the process of being amended by Parliament so as to extend the freedom of employers' and workers' organizations to organize and bargain collectively.</p>

		<p><b>Workers' organizations</b></p>	<p><b>2014 AR:</b> The NUAE (AMKA) indicated that the trade union movement needs to be strengthened and modernised.</p> <p><b>2013 AR:</b> The AAFTU indicated the following challenges: (i) corruption; (ii) lack of capacity of responsible government institutions; (iii) lack of tripartite capacities; (iv) lack of social dialogue; and (v) lack of willingness by the Government to involve workers' organizations in international training seminars and conferences.</p> <p><b>2012 AR:</b> According to NUAE (AMKA): The main challenges are war, corruption, poverty, trafficking and lack of transparency.</p> <p><b>2010 AR:</b> According to the AAFTU and AMKA Workers' Confederation: The main difficulties encountered in the realization of the PR are: (i) socio-economic stability; (ii) understanding of ILS by the tripartite partners; and (iii) lack of capacity of employers' and workers' organizations.</p> <p><b>2009 AR:</b> The NUAE confirmed the information given by the CCK concerning the process of amendment by the Parliament of the Law on Freedom of Association, 2004, so as to extend the freedom of employers' and workers' organizations to organize and bargain collectively.</p> <p>According to the AAFTU: The Government is interfering in trade union elections and the designation of workers' representatives.</p> <p><b>2008 AR:</b> The AAFTU indicated the following challenges: (i) unemployment; (ii) illiteracy; (iii) a lack of capacity; (iv) lack of professional staff, vocational training and health centres; (v) insecurity; (vi) a lack of rule of law, of compliance with the international conventions, of respect to workers' rights and of the opportunities for the workers' rights defenders; and (vii) poverty and lack of educational centres.</p> <p><b>2007 AR:</b> According to the AAFTU: (i) AAFTU is the national representative workers' organization of Afghanistan; (ii) AAFTU is not aware of the existence of any organization called "Afghanistan Workers' Association" (AWA); (iii) the Government did not consult with AAFTU in the labour law review process; and (iv) there are practical problems in the registration procedure in Afghanistan, and organizations may not be physically able to do so before the Ministry of Justice - therefore, the Ministry of Social Affairs, and the ILO should help solve this problem.</p>
	<p><b>According to the Government</b></p>		<p><b>2015 AR:</b> According to the Government: The inadequate number of labour inspectors poses a challenge to the implementation of the PR in the country.</p> <p><b>2014 AR:</b> According to the Government: Obstacles in the ratification process of C.87 and C.98 have been identified through the improved social dialogue and the labour law revision process.</p> <p><b>2013 AR:</b> According to the Government: Multiple unions with different requests make it difficult to conduct social dialogue.</p> <p><b>2009 AR:</b> In response to the AAFTU's observations, the Government indicated that it did not consider AAFTU as a trade union as it had no legal recognition.</p> <p><b>2008 AR:</b> The Government had to face multiple unions with very different requests, which make it difficult for social dialogue.</p> <p><b>2005 AR:</b> Main difficulties encountered in realizing the PR: (i) lack of public awareness or support; (ii) lack of information and data; (iii) social values and cultural tradition; (iv) social and economic circumstances; (v) lack of capacity of responsible government institutions; (vi) lack of capacity of employers' and workers' organizations; (vii) lack of social dialogue on the PR.</p>



TECHNICAL COOPERATION	Request
	<p><b>2015 AR:</b> The Government reiterated its previous technical assistance request while emphasizing the need for support to fulfill its reporting obligations.</p> <p><b>2014 AR:</b> The Government reiterated the request it made under the 2008-2013 ARs to carry out a national case study on freedom of association and the Declaration's Follow-up, and to organize workshops to support the Government to better implement the FPRW.</p> <p>According to the ACCI: ILO technical cooperation is crucial in enabling the Government to move forward in the ratification process of C.87 and C.98.</p> <p>The NUAE (AMKA): ILO's technical cooperation is needed in the following areas: (i) training of responsible government institutions; and (ii) capacity building for trade unions, including training of trainers and participation in courses held by the International Training Centre (ITC). ILO technical cooperation is indispensable in strengthening the capacity of the trade unions, which are attempting to undergo a process of modernisation to improve the conditions for realization of the PR in Afghanistan.</p> <p><b>2013 AR:</b> The Government requested, as in the 2008 AR, that a national case study on freedom of association and the Declaration's Follow-up would be conducted, along with the development of workshops to help Afghanistan better implement the FPRW.</p> <p>According to the CCA: ILO's technical cooperation is needed in the following areas: (i) training; (ii) strengthening tripartite capacities; (iii) legal reform; (iv) awareness raising campaigns to help the stakeholders better understand ILS; (v) unemployment reduction policies; and (vi) fighting mafia in the informal economy.</p> <p>According to the NAUE (AMKA): ILO's technical assistance is needed in the following areas: (i) training of responsible government institutions; (ii) strengthening capacity of workers' and employers' organizations; (iii) anti-corruption programme; (iv) strengthen social dialogue; (v) training programme for tripartite partners to better understand ILS; and (vi) equal treatment by the Government concerning tripartite partners' access to training.</p> <p><b>2012 AR:</b> The Government reiterated the request made under the 2008 AR to carry out a national case study on freedom of association along with the organization of additional workshops on the 1998 ILO Declaration and its follow-up.</p> <p>According to NAUE (AMKA): ILO should develop programmes that enhance union capacities and promote awareness raising on labour rights (nationally and internationally).</p> <p><b>2010 AR:</b> The Government reiterated the request it made under the 2008 AR.</p> <p>According to the AAFTU and the AMKA Workers' Confederation: ILO's technical cooperation is needed in the following areas: (i) training of officials dealing with labour law enforcement administrative; (ii) strengthening capacity of workers' and employers' organizations; (iii) legal reform (labour law and other relevant legislations); (iv) awareness-raising campaign to help the stakeholders to better understand the ILS; (v) assistance to the Ministry of Labour and Social Affairs in the implementation of the core Conventions.</p> <p><b>2009 AR:</b> The Government reiterated the request it made under the 2008 AR to carry out a national case study on freedom of association and the Declaration's Follow-up along with the organization of additional workshops on the 1998 ILO Declaration and its follow-up.</p> <p>The CCK and the NUAE supported the Government's request and further requested the ILO's support for capacity building on FPRW.</p> <p><b>2008 AR:</b> The Government requested that a national case study on freedom of association and the Declaration's Follow-up be conducted, along with the elaboration of workshops.</p> <p><b>2007 AR:</b> According to the Government: ILO technical cooperation should be sustained to help Afghanistan better implement the new labour law and realize the FPRW. Labour Inspection and employers' and workers' organizations need ILO support for training and capacity building. A case study on the FPRW is needed in the country.</p> <p>According to the CCA: (i) ILO technical cooperation for training and capacity building of employers' organizations will facilitate the realization of the FPRW in Afghanistan; and (ii) the CCA supports the Government's request for a case study on the FPRW in Afghanistan.</p>

		<p><b>2006 AR:</b> The Government wished to organize a special workshop on the Declaration, with ILO technical assistance, so as to facilitate the design of a national Declaration programme that will promote all FPRW and social dialogue, and focus on implementation. It also reiterated its request for technical cooperation projects to facilitate the realization of the PR in Afghanistan in the following areas, in order of priority: (1) promotion of women’s right; legal reform, strengthening data collection and analysis, strengthening tripartite social dialogue, strengthening capacity of employers’ and workers’ organizations; (2) training of other officials; sharing experience across countries; assessment of the difficulties identified and their implications for realizing the PR.</p> <p><b>2005 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Afghanistan exist in the following areas, in order of priority: (1) promotion of Women’s right; legal reform; strengthening data collection and analysis; strengthening tripartite social dialogue; strengthening capacity of employers’ and workers’ organizations; (2) training of other officials; sharing experience across countries; assessment of the difficulties identified and their implication for realizing the PR.</p> <p>The Government would most appreciate the design of a national declaration program that will promote all FPRW and social dialogue.</p>
	<b>Offer</b>	ILO, the Asian Foundation.
<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) encouraged the Government of Afghanistan (and few other governments) to initiate the necessary labour law reform to remove the obstacles to the ratification of C.87 and C.98. They acknowledged the high number of promotional activities concerning the PR in Afghanistan (and some other countries), and encouraged the Office to maintain its efforts to support these activities. However, the IDEAs noted that restrictions on the rights of certain categories of workers in Afghanistan (and some other countries), such as workers in the informal economy, to organize, were not compatible with the realization of this principle and right (cf. paragraphs 32, 35 and 38 of the 2008 AR Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs listed Afghanistan among the countries that have been indicating their intention to ratify C.87 and C.98 for several years, with no indication that progress has been made (cf. paragraph 33 of the 2007 AR Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The ILO Declaration Expert-Advisers noted with particular interest the reporting from Afghanistan in spite of the serious difficulties that this country has to face (cf. paragraph 8 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: BAHRAIN**

***FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2011 Annual Review (AR), but no change reports for the 2004, 2005 and 2009 Annual Reviews (ARs).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	According to the Government: Implication of the Bahrain Chamber of Commerce and Industry (BCCI), the General Federation of Bahrain Trade Unions (GFBTU) and the Bahrain Free Labour Unions Federation (BFLUF), established in July 2012.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the BCCI. <b>2013 AR:</b> Observations by the BCCI. <b>2012 AR:</b> Observations by the BCCI. <b>2008 AR:</b> Observations by the BCCI. <b>2007 AR:</b> Observations by the BCCI.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the GFBTU. Observations by the BFLUF. <b>2014 AR:</b> Observations by the GFBTU. Observations by the BFLUF. <b>2013 AR:</b> Observations by the GFBTU. <b>2012 AR:</b> Observations by the GFBTU. <b>2011 AR:</b> Observations by the GFBTU. <b>2010 AR:</b> Observations by the GFBTU. <b>2009 AR:</b> Observations by the GFBTU. Observations by the International Trade Union Confederation (ITUC). <b>2008 AR:</b> Observations by the GFBTU. Observations by the ITUC. <b>2007 AR:</b> Observations by the GFBTU. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the ICFTU. <b>2005 AR:</b> Observations by the GFBTU (and its 65 affiliates) and the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Bahrain has ratified neither the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) (C.87) nor the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>YES, since 2012, for both C.87 and C.98.</b></p> <p><b>2015 AR:</b> According to the Government: Ratification of of C.87 and C.98 will be considered once the ongoing assessment is completed.</p> <p>The GFBTU reiterated its strong support for the ratification of C.87 and C.98 and indicated that still no progress had been made in the ratification process and remains concerned about the lack of political will for ratification.</p> <p>The BFLUF expressed its support for the ratification of C.87 and C.98.</p> <p><b>2014 AR:</b> According to the Government: A special committee has been established to conduct an assessment exploring the way forward in the ratification process of C.87 and C.98. The Government will move ahead with the ratification process once the assessment is made.</p> <p>The BCCI indicated that it had no objections to the ratification of C.87 and C.98.</p> <p>The GFBTU reiterated its strong support for the ratification of C.87 and C.98 and indicated that no progress had been made in the ratification process over 2012. The GFBTU continued to stress that ratification of C.87 and C.98 has become a non-issue for the Government and that tripartite discussions have ended.</p> <p>The BFLUF, established in July 2012, expressed its support for the ratification of C.87 and C.98.</p> <p><b>2013 AR:</b> The Government expressed its support for the ratification of C.87 and C.98 the process of which should be accelerated under the current Decent Work Country Programme (DWCP).</p> <p>The BCCI indicated that they support the progressive ratification of C.87 and C.98 by Bahrain based on a comparative national survey on compliance of law and practice with the fundamental principles and rights at work (FPRW) to be carried out by the Government.</p> <p>According to the GFBTU: No progress has been made in the ratification processes over 2011. Ratification of C.87 and C.98 has become a non-issue for the Government, and the related tripartite discussions have ended.</p> <p><b>2012 AR:</b> According to the Government: New labour laws are currently under discussion in the National Assembly. This will be followed by revision and consideration of ratification of C.87 and C.98. The new labour laws have been under discussion since 2004 and this is the third time the National Assembly aims at approving the new labour laws.</p> <p>The BCCI indicated that it had no objections to the ratification of C.87 and C.98.</p> <p>According to the GFBTU: The GFBTU strongly supports the ratification of C.87 and 98, as it believes that this would improve the situation of trade unions and workers and enable their activities. Following disappointment over no change in the status of the ratification process of C.87 and C.98 since last year's AR, the GFBTU does not believe that the Government's commitment to the ratification process is serious.</p>



			<p><b>2011 AR:</b> The GFBTU mentioned that the Government was taking necessary action to speed up the process for ratification of C.87 and C.98 through necessary consultations and submission to Parliament.</p> <p><b>2010 AR:</b> According to the GFBTU: The ratification of C.87 and C.98 should be accelerated by the Government.</p> <p><b>2009 AR:</b> The GFBTU reiterated its support for the ratification of C.87 and C.98 so as to create a synergy in the workplace for all sectors. Moreover, the setting up of a tripartite committee would help in this process.</p> <p><b>2008 AR:</b> The Government stated that it was planning to establish a tripartite committee that would engage in the ratification of the remaining ILO fundamental Conventions. The BCCI hoped that the tripartite committee would be set up very shortly. The GFBTU supported the ratification of C.87 and C.98 and added that the tripartite committee had not been set up yet.</p> <p><b>2007 AR:</b> According to the Government, the BCCI and the GFBTU: A tripartite committee should be set up to study and make recommendations on further ratification of ILO Fundamental Conventions, including C.87 and C.98.</p> <p><b>2006 AR:</b> According to the GFBTU: The Government should ratify both the Conventions Nos. 87 and 98, so that Bahrain can be in line with social globalization.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intends to ratify C.87 and C.98.</p>
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	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES.</b> The 2002 Constitution (Part III) provides for freedom of association and freedom to form trade unions.
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy:</b>  <b>2002 AR:</b> The Government encouraged the Workers' General Committee to take part in the drafting of policies concerning the principle and right (PR).</li> <li>• <b>Legislation:</b>  <b>2014 AR:</b> According to the Government: The new Bahrain Labour Law (no. 36 of 2012), adopted in August 2012, covers the provisions of C.87 and C.98.            According to the GFBTU: The Workers' Trade Union Act, 2002, was revised in 2011, removing essential improvements concerning the PR that were established in 2002.            According to the BFLUF: Legal amendments of the Trade Union Act in 2011 have been positive in providing for the right to establish more than one trade union at company level.  <b>2011 AR:</b> According to the GFBTU: An Act on Migrant Workers' Rights was adopted in April 2010, in cooperation with Labour Organizations of Norway (LO Norway).  <b>2005 AR:</b> According to the Government: The amendment of the Labour Law is currently under way in collaboration with the GFBTU. A preliminary draft of the Labour Law in the Private Sector has already been developed. It contains a chapter on collective bargaining.  <b>2003 AR:</b> According to the Government: A new Workers' Trade Union Law was enacted in 2002 that introduced the right to join trade unions.</li> </ul>
		<b>Basic legal provisions</b>	(i) The Constitution, 2002, Part III; (ii) the Workers' Trade Union Act (2002, revised 2011); and (iii) the Bahrain Labour Law (No. 36 of 2012).
		<b>Judicial decisions</b>	<b>NIL.</b>



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2003 AR:</b> Government authorization/approval is required to establish employers' organizations and to conclude collective bargaining agreements. Employers can exercise freedom of association at the enterprise, sector or industry, national levels.
			<b>For Workers</b>	<b>2003 AR:</b> Government authorization/approval is required to establish workers' organizations and to conclude collective bargaining agreements. Freedom of association can be exercised by medical professionals, teachers, agricultural workers, workers in Export Processing Zones (EPZs) or enterprises/industries with EPZ status, migrant workers, workers of all ages, and all categories of employers. Workers can exercise freedom of association at the enterprise, sector or industry, national and international levels. Freedom of association cannot be exercised by workers in the public service, workers engaged in domestic work and workers in the informal economy.
			<b>Special attention to particular situations</b>	<b>2014 AR:</b> According to the GFBTU: Special attention is given to realize the right to collective bargaining in the private sector and freedom of association in the public sector, and to ensure the reinstatement of workers dismissed in 2011 due to their trade union involvement.
			<b>Information/Data collection and dissemination</b>	<b>2014 AR:</b> The BFLUF indicated that it had approximately 6000 members. <b>2003-2005 ARs:</b> According to the Government: There is a lack of information and data relevant to the PR.
		<b>At international level</b>	According to the Government: Employers can exercise freedom of association at international level. The GFBTU is also recognized at international level and participates in international, regional and Arab Conferences.	
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2003-2005 ARs:</b> According to the Government: Specific measures are envisaged to respect and realize this PR: (i) legal reform (Labour Act and other relevant legislation); (ii) inspection/monitoring mechanisms; (iii) penal sanctions; (iv) civil or administrative sanctions; (v) special institutional machinery; (vi) capacity building of responsible government officials; (vii) training of other government officials.		



**Involvement of the social partners**

**2015 AR:** According to the Government: Social dialogue is ongoing through the tripartite councils.  
 According to the GFBTU: Social dialogue ended after the 2011 events and has not been resumed. The GFBTU has not been consulted or involved in the development of the new labour law.  
 The BFLUF indicated that social dialogue was ongoing on a regular basis; a Special Committee meets every month, composed of Ministry of Labour, General Federations and Chamber.

**2014 AR:** According to the Government: Social dialogue is ongoing through the tripartite councils. During 2012, social dialogue has been focused on strengthening the protection of workers and reinstating the workers dismissed during 2011. Discussions concerning C.87 and C.98 have not taken place over the last year.  
 According to the GFBTU: Social dialogue ended after the 2011 events and has not been resumed. The GFBTU has not been included or consulted in the development of the new labour law.  
 The BFLUF indicated that social dialogue was ongoing on a regular basis, and that direct discussions between the BFLUF and the Ministry of Labour concerning the ratification of C.87 and C.98 had taken place.

**2013 AR:** The Government reiterated the statement it made under the 2012 AR.  
 According to the BCCI: The current tripartite process of formulation of the DWCP (including the fundamental principles and rights at work), in cooperation with ILO has been suspended due to the political unrest. Social dialogue should be enhanced by the Government.

**2012 AR:** According to the Government: A tripartite structure has been established and is operating. There is a good practice of social dialogue in the country, but a need to improve the collective bargaining practices. Moreover, the Decent Work Country Programme, set out to start September 2011, aims to institutionalize social dialogue within the country, but its implementation is pending due to current political situation.

**2010 AR:** According to the Government: In accordance with the Workers' Trade Union Act, 2002, a negotiation group process has been set up on the basis of social partnership. This negotiation takes place every month between the representatives of employers' and workers' organizations with a view to concluding a collective agreement on working conditions and relations. Furthermore, weekly enterprise meetings are held between a representative of the trade union and a representative of the company to discuss the follow-up to the decisions agreed upon through negotiations and try to settle any disputes or problems that may emerge through daily contact at the workplace.

**2000-2002 ARs:** According to the Government: The GCBW and the BCCI are involved in tripartite bodies to discuss the PR such as the Higher Council for Vocational Training, tripartite councils and committees in which the Government and employers are represented.

**Promotional activities**

**2015 AR:** According to the GFBTU: The GFBTU is still working in collaboration with the ITUC on the reinstatement of the workers who were dismissed during the 2011 events. Under the agreement signed on 10 March 2014 with the Government, some progress has been made in this regard. However, the reinstatement of 165 workers and the special situation of 390 affected by non-voluntary or agreed resignation are yet to be resolved. Moreover, various activities have been undertaken to promote and realize the right to collective bargaining.

BFLUF indicated that it run a special campaign for migrant workers and advocated for a new office to be established for them as for the time being, they have no union representing the interests of migrant workers. BFLUF further indicated that new unions have been organized, for example in the education sector with 7000 members (approx. 14,000 altogether in this industry) where public sector members are included. There is also progress regarding the passports of migrant workers as now they can change employer after 1 year. Hot lines have been established so support expatriot workers and lawyers are made available.

**2014 AR:** According to the GFBTU: The GFBTU is working in collaboration with the ITUC on the reinstatement of the workers who were dismissed during the 2011 events. Activities have also been undertaken to promote and realize the right to collective bargaining.

**2013 AR:** The GFBTU indicated that it had been able to fend itself from getting a tarnished reputation as a threat to the society, at least among workers and trade union members, through international support from the ITUC and by mobilization and information campaigns.

**2012 AR:** According to the GFBTU: In 2011, the GFBTU has been advocating towards the government for the ratification of both C.87 and 98. Additionally, workshops have been conducted for trade union members, raising their awareness about their rights to freedom of association and collective bargaining.

**2011 AR:** According to the GFBTU: A tripartite signature of a Decent Work Country Programme was made in March 2010 in Bahrain. In particular, the GFBTU participated in the Kuwait Regional Workshop on Migrant Workers organized in July 2010 in cooperation with AFL-CIO and the ILO. Issues pertaining to the PR were discussed during this event. It also organized a demonstration to call for the ratification of C.87 and C.98 as well as the realization of the freedom of association in the public sector. It further carried out training activities on the PR in cooperation with the ILO, and with ITUC in November 2010.

**2010 AR:** According to the GFBTU: In 2009, the Labour Day has been organized with intensive participation of all the trade unions and civil societies, and during the afternoon demonstration slogans urged the Government to ratify C.87 and C.98.

**2009 AR:** According to the GFBTU: Indeed, The 5th ILO/Gulf Cooperation Council (GCC) Regional Seminar has a positive impact. Moreover, a joint GFBTU–ITUC Conference on C.87 and C.98 was organized to raise awareness on trade union activities and the need for all to support them.

**2008 AR:** The GFBTU participated in the 5<sup>th</sup> ILO/Gulf Cooperation Council (GCC) Regional Seminar on the ILO Declaration and International Labour Standards in Oman. On this occasion, the right to freedom of association and collective bargaining were discussed.

As of June 2007, training on the Declaration Follow-up, namely on the right to collective bargaining will be undergone in cooperation with the ILO.

**2007 AR:** The Government, the BCCI and the GFBTU referred to their participation in the Fourth ILO/Gulf Cooperation Council (GCC) Regional Workshop on the ILO Declaration and International Labour Standards held in Kuwait City in April 2006.

**2003-2005 ARs:** According to the Government: Capacity building for employers’ and workers’ organizations and awareness raising/advocacy activities have been implemented to promote and realize the PR.



	<p><b>Special initiatives/Progress</b></p>	<p><b>2010 AR:</b> The GFBTU issued an official letter to the Parliament in April 2008 highlighting the importance of ratification of these two fundamental Conventions and urging the Members of Parliament to act on the Government accordingly.</p> <p><b>2008 AR:</b> The GFBTU filed a complaint against the Government of Bahrain regarding the non-observance of the right of Bahraini workers in the public sector to organize.</p> <p>According to the ITUC: Since October 2006, a Decree on employment in the private sector prohibits dismissal for trade union activities. Employers are also obliged to reinstate the sacked employees and to provide compensation if it is proved that workers were discriminated against because of their union activities.</p> <p><b>2003-2005 ARs:</b> According to the Government: A new law amending the Constitution and allowing the establishment of free trade unions will be adopted shortly.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014 AR:</b> According to the BCCI: Workers' and employers' organizations need to be sensitized to allow for mutual recognition of each other as legitimate actors.</p> <p><b>2007 AR:</b> According to the BCCI: In Bahrain, domestic workers do not enjoy the right to organize and bargain collectively.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> GFBTU expressed concern over the lack of political will and specifically about the increasing number of sectors (now 12) that are not allowed to strike.</p> <p>According to BFLUF: Challenges remain the same as in 2014. Law is unclear. It is very difficult for migrant workers to establish small and medium enterprises. Strike is still forbidden in certain sectors that are viewed to be critical for public interest, such as medical or transportation services. Another biggest challenge is to help the estimated 80,000 home support workers as there is little official information on them and their situation.</p> <p><b>2014 AR:</b> According to the GFBTU: Challenges related to the legal amendments of the Trade Union Act remain. Moreover, the multiple practical obstacles to the realization of the PR in Bahrain public and private sectors are pending before the ILO Committee on Freedom of Association.</p> <p>According to the BFLUF: Challenges in realizing the PR are related to: (i) legal obstacles in the Trade Union Law restricting the number of federations to one only in the country; (ii) lack of legislation to support collective bargaining practices; (iii) lack of monitoring and law enforcement; and (iv) employers' reluctance to ratification of C.87 and C.98. Further issues concerning the PR in Bahrain are pending before before the ILO Committee of Freedom of Association.</p> <p><b>2013 AR:</b> According to the GFBTU: (i) Legal amendments to the Workers' Trade Union Act; (ii) (ii) Lack of freedom of association, right to collective bargaining and social dialogue. These issues are pedning before the ILO Committee on Freedom of Association.</p> <p><b>2012 AR:</b> According to the GFBTU: The main obstacle in the ratification process of C.87 is a legal restriction only allowing trade unions to organize workers within the private sector as the Workers' Trade Union Act, section 10, does not provide the right to establish trade unions in the public sector.</p> <p><b>2011 AR:</b> According to the GFBTU: One of the main challenges in the realization of the PR in Bahrain is that public officials are not yet allowed to for trade unions but only join them in accordance with the Trade Union Act, 2002, section 10.</p>



			<p><b>2010 AR:</b> According to the GFBTU: The Government fears that ratification of C.87 and C.98 would encourage the creation of multiple trade unions in any enterprise or organization in a context where the union movement is not mature enough to play a positive role and have a positive impact on the economic and social process.</p>
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**2009 AR:** According to the GFBTU: The GFBTU expressed reservations about the genuine intention of Government to ratify C.87 and C.98 given that the power of using strike action as a means for drawing the attention of Government to the plight of workers is not encouraged in the amended labour laws. These laws were revised without consultations with the organized labour unions as concerns the right to strike actions. In addition, the rights of workers in the public sector need to be protected.

The ITUC reiterated the observations it made under the previous AR (2008), in particular as regards: (i) restrictions to freedom of association as only one trade union can be formed at each establishment and all trade unions have to belong to the GFBTU; (ii) though in theory they are allowed to join unions, migrant workers that make up roughly 60 per cent of the workforce prefer not to, as they have no protection against dismissal; (iii) a law that was supposed to be adopted in 2007 enshrining the principle of collective bargaining has not yet been adopted; (iv) restrictions exist on the right to strike as on the one hand workers and employers must first seek an amicable settlement of the dispute through conciliation, and, on the other, the Government has considerably lengthened the list of essential services; and (v) employers are becoming impatient with trade union activity.

**2008 AR:** According to the GFBTU: The Government does not yet respect the right to strike and the right to freedom of association. Several provisions of the Trade Union Act on the right to strike have been amended in July 2006, restricting the right for workers to go on strike. This decision was confirmed by Decree No. 62 of 20<sup>th</sup> November 2006 in the security, defence, airport, hospital, pharmacy, transportation, communication sectors etc. However, the GFBTU indicated that no consultations with the other social partners were held prior to the amendments, like undertaken in 2002. Moreover, a tripartite committee has been set up on labour law review in the private sector. Consultations were also held with social partners in 2006 but further amendments were not carried out accordingly. Decree No. 3 of March 2007 provides for disciplinary sanctions when a worker from the public sector is affiliated in a trade union. In this respect, there have been continued negative responses from the Government to the repeated requests concerning the registration of six unions of the public sector – which contravenes the Bahraini Constitution and National Charter.

According to the ITUC: (i) there is a lack of adequate protection for migrant workers. They make up approximately 60 per cent of the workforce. Though in theory they are allowed to join unions and run for union office, they prefer not to as they have no protection against dismissal. Furthermore, the new proposed law does not provide for any labour rights to domestic workers, but contains measures that would protect them against abuse from employers.; (ii) public workers are denied the right to organize; (iii) in November 2006, the government considerably lengthened the list of essential services in which strikes are banned, which already went beyond the ILO definition. Hydrocarbons, health, education, pharmacies and bakers must now be added to the security, civil defense, airport, port and transport sectors.

**2007 AR:** The GFBTU shared the view that domestic workers in Bahrain did not enjoy the right to organize and bargain collectively. It also mentioned that union leaders were not harassed in Bahrain.

According to the ICFTU: there are restrictions on the right to form unions and only one federation can exist in Bahrain.



		<p><b>2006 AR:</b> The GFBTU raised the following challenges: (i) the PR is realized only in the private sector; (ii) the Government does not recognize trade unions in the public sector; (iii) the social partners need to be more involved in the reporting process under the Declaration’s Annual Review.</p> <p>According to the ICFTU: (i) the law still contains restrictions on the right to strike and on freedom of association and does not specifically provide for collective bargaining.</p> <p><b>2000-2005 ARs:</b> According to the ICFTU: (i) trade unions are banned in Bahrain (only government-controlled organizations are authorized); (ii) there are restrictions on the right to strike; (iii) labour laws do not apply to domestic servants; (iv) the Joint Consultative Councils (JCC) can only act as advisers and have no real power to negotiate or bargain; (v) the Ministry of Labour must approve the internal rules of the General Committee of Bahraini Workers (GCBW); (vi) political climate makes it difficult to bring grievance to court; (vii) the law does not specifically provide for collective bargaining.</p>
	<p><b>According to the Government</b></p>	<p><b>2014 AR:</b> According to the Government: No challenges in the ratification of C.87 or C.98 have been identified. If challenges exist, they will be noted in the assessment currently being undertaken.</p> <p><b>2007 AR:</b> The Government acknowledged that domestic workers did not enjoy the right to organize and bargain collectively in Bahrain.</p> <p>In response to the ICFTU’s observations, the Government made the following comments: (i) several amendments were issued in 2006, namely regarding the recognition of several trade unions at the federal level (Act No. 49/2006), the reinstatement of the dismissed workers for their trade union activities (Act No. 73/2006) and the amendment of the criteria governing the workers’ exercise of the right to strike (Act 49/2006), which represent a real qualitative shift in freedom of association in the country; (ii) concerning section 10 of the Trade Union Act, Bahrain has not ratified Convention No. 87 but the provision gives nonetheless the right to join trade unions to workers of the public sector. Moreover, the amendment of section 10 has been submitted to the Parliament and is expected to be approved during the next session; (iii) regarding restrictions of the right to strike, section 21 of the Trade Union Act was amended in keeping with international labour standards, allowing strikes when majority to declare a strike is obtained. In addition the definition was provided as regards to “essential enterprises” and identification of these enterprises is made by decision of the Prime Minister (for example, Decision No. 62/2006) who can easily modify it whenever it is necessary; and (iv) concerning collective bargaining, the amendment draft of Decree Law No. 23/1976 including a chapter on collective bargaining was submitted to the Parliament for approval at the next session.</p> <p><b>2003-2004 ARs:</b> The Government indicated that the main difficulties encountered in Bahrain were the following: (i) lack of information and data; (ii) social and economic circumstances; (iii) legal provisions; and (iv) prevailing employment practices.</p>





TECHNICAL COOPERATION	Request	
		<p><b>2015 AR:</b> The Government reiterated the request for ILO technical cooperation as made under the 2012-2014 ARs concerning training and capacity building activities through the DWCP.</p> <p>The GFBTU expressed its strong wish for ILO technical cooperation to continue to support the ratification of C.87 and C.98, despite the Government's refusal of entry of ILO experts into the country in 2012.</p> <p>The BFLUF indicated that ILO technical cooperation should support the Government's efforts to realize the PR and involve all stakeholders, including migrant workers. However, it expressed disappointment that such assistance has been denied from BFLUF in the past years and they have not been invited to various workshops and other activities.</p> <p><b>2014 AR:</b> The Government reiterated the request for ILO technical cooperation as made under the 2012-2013ARs concerning training and capacity building activities through the DWCP. The Government underlined that ILO should restart the implementation of the DWCP as soon as possible, as it is critical for building the capacity of the tripartite partners, improving the situation in the country in respect of FPRW, and enabling the Government to move ahead with the ratification of C.87 and C.98.</p> <p>According to the BCCI: There is a need for an assessment to outline the implications of ratifying C.87 and C.98.</p> <p>The GFBTU expressed its strong wish for ILO technical cooperation to continue to support the ratification of C.87 and C.98, despite the Government's refusal of entry of ILO experts into the country in 2012. In terms of technical cooperation through the DWCP, the GFBTU indicated that it would not be meaningful to restart the programme until the current situation in the country, as regards to workers' rights and employment practices, has improved.</p> <p>The BFLUF indicated that ILO technical cooperation should support the Government's efforts to realize the PR.</p> <p><b>2013 AR:</b> The Government reiterated the request it made under the 2012 AR, in particular as regards to continuation of the training programme and capacity building activities through the DWCP.</p> <p>According to the BCCI: The implementation of the DCWP adopted in 2010 is yet to start due to the political crisis which hit the country in early 2011. ILO support is also important to the organization of awareness-raising campaigns and training activities for tripartite stakeholders.</p> <p>The GFBTU requested support from the ILO to increase the international exposure in the context of national crisis, as it is crucial for the GFBTU in its struggle for the FPRW, particularly freedom of association.</p> <p><b>2012 AR:</b> The Government requested ILO to support the ratification process of C.87 and C.98 by conducting training workshops through the DWCP, as well as providing the Government with legal expertise on creation of new labour laws.</p> <p>The BCCI requested ILO technical assistance for capacity building on negotiation practices and collective bargaining, enterprise development, safe work and social dialogue.</p> <p>The GFBTU particularly requested the ILO to help create social dialogue and facilitate their participation in the ratification process, as well as raise awareness by organizing sensitization workshops for workers.</p> <p><b>2011 AR:</b> According to the GFBTU: There is a need for more ILO technical support on workers' education.</p> <p><b>2010 AR:</b> According to the GFBTU: All members of the relevant tripartite Committees should participate in workshops on the 1998 ILO Declaration and its follow-up, with a focus on freedom of association and the right to collective bargaining. This training activity is necessary as Bahrain was selected by the ILO as a model country within the Decent Work Agenda.</p> <p><b>2009 AR:</b> The GFBTU indicated that the ILO's cooperation was needed to support trade unions' actions on cross-cutting issues that relate to creating an adequate environment for all workers.</p> <p><b>2008 AR:</b> The GFBTU requested ILO technical assistance for a country assessment on freedom of association. It reiterated its request stated in the 2007 AR on training courses for workers' organizations in Bahrain. Tripartite workshops should also be organized in order to improve the conditions of trade union and social dialogue between the social partners.</p> <p><b>2007 AR:</b> The GFBTU requested ILO technical cooperation to strengthen the capacity of workers' organizations in Bahrain.</p> <p><b>2006 AR:</b> According to the GFBTU: (i) A national workshop for trade unions on the PR should be organized with ILO technical assistance; (ii) a national tripartite workshop on fundamental Conventions and the Declaration should also be organized so as to identify challenges and solutions and pave the way to ratification.</p> <p><b>2003-2004 ARs:</b> According to the Government: (i) assessment of the different challenges should be undertaken in</p>



	<b>Offer</b>	ILO (DWCP), GCC, Labour Organizations of Norway (LO Norway).
<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries, such as the Gulf States (as well as China and new member States, in particular in the South Pacific), had made important efforts during this process. However, according to them, more needed to be done. The IDEAs welcomed the legal reforms undertaken by certain Gulf countries such as Bahrain, but noted that the workers’ right to freedom of association and collective bargaining needed to be respected, especially as regards migrant workers. They drew the attention to the practice in some countries, including Bahrain, where only one official trade union were allowed in practice, and recalled in this regard the following: “the right to official recognition is an essential aspect of the right to organize as it allows employers’ and workers’ organizations to be in a position to play their roles efficiently. Furthermore, any government intervention in employers’ and workers’ organizations’ internal affairs (right to establish and join organizations of their own choosing, without distinction whatsoever and without previous authorization, right to draw up internal constitutions and rules, right to elect their representatives in full freedom, etc.) constitutes interference in the functioning of these organizations, which is a denial of the principle and right”. The IDEAs also acknowledged the high number of promotional activities concerning the PR in the Gulf States (and some other countries), and encouraged the Office to maintain its efforts to support these activities. Finally, the IDEAs noted that restrictions the right to organize of certain categories of workers in Bahrain (and some other countries), such as domestic workers, workers in the public service and workers in the informal economy, were not compatible with the realization of this principle and right” (cf. paragraphs 12, 33, 36 and 38 of the 2008 AR Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs noted with interest that some progress had been achieved in the Gulf States regarding the right of workers and employers to organize freely and voluntarily, without being subjected to control by their governments. Furthermore, the IDEAs observed that with a view to giving full effect to this principle and right, the Government should be able to offer to all workers the opportunity to exercise their rights, and not have restrictions on the right to organize for domestic workers (cf. paragraphs 36 and 37 of the 2007 AR Introduction – ILO: GB.298/3).</p> <p><b>2006 AR:</b> The IDEAs observed that the Government of Bahrain should indicate whether the new Decree relating to trade unions is an implementing Decree relating to existing labour law. They observed the following: “It is important to note that the majority of workers in some Gulf States are migrant workers. Therefore, while we note that certain measures have been reported relating to this principle [...] we stress that the principle should be given full effect as regards all the workers present in these countries, including migrant workers, if these countries are to progress meaningfully in this area” (cf. paragraphs 37 and 45 of the 2006 Annual Review Introduction – ILO GB.295/5).</p> <p><b>2005 AR:</b> The IDEAs listed Bahrain among the countries where progress had been made under the Annual Review in the promotion of freedom of association and the effective recognition of the right to collective bargaining (paragraph 12 of the 2005 Annual Review Introduction). Furthermore, they noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (cf. paragraph 148 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs were encouraged by the continuing steps taken by countries of the Gulf Cooperation Council (GCC) in relation to this PR, but noted that there was a long way to go and much to do. They further indicated that the Gulf Cooperation Council States were providing more information on the PR, but not enough on the other three PRs. This would help to illustrate the link between all four PRs. The IDEAs also wished that the positive measures taken by countries in the Gulf Cooperation Council (GCC) be expanded upon (cf. paragraphs 29 and 84 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2003 AR:</b> The IDEAs commended Bahrain for its continuing dialogue with the Office. They appreciated the adoption of a new legislation relating to freedom of association. They recommended that the Governing Body request that high-level contacts be organized between the Office and two or three countries (including Bahrain) that are not benefiting from ILO technical cooperation on the PR. In light of requests by Bahrain for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field (cf. paragraphs 4 and 74 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p>	



	<p><b>2002 AR:</b> The IDEAs recommended that, with a view to a more in depth discussion of certain aspects of the Introduction, the Governing Body request clarifications from Bahrain in relation to the continuation of steps undertaken in the country, in cooperation with the Office, concerning the PR Furthermore, they acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the Government (cf. paragraph 41 (b) of the 2002 Annual Review Introduction – ILO: GB.283/3/1).</p> <p><b>2001 AR:</b> The IDEAs hoped that the Government of Bahrain would continue a dialogue with the Office regarding the ways in which respect to fundamental principles and rights could be achieved (paragraph 77 of the 2002 Annual Review Introduction). They also recommended to the Governing Body that further information be requested from the Government of Bahrain in relation to efforts made to promote the principle and right (cf. paragraph 30 (b) (ii) of the 2001 Annual Review Introduction – ILO GB.280/3/1).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director-General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: BRAZIL**

***FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the 2000 Annual Review (AR). No change report for the 2008 AR.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (National Confederation of Agriculture (CNA), National Confederation of Trade (CNC), National Confederation of Industry (CNI), National Confederation of Financial Institutions (CNF) and National Transport Confederation (CNT)) and workers' organizations (Single Central Organization of Workers (CUT), General Confederation of Workers (CGT), Força Sindical (FS), and Social Democratic Union (SDS), Independent Workers Confederation (CAT), General Confederation of Workers of Brazil (CGTB)), and União Geral dos Trabalhadores (UGT) by means of consultations and communications of the Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2008 AR:</b> Observations by CNC. <b>2001 AR:</b> Observations by CNC. <b>2001 AR:</b> Observations by CNT.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by UGT <b>2009 AR:</b> Observations by CUT. Observations by International Trade Union Confederation (ITUC). <b>2008 AR:</b> Observations by CUT. Observations by ITUC. <b>2007 AR:</b> Observations by International Confederation of Free Trade Unions (ICFTU). <b>2005 AR:</b> Observations by ICFTU. <b>2004 AR:</b> Observations by CUT. <b>2003 AR:</b> Observations by CUT. <b>2002 AR:</b> Observations by CUT. <b>2002 AR:</b> Observations by ICFTU. <b>2001 AR:</b> Observations by SDS.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Brazil ratified in 1952 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>NO, Brazil does not have the intention to ratify C. 87 in the short term.</b></p> <p><b>2015 AR:</b> According to the Government: National laws need to be amended to allow the application of C.87. This would entail a series of discussions, including the possible need for constitutional amendment. In the light of the consensus built up over time in the National Labour Forum and, currently, in the Labour Relations Council, the Government has maintained an ongoing dialogue with workers’ and employers’ organisations with a view to amending the legislation. Moreover, the Labour Relations Secretariat, in a recent position paper, argued for the adoption of draft Legislative Decree No. 16, of 1984, approving the text of C.87.</p> <p>According to UGT: Ratification of C.87 would be a set back for Brazil given the particular situation of unions and their strength in collective bargaining.</p> <p><b>2014 AR:</b> The Government indicated that it does not have the intention to ratify C.87 in the short term.</p> <p><b>2013 AR:</b> The Government reiterated the statement it made under the 2011 AR indicating its support to the fundamental principles and rights at work (FPRW), with a particular focus on freedom of association.</p> <p><b>2012 AR:</b> According to the Government: As the majority of Brazilian trade union organizations are in favour of the existing constitutional order, it would be necessary to enter into a comprehensive debate with them in order to gauge their interest in the ratification of C.87. The Labour Relations Council was established in 2010, comprising representatives of the Ministry of Labour and Employment, workers and employers. It is expected that guidelines on this issue will be established in due course in the context of the Council. However, there is no intention in the short term to ratify C.87.</p> <p><b>2011 AR:</b> According to the Government: The Government expresses its full support to the principles and rights at work, highlighting in particular freedom of association. Although Article 8 of the Federal Constitution establishes union unity (known as “unicidade”), Brazil has nowadays, according to union data, approximately 16,000 union entities representing workers and employers, and registered at the Ministry of Labour. The initiative to propose amendments to the Constitution before the Legislature in view of repealing the said legal provisions, will take into consideration any requests from the social partners.</p> <p><b>2009 AR:</b> The CUT expressed concern regarding the inaccuracy of the Expert-Advisers’ position concerning the fact that the CUT did not favour ratification of C.87. This misinformation was harmful to the CUT as it implied a transgression of the CUT’s own obligations and mandate vis-à-vis its Constitution that prescribed the struggle to promote freedom of association, especially through the ratification of C.87. In addition, whenever tackling labour reform, the CUT supported</p>

			<p>the end of the single trade union system.</p> <p><b>2008 AR:</b> The Government reiterated its observation made in the 2007 AR.</p> <p>The CNC expressed its support for the ratification of C.87 and stated that the Government should address the issue.</p> <p><b>2007 AR:</b> According to the Government: It is currently still not possible to ratify C.87, since the Constitution (article 8 of the Constitution) runs contrary to the text of this Convention. However, the proposed Constitutional Amendment No. 369/05 is currently being examined by the National Congress, at the request of the Executive, with the aim of ensuring freedom of association. This amendment would render the Constitution compatible with the Convention, thus allowing for its ratification.</p> <p><b>2003-2005 ARs:</b> According to the Government: A new 60-member tripartite “National Labour Forum” has submitted to the National Congress a proposal to amend the national legislation on industrial relations in order to ratify C.87. It is expected that Congress will soon review this proposal.</p> <p><b>2000-2003 ARs:</b> According to the Government: The Executive submitted to the National Congress a “Proposed Constitutional Amendment” (PEC) No. 623/98 in November 1998 to suppress the single trade union requirement and the compulsory tax to ensure freedom of association as provided for in C.87. Unfortunately, the PEC was shelved on a rule of procedure without being debated at the end of 2000.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b></p>	<p><b>Constitution</b></p>	<p>The 1988 Constitution guarantees freedom of association and collective bargaining (with the exception of the armed forces), but imposes the single trade union requirement according to which there can be only one trade union organization to represent an occupational or economic category in a given territorial area (section 8, paragraph II). This requirement (known as “unicidade”) prohibits the establishment of enterprise unions. Also enshrined in the Constitution is a compulsory trade union tax, which is levied on each worker by the Ministry of Labour and distributed to the national trade union federations according to the number of members.</p>



	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Policy/Legislation and/or Regulations</b></p>	<p>Legislation:</p> <p><b>AR 2015:</b> According to the Government: Ministerial Decree No. 326 of 1 March 2013 laid down new requirements for the granting of trade union registration, as a way of avoiding the creation of “ghost unions” or the misuse of the dissolution procedures provided for in the Consolidation of Labour Laws to address the proliferation of first-level union organizations deprived of real representativeness vis-à-vis their occupational groups or employers’ groups. Service Order No. 2 of 15 February 2013 ensures that applications would be analysed in the chronological order in which they were received. The consultation is available to the public on the Ministry of Labour and Employment (MTE) website (<a href="http://www3.mte.gov.br/cnes/cons_sindical.asp">http://www3.mte.gov.br/cnes/cons_sindical.asp</a>). The Federal Superior Labour Tribunal issued Precedent No. 277 after deciding on several occasions that the working conditions laid down in normative clauses under negotiation will remain in force until a new negotiation channel is properly established. This situation will ultimately prove to protect workers from what is referred to as “legal anomie” (a condition of being outside the law), while also highlighting the consequences of the principle of the condition most beneficial to workers. It states that “The normative clauses of enterprise-level agreements (acordos coletivos) or collective agreements (convenções coletivas) incorporate individual contracts of employment and may only be amended or deleted through collective bargaining in the workplace.”</p> <p>2012 AR: According to the Government: Act No.11.648/2008, recognizing trade union confederations, acknowledges that trade unions are free to join confederations and that unionized workers can be represented by those confederations.</p> <p>2001 AR: The consolidated labour laws (CLT) and the labour protection laws (LPL) relate to the principle and right (PR).</p> <p>Regulations:</p> <p>2012 AR: According to the Government: Ministerial Order No. 186 of the Ministry of Labour and Employment promotes freedom of association and recognizes the affiliation of a first-level union to a higher-level organization of its choice, by going beyond the notion of affiliation to a confederation and covering the registration of trade unions and workers’ and employers’ organizations. Additionally, the establishment of the Labour Relations Council by Ministerial Order No. 2.092/2010 was an initiative to allow tripartite negotiations to take place on pressing matters relating to the world of work.</p>
		<p><b>Basic legal provisions</b></p>	<p>(i) The 1988 Constitution (article 8, paragraph II); (ii) Consolidation of Labour Laws (CLT); and (iii) Labour protection laws.</p>



		<p><b>Judicial decisions</b></p>	<p><b>2015 AR:</b> According to the Government: The Federal Superior Labour Tribunal had an important ruling in Case No. TST RO-8281-17.2010.5.02.0000. The judgment specified the need for the trade union to be present when collective bargaining takes place. The Special Labour Disputes Section of the Federal Superior Labour Tribunal did not allow validation of the terms and conditions of an agreement reached directly with a committee of workers, without the presence of a labour union representative of the category. While noting the importance of a trade union presence, the judgment also found that there was insufficient evidence to conclude that the trade union had been summoned for the establishment of collective action. The same Tribunal issued a precedent after deciding on several occasions that the working conditions laid down in normative clauses under negotiation will remain in force until a new negotiation channel is properly established.</p> <p><b>2002 AR:</b> In 2001, the Upper Labour Court decided that the Labour Justice System is competent to declare a strike legal or illegal: “A strike is illegal when carried out in sectors that the law defines as essential to the community, if provision has not been made (...) to meet the basic, essential needs of the users of the service”.</p>	
	<p><b>Exercise of the principle and right</b></p>	<p><b>At national level (enterprise, sector/ industry, national)</b></p>	<p><b>For Employers</b></p>	<p><b>2000-2005 ARs:</b> According to the Government: No authorization is required to establish employers’ organizations, with the exception of registration with the Ministry of Labour and Employment, and with the provision that only one trade union organization can represent an occupational or economic category in a given territorial area.</p>
			<p><b>For Workers</b></p>	<p><b>2000-2005 ARs:</b> According to the Government: No authorization is required to establish workers’ organizations, with exception of registration with the Ministry of Labour and Employment, and with the provision that only one trade union organization can represent an occupational or economic category in a given territorial area.</p>



			<p><b>Special attention to particular situations</b></p>	<p><b>2015 AR:</b> According to the Government: In recent years, the Government has carried out ongoing actions for the democratization of labour relations and the inclusion of vulnerable sectors of the population, such as young people, persons with disabilities and Afro-Brazilians. For example, the First National Conference on Employment and Decent Work, which was preceded by municipal and state conferences, brought more than 20,000 participants together to discuss and draw up policy proposals on labour and employment that now serve as a benchmark for policy formulation. Another important action was the establishment of the National Youth Agenda, which engages the various youth constituencies in our country in a dialogue. It was established through a quadripartite process, and now serves as a benchmark for the implementation of public policies aimed at this population segment. Moreover, actions aimed at domestic workers and their organizations have been carried out. The main objective of Constitutional Amendment No. 72, of 2 April 2013, was to extend to the category a number of rights likely to strengthen the role of labour guarantees for domestic workers. It must be emphasized that the National Congress again took up the issue of regulation as recently as November 2013 and it was argued that the debate on regulation should be wide ranging so as to ensure the participation of civil society.</p> <p><b>2012 AR:</b> According to the Government: With regard to freedom of association, special attention has been given to the public sector workers through efforts in so far as meetings and discussions that have been held on the organization of the sector and the recognition thereof. As for the effective recognition of the right to collective bargaining, the right to collective bargaining in the public sector has been discussed, and the Ministry of Labour and Employment has started to act as mediator for bargaining in the public sector and is considering how it will deal with the outcome of bargaining in the sector, in order to raise awareness and give effect to what has been agreed.</p> <p><b>2004-2005 ARs:</b> According to the Government: The situation of specific categories of persons or industries/sectors, such as public servants, dockworkers, rural workers, the waterways, maritime and port sectors, liberal professions, transport and pensioner, and micro and small enterprises.</p>
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			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> According to the Government: Seeking to improve its data and information sources, the MTE is developing a partnership project with specialized institutions, such as the Inter-Union Department of Statistics and Socioeconomic Studies and the Institute for Applied Economic Research, on topics related to the world of work, with a focus on union organizing, collective bargaining and conflict resolution.</p> <p><b>2011 and 2013 ARs:</b> According to the Government: Union data estimates that 16,000 union entities representing workers and employers are registered at the Ministry of Labour.</p> <p><b>2003 AR:</b> According to the Government: The Brazilian Institute of Geography and Statistics (IBGE) estimates the number of trade unions in Brazil at 20,000; a number close to that recorded in the administrative records of the Ministry of Labour and Employment.</p> <p><b>2000 AR:</b> According to the Government: With regard to freedom of association and the right to organize, data from the Ministry of Labour and Employment show that there were about 10,600 legally recognized unions from 1931 to October 1988 during which, the State exercised control over the establishment and running of trade unions in Brazil. In the post-constitutional period (1988-2000) almost 6,600 unions have been formed. In total, there are 17,200 union organizations representing occupational and economic categories.</p>
		<p><b>At international level</b></p>	<p>Unions are free to affiliate to similar international organizations.</p>	
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2013 AR:</b> According to the Government: The Labour Inspection operates in urban and rural environments, guaranteeing the same protection for urban and rural workers, as required by constitutional legislation and regulations on labour Inspection (Decree 552 of 27/12/2002).</p> <p><b>2005 AR:</b> According to the Government: In instances where the Government finds that this PR has not been respected, sanctions are provided for under national laws. A draft law on the prevention of anti-union practices has been debated in the National Labour Forum.</p> <p><b>2004 AR:</b> According to the Government: In instances where the Government finds that this PR has not been respected, it reports the matter to the Labour Prosecutor, who initiates the appropriate legal or administrative proceedings.</p> <p><b>2003 AR:</b> According to the Government: If workers feel their rights have been infringed, they can resort to the Labour Justice System, which is comprised of the Upper Labour Court, regional labour courts and labour magistrates. The Department of Labour Prosecutor is another body responsible for protecting collective and professional interests.</p>		



	<p><b>Involvement of the social partners</b></p>	<p><b>2012 AR:</b> According to the Government: The Labour Relations Council was established in 2010, comprising representatives of the Ministry of Labour and Employment, workers and employers. With regard to freedom of association, a bill on anti-union acts (generally understood to be acts that limit or restrict the full enjoyment of freedom of association) has been discussed with the trade union confederations. The bill will be discussed in the context of the Labour Relations Council in 2011. As for the effective recognition of the right to collective bargaining, following the ratification of Convention No. 151 in 2010, the Government has been working with representatives of public servants to develop and approve a bill to guarantee collective bargaining in the public sector.</p> <p><b>2004 AR:</b> According to the Government: Social partners have been involved in the National Labour Forum proposed by the present Government to reform industrial and trade union relations and to various tripartite consultations relating to labour relations issues.</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: The MTE conducts mediation at the municipal, inter-municipal, state and national levels. Mediation can take place at the request of the parties in conflict or another federal government agency; it can even be initiated by the MTE itself, when the need for public mediation in real or potential conflict situations is identified, as in the case of the outbreak of a strike or a conflict concerning union representation. It can also take place when tensions in labour relations are perceived. Requests generally arise from workers' organizations, which recognize that mediation is an important tool for preventing conflict situations, such as the outbreak of a strike and, more importantly, for avoiding mass dismissals of workers. Normative Instruction No. 16, of 15 October 2013, defined the procedures for filing, registering and archiving collective agreements and enterprise-level agreements and their additional terms with the MTE bodies.</p> <p>According to the UGT: A UGT member participated in the May 2014 TURIN Course on International Labour Standards where the Fundamental Principles and Rights at Work and the ILO core Conventions were presented and discussed. UGT is currently carrying out a Decent Work Project in cooperation with various European NGOs. It is also assisting fishermen in forming unions and realizing their right to organize. The UGT is also organizing, in cooperation with ITUC-Americas (TUCA), social fora on migrant workers' human rights and their legal and social integration in the society.</p> <p><b>2014 AR:</b> According to the Government: A government official and a worker representative participated in the ILO/TURIN May-June 2013 Course on International Labour Standards where issues pertaining to freedom of association were presented and discussed.</p> <p><b>2012 AR:</b> According to the Government: Workshops and panel discussions on collective bargaining have been organized in 2010 and 2011. The matter should be discussed further, in the context of the Labour Relations Council. Efforts have also been made to disseminate the results of the collective bargaining processes through presentations, and this information is available to all through the "MEDIADOR" system, with a view to strengthening the role of the social partners in the conclusion of collective agreements and accords.</p> <p><b>2010 AR:</b> According to the Government: A senior officer of the Ministry of Labour participated in the ILO/TURIN course on International Labour Standards that included topics such as the 1998 ILO Declaration and issues relating to the PR.</p> <p><b>2009 AR:</b> According to the Government: A senior official of the Ministry of Labour participated in the ILO/TURIN course on International Labour Standards that included topics such as the 1998 ILO Declaration and issues pertaining to the PR.</p> <p><b>2003 AR:</b> The Government referred to the participation of the most representative employers' and workers' organizations in the Southern Common Market (MERCOSUR) social and labour forums at regional level.</p>

		<p><b>2000 AR:</b> According to the Government: The Ministry of Labour and Employment including labour court judges and the civilian society have developed a broad programme of seminars, courses, training modules and similar activities on labour relations issues, in cooperation with the ILO. Several handbooks were also published on various topics including unionization.</p>	
	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: The national sectoral round tables are an example of good practice. The construction sector round table culminated in the signing of the National Commitment to Improve Working Conditions in the Construction Industry, which aims to improve working conditions at construction sites nationwide. Moreover, a National Permanent Round Table was created which has a tripartite structure and is coordinated by the General Secretariat of the Office of the President of the Republic, in conjunction with the MTE. Besides serving as a permanent forum for discussion between the parties concerned, the Round Table is also entrusted with receiving and disseminating adhesions to the commitment. In another approach, a national round table for the tourism and hospitality sector was established. With a tripartite and joint format, one of its actions was the signing of the National Commitment to Improve Working Conditions in the 2014 Fédération Internationale de Football Association (FIFA) World Cup in Brazil. More than 1,000 companies in the tourism, hospitality and food sectors from the 12 cities that hosted the World Cup adhered to the commitment. This “term sheet” will serve as a benchmark for the debates that continue to take place within the sectoral round table, and for the building of consensus. It is noteworthy that the national round tables that have been established are having a positive effect on union organization, which is now being carried out in the workplace through the union committee there, and consequently on the strengthening of collective bargaining. Another important initiative launched by the executive branch is the national campaign entitled “Decent People Respect Decent Work”. The campaign was aired in the media, and the goal was to defend the notion of decent work within society. As part of the campaign, workshops were held from November 2013 to February 2014 in partnership with the governments of the cities that hosted the World Cup. The workshops, attended by employers’, workers’, civil society, and public officials’ organizations, culminated in the signing of commitments and protocols between local social actors. Also as part of this process, the National Commitment on Decent Employment and Work in the 2014 FIFA World Cup in Brazil was signed in May 2014 in the presence of Dilma Rousseff, President of the Republic, and the main employer and trade union federation representatives.</p> <p><b>2012 AR:</b> According to the Government: The Labour Relations Council was established by Ministerial Order No. 2.092/2010 in 2010, comprising representatives of the Ministry of Labour and Employment, workers and employers.</p> <p><b>2005 AR:</b> According to the Government: The adoption of the final report on the Trade Union Reform.</p> <p><b>2004-2005 ARs:</b> According to the Government: The creation of the National Labour Forum (FNT), a tripartite body, which focuses on elaborating proposals for trade union and labour reform.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>NIL.</b></p>
		<p><b>Workers’ organizations</b></p>	<p><b>2015 AR:</b> According to the UGT: The Government interferes in trade union activities in Brazil by trying to undermine the decisions taken by unions’ general assemblies (for example, vis-à-vis the application of the trade unions letter of 31<sup>st</sup> September 2008 signed by FS, CUT, Nova Central (NCST), Central dos Trabalhadores do Brasil (CTB) and CGTB.</p> <p><b>2009 AR:</b> According to the CUT: Whenever tackling labour reform, the CUT supports the end of the single trade union system.</p> <p>The ITUC reiterated the observations it made under the previous ARs, in particular as regards: (i) the link between the “Unicidade” System and the compulsory trade union tax; and (ii) the practical impossibility to exercise the right to strike in the public service and in the private sectors. It</p>

		<p>also mentioned the new Law 1990/07 of the Executive Power that recognizes trade union confederations as entity to represent workers generally and legally, as well as the need for the Government to put into practice its intention expressed by President Lula da Silva to revise Brazil Labour Code in compliance with international labour standards, especially C.87.</p> <p><b>2008 AR:</b> The ITUC indicated the following challenges: by law, each worker must pay a compulsory trade union tax, equivalent to one day’s pay. It is deducted from their pay in March and then distributed to the unions, federations and confederations. A portion also goes to an employment and wage fund at the Ministry of Labour. The funds are distributed in proportion to the number of workers legally represented (based on the obligatory single union system, not on the number of workers actually affiliated).</p> <p><b>2007 AR:</b> According to the ICFTU: (i) the “unicidade” system provides that there can only be one trade union per economic or occupational category in each territorial area. This geographically based single union system means that some sectorial federations and national trade union centres are not legal; (ii) restrictions on the right to strike in the public services; (iii) establishment by companies of a blacklist system that targets workers who filed complaints against their employer; (iv) the anti-discrimination legislation is not enforced in case of violations and (v) weak enforcement of labour laws in the Export Processing Zones (EPZs).</p> <p><b>2005 AR:</b> The ICFTU made observations on the following issues: (i) violation of union rights by employers; (ii) establishment by companies of a blacklist system that targets workers who filed complaints against their employer; (iii) rural workers’ unions are confronted by hostile employers; (iv) incapacity of national authorities to apply anti-union discrimination; and (v) weak enforcement of labour laws in the Export Processing Zones (EPZs).</p> <p><b>2002-2004 ARs:</b> The CUT made the following observations: (i) there are constitutional, legislative, and administrative barriers to freedom of association; (ii) labour courts may order the stoppage of a strike and impose fines on striking unions; (iii) the Government’s control over trade union registration; (iv) violation of trade union rights in Brazil because of employers and police’s obstruction of the work of trade unions; and (v) incapacity of the national authorities to protect workers’ rights.</p>
	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> A number of legislative measures need to be implemented to ensure compliance with C.87. In Brazil, collective bargaining is provided for directly in the Constitution, which states that workers must be represented by their unions and that employers cannot refuse to negotiate. The MTE participates as a mediator when requested to do so by the parties in conflict. On the other hand, it is known that the fragmentation of labour organization ends up weakening collective bargaining, since there are few organizations whose representativeness has been assessed by the workers. nefon.</p> <p><b>2012 AR:</b> According to the Government: The greatest challenge to the promotion and realization of freedom of association lies in the strengthening of trade union organizations and the constitutional provision that only one union can be created to represent a given category in a particular territory. Amending the provision would not be in line with the understanding of the trade union organizations themselves with regard to the need for such organizations to be representative, active and prepared to defend workers and to negotiate progress for the group of workers concerned. The challenge therefore is getting workers involved in the trade union movement, as only a broad membership will make a union strong. This requires action by the organizations and the Government to create a new model of trade union organization. It will only be possible to promote and realize full freedom of association with strong trade union organizations.</p>

		<p><b>2007 AR:</b> According to the Government: The proposal for trade union organization agreed upon during the National Labour Forum to be submitted to the National Congress in 2006 will still not allow ratification of C.87, because the proposed model is neither for trade union nor for plurality, but is based on the real or <i>de facto</i> representativity of trade union bodies, unlike the present model where representativity is merely legal, with representation and unity based primarily on the seniority of trade union bodies.</p> <p>In response to the ICFTU’s observations, the Government made the following comments: (i) a new legislation proposed within the National Labour Forum (FNT), in July 2003, which is pending the end of the examination of the Proposed Constitutional Amendment (PEC) 369/05, provides for a series of situations involving anti-union conduct. Any act, the purpose of which is to undermine or damage trade union activity on the part of the employers or the workers, shall be held to be anti-union conduct and the perpetrator shall be subject to penalties; (ii) article 37, VII, of the Federal Constitution guarantees the right to strike of civil servants, stipulating that this right shall be exercised under the terms and within the limits defined under the relevant law. However, no law has been passed regulating the exercising of the right to strike of civil servants. Therefore, the Constitutional Court of Brazil, issued a ruling in which it stated the following: “(...) the constitutional precept that recognized the right to strike of public civil servants constitutes a standard of purely limited effectiveness and is consequently not self-executing, for which reason, in order to act fully, it requires the passage of the supplementary law called for in the text of the Constitution itself (...)” Aware of the need for regulations governing the right to strike of public civil servants, the Government, within the framework of the Sectorial Chamber of the Public Service of the National Labour Forum (FNT), guided the discussions with the social partners directly concerned by this issue, with the aim of formulating a draft law regulating the right to strike of civil servants. The draft law is in the final stage of preparation. Moreover, as was previously pointed out, the Government also strengthens its commitment to an urgent project directed at Brazilian workers. The aim of the project is to regulate the right to strike in the public service, this constitutional precept never having previously been regulated. The issue was widely debated within the Sectorial Chamber of the Public Service of the FNT.</p> <p><b>2005 AR:</b> The main difficulties encountered in realizing the PR in Brazil are as follows: (i) lack of public awareness and/or support; (ii) social values, cultural traditions; (iii) social and economic circumstances; (iv) political situation; (v) legal provisions; (vi) lack of capacity of employers’ organizations;(vii) lack of capacity of workers’ organizations.</p> <p><b>2002-2003 ARs:</b> Much progress has been made as far as the PR is concerned and it believes that technical cooperation offered by the ILO has helped greatly in developing a new model of labour relations in Brazil. However, despite the wide-ranging constitutional and legal guarantees, the Government also acknowledges that there are barriers in realizing the PR. These include: the rule whereby there may be only one union for each occupational or economic category, and the rule whereby everyone must pay compulsory union/confederation contribution.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: Technical assistance that enhances the benefits of adopting the provisions of C.87 would contribute greatly to ensuring compliance between national legislation and the provisions of C.87.</p> <p>UGT requested ILO technical assistance to sensitize its members on the PR, the role of trade unions in promoting freedom of association, and decent work.</p> <p><b>2014 AR:</b> The Government reiterated the request it made under the 2012 AR.</p> <p><b>2012 AR:</b> According to the Government: There is a need for greater cooperation between Brazil and countries that have ratified C.87, in order to find ways to maintain the country’s organization of trade unions and collective bargaining. It is important to bear in mind that, in Brazil, whatever a union has negotiated applies to everybody, and it is not known what the impact would be of changing to a model in which the negotiated agreement would apply only to union members, as this would mean that there would be two or more different sets of working conditions for workers in the same enterprise. Therefore, it would also be useful to have share experiences from other countries and have information on how the issue of union organization in the public sector is addressed in other countries.</p> <p><b>2010 AR:</b> The Government reiterated the request it made under the 2005 AR.</p> <p><b>2005 AR:</b> The Government identified needs for technical cooperation in the following areas: (1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR, awareness raising, legal literacy and advocacy, strengthening data collection and capacity for statistical analysis, legal reform (labour law and other relevant legislation);(iv) capacity building of responsible government institutions, training of other officials (police, judiciary, social workers, teachers), strengthening capacity of employers’ organizations, strengthening capacity of workers’ organizations, strengthening tripartite social dialogue; (2) Sharing of experiences across countries/regions.</p> <p><b>2002 AR:</b> The Government in response to the ICFTU comments made the following observations: (i) although progress has been made, there are still major obstacles in realizing the PR; (ii) violence against rural workers relates to a high concentration of land ownership, disputes about access to land and demands for agrarian reform rather than to union issues; (iii) there is a broad constitutional guarantee of freedom of association for civil rights, however they do not have the right to engage in collective bargaining; (iv) union leaders from the time their candidatures have been registered must be kept in employment for up to one year after the end of their term of office (article 8 (VIII)); (v) in case of improper dismissal of union members in the public sector, those affected have the right to return to their occupation by order of the competent authority of the system of justice; (vi) the strike is not authorized for category of workers of essential services.</p> <p><b>2001 AR:</b> The Government in response to the CNC made the following comments:(i) the observations of the CNC were not reflected in the Government final report because they were sent later; (ii) the Government supports the view of CNC concerning the scope of Act. No. 9.958 of the 12 January 2000, amending the Consolidation of Labour Laws.</p>
	<p><b>Offer</b></p>	<p>ILO, MERCOSUR, the Organization of American States (OAS).</p>





<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that the Government of Brazil (and another country) reported that it did not intend to ratify C.87. They noted that, after an initial stage where the Government had been seeking to amend its Constitution with a view to allowing greater freedom of association, since 2006, the Government indicated that it was not possible to ratify this Convention as it run contrary to the provisions of the Constitution. The IDEAs also noted that the Single Central Organization of Workers (CUT) supported maintaining the single trade union system and therefore did not favour ratification of Convention No. 87. In this regard, the IDEAs expressed concern that insufficient governmental efforts had been made in order to meet the commitment of removing legal obstacles, and urged the Government to proceed in this matter and work jointly with the Office in giving effect to this PR. Finally, the IDEAs noted that restrictions, in Brazil (and other countries), on the rights of certain categories of workers in Brazil (and some other countries), such as workers in the export processing zones, and workers in the public service, were not compatible with the realization of this principle and right (cf. paragraphs 27, 28 and 38 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs listed Brazil among the four countries in which 52 per cent of the total labour force of ILO member States live and which have not yet ratified C.87 and C.98. This leaves many millions of workers and employers without the protection offered by these instruments in international law, even if the governments concerned may consider that their law and practice are sufficient. Furthermore, the IDEAs observed that with a view to giving full effect to this principle and right, the Government should be able to offer to all workers the opportunity to exercise their rights, and not have restrictions on the right to organize of workers in the export processing zones and workers in the public service (cf. paragraphs 32 and 37 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The IDEAs listed Brazil among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (cf. paragraph 13 of the 2005 Annual Review Introduction– ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs noted that Brazil was still seeking to amend its Constitution to allow greater freedom of association, and urged the Government to proceed in this matter (cf. paragraph 80 of the 2004 Annual Review Introduction– ILO: GB.289/4).</p> <p><b>2003 AR:</b> The IDEAs noted that there were also indications of legislative developments toward realizing the PR in Brazil (cf. paragraph 39 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p> <p><b>2001 AR:</b> The IDEAs noted that relatively few national employers’ organizations submitted separate observations, but where they did, they offered useful insights into their experiences and the implications of recent legislative and institutional developments, as in the case of Brazil (cf. paragraph 76 of the 2001 Annual Review Introduction – ILO: GB.280/3/1).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>





**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2008-2015) <sup>1</sup>: BRUNEI DARUSSALAM**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , but late report for the 2011 Annual Review (AR). Brunei Darussalam joined the ILO in 2007.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (the National Chamber of Commerce and Industry, NCCI) and workers' organizations (the Brunei Oilfield Workers Union, BOWU) by means of consultation and communication of a copy of the Government's report and country baseline.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the NCCI. <b>2014 AR:</b> Observations by the NCCI. <b>2013 AR:</b> Observations by the NCCI. <b>2012 AR:</b> Observations by the NCCI. <b>2008 AR:</b> Observations by the NCCI and its three affiliates.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the BOWU. <b>2014 AR:</b> Observations by the BOWU. <b>2013 AR:</b> Observations by the BOWU. <b>2012 AR:</b> Observations by the BOWU. <b>2009 AR:</b> Observations by the International Trade Union Confederation (ITUC). <b>2008 AR:</b> Observations by the BOWU. Observations by ITUC.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Brunei Darussalam has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<p><b>Under consideration, in consultation with the employers' and workers' organizations.</b></p> <p><b>2014–2015 ARs:</b> The Government reported that internal consultations on ratification of C.87 and C.98 were ongoing within the concerned ministries.</p> <p>The NCCI and the BOWU expressed their support for the ratification of C.87 and C.98.</p> <p><b>2013 AR:</b> The NCCI reiterated its support to a progressive ratification of all the unratified ILO fundamental Conventions by Brunei Darussalam, including C.87 and C.98.</p> <p>The BOWU expressed their support for the ratification of C.87 and C.98.</p> <p><b>2012 AR:</b> The Government reiterated that it was still reviewing the possibility to ratify C.87 and C.98 in consultation with the employers' and workers' organizations.</p> <p><b>2009 AR:</b> The Government reiterated that it was still reviewing the possibility to ratify C.87 and C.98 in consultation with the employers' and workers' organizations.</p> <p><b>2008 AR:</b> The Government stated that it is considering the possibility to ratify C.87 and C.98, in consultation with the employers' and workers' organizations.</p> <p>The NCCI supported the ratification of all the ILO fundamental Conventions by Brunei Darussalam, including C.87 and C.98.</p> <p>The BOWU wished to explore the possibility of ratifying C.87 and C.98 along with the Government and the employers' organizations.</p>
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>NO.</b>
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation:</b> <ul style="list-style-type: none"> <li>– The Trade Union Act (Cap. 128); and</li> <li>– The Trade Disputes Act (Cap. 129).</li> </ul> </li> </ul> <p><b>2008 AR:</b> There is no provision in the law that underpins the right to collective bargaining. An individual contract is required between an employer and a worker, and trade union activities are not allowed to violate these individual labour contracts.</p>
		<b>Basic legal provisions</b>	(i) The Trade Union Act (Cap. 128), sections 3, 8, 13 and 15-21; (ii) the Trade Disputes Act (Cap. 129), sections 3, 7-30; and (iii) The Employment Order, 2009.
		<b>Judicial decisions</b>	<b>NIL.</b>



	<p><b>Exercise of the principle and right</b></p>	<p><b>At national level (enterprise, sector/industry, national)</b></p>	<p><b>For Employers</b></p>	<p><b>2014 AR:</b> According to the Government and the NCCI: Mechanisms for collective bargaining and a system for registration of employers' organizations are in place and well-functioning.</p> <p><b>2008 AR:</b> Government authorization or approval is required to establish an employers' organization. Employers' organizations are established under the applicable law regulations.</p> <p>The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry and national levels for all categories of employers.</p>
			<p><b>For Workers</b></p>	<p><b>2014 AR:</b> According to the Government and the BOWU: Mechanisms for collective bargaining and a system for registration of trade unions are in place and well-functioning.</p> <p><b>2008 AR:</b> Government authorization or approval is required to establish a workers' organization, but not to conclude collective agreements. The conditions for establishing workers' organizations are provided for under the Trade Union Act (Cap. 128).</p> <p>The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry and national levels for the following categories of workers: (i) all workers in the public service, except in the army, police and prison services under the Trade Union Act (Cap. 128). However, a social and welfare association has been formed by prison staff under the Societies Order, 2005, and this association can defend the professional interests of this category of workers; (ii) medical professionals; (iii) teachers; (iv) agricultural workers; (v) workers engaged in domestic work; (vi) workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (vii) migrant workers; (viii) workers above the age 18 years or between 16 and 18 with parental consent; and (ix) workers in the informal economy.</p> <p>According to the BOWU, the right to collective bargaining is exercised through the free negotiation of collective agreements between the BOWU and Brunei Shell Petroleum. In this respect, a collective agreement is concluded every three years (with possibility of extension) and registered as such in the Labour Department.</p>
			<p><b>Special attention to particular situations</b></p>	<p><b>NO.</b></p>



			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> The Government indicated that a labour force survey with a view to facilitate efforts to promote and realize the PR funded by the Government (US\$370,000) has been launched in the country in cooperation with ILO.</p> <p>According to the BOWU: 60 out of 3000 workers operating in Brunei Shell Petroleum are members of BOWU.</p> <p><b>2012 AR:</b> According to the BOWU: 174 out of 3500 workers operating in Brunei Shell Petroleum are members of BOWU.</p> <p><b>2008 AR:</b> According to the BOWU: 232 out 831 workers among the technical assistant supervisors of Brunei Shell Petroleum are unionised with the BOWU.</p> <p>According to the NCCI: the NCCI gathers about 1,500 employers and is composed by three major affiliates: the Malay Chamber of Commerce and Industry (MCCI), the Chinese Chamber of Commerce (CCC) and the International Chamber of Commerce (ICC).</p>
		<p><b>At international level</b></p>		<p>According to the Government: The principle and right (PR) is recognized at international level for employers' and workers' organizations, subject to the provisions of section 17 of the Trade Union Act (Cap. 128).</p>
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2008 AR:</b> According to the Government: Specific governmental measures have been implemented (legal reform, inspection and monitoring mechanisms by the Labour Department Inspectorate, penal sanctions, capacity building of responsible government officials, tripartite discussion of issue and awareness raising/advocacy) to respect, promote and realize freedom of association in the country. In this regard, the Trade Union Act (Cap. 128), section 19, provides for penal sanctions (fines of B\$ 6,000 (about US\$ 4,445 as of November 2007) and 6 months imprisonment) when an employer contravenes the Trade Union Act provisions by discriminating a worker on the basis of his being or not being a member of a trade union.</p>		
	<p><b>Involvement of the social partners</b></p>			<p><b>2014–2015 ARs:</b> According to the Government, the NCCI and the BOWU: Social dialogue is practiced on a regular basis. Tripartite consultations concerning the ratification of C.87 and C.98 will be initiated once the Government has concluded its internal consideration process.</p> <p><b>2009 and 2013 ARs:</b> According to the Government, the employers' and workers' organizations are being involved in the ratification process of the ILO fundamental Conventions.</p> <p><b>2008 AR:</b> According to the Government: the MCCI and the BOWU are involved tripartite consultations.</p>



	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> The Government, the NCCI and the BOWU indicated that tripartite promotional activities had been conducted, in May 2015 including a sports tournament organized by the Labour Department, the private sector and trade unions to raise awareness on the PR.</p> <p><b>2014 AR:</b> The Government, the NCCI and the BOWU indicated that tripartite promotional activities had been conducted, including a sports tournament organized by the Labour Department, the private sector and trade unions to raise awareness on the PR. The Government added that a labour force survey was in the process of being developed, mapping the structure of the workforce, with a view to facilitate efforts to promote and realize the PR.</p> <p>The BOWU reported that the new collective agreement, mentioned under the 2013 AR, was still under discussion and expected to be signed before the end of 2013.</p> <p><b>2013 AR:</b> The BOWU indicated that it was about to organize a consultation with its members in the framework of the preparation of the new collective agreement, which was expected to be signed in 2012 covering a period of 3 years.</p> <p><b>2012 AR:</b> The Government indicated that the celebration of Labour Day in 2011 was, for the first time, initiated by employers and workers and supported by the Government.</p> <p>The NCCI and the BOWU confirmed the Government's statement.</p> <p><b>2010 AR:</b> According to the Government: In September 2009, two Senior Officers of the Department of Labour participated in the Course on International Labour Standards (ILS) held in Singapore, during which issues concerning the Declaration and its follow-up had been addressed, including those relating to C.87 and C.98.</p> <p><b>2009 AR:</b> The Government indicated that one of its senior officers participated in the May 2008 Turin Course on international labour standards and the 1998 ILO Declaration.</p> <p><b>2008 AR:</b> According to the Government: In November 2007, officials of the Labour Department of the Ministry of Home Affairs and of the Attorney General's Office were sensitized on the fundamental principles and rights at work, ILO fundamental Conventions and reporting issues during ILO's assistance in reporting issues carried out in November 2007.</p> <p>The NCCI stated that it promotes the relationship between these principles and rights, decent work and sustainable enterprises through discussions among its members and with the Government.</p> <p>The BOWU stated that it organizes monthly meetings to increase knowledge on ILO and fundamental principles and rights at work among its members.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> The Government indicated that Brunei Darussalam hosted for the first time in 2014 the 5<sup>th</sup> Regional Tripartite Forum on Social Dialogue for Growth, Employment and Sound Industrial Relations in the Services Sector in ASEAN. Moreover, the Government indicated that national labour laws are being amended to comply with ILO standards in the framework of TransPacific Partnership.</p> <p><b>2013 AR:</b> According to the Government: The Labour Department has organized one-month sport competition activities in cooperation with the employers' and workers' organizations in conjunction with the Labour Day Celebration in May 2012, with the view to strengthening the tripartite partnership in Brunei Darussalam.</p> <p><b>2010 AR:</b> The Government indicated that it had organised the Labour Day on 2 May 2009, including a theme emphasizing on Health and Safety at Work, as well as a walkathon.</p> <p><b>2009 AR:</b> The Government stated that it had celebrated the Labour Day on 3 May 2008, including ILO's participation on Decent Work issues, and a walkathon.</p>



<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2008 AR:</b> According to the NCCI: No problems are being encountered to exercise the PR in the country. However, employers lack capacity building on the PR.</p>
	<p><b>Workers' organizations</b></p>	<p><b>2009 AR:</b> The ITUC reiterated the observations it made under the 2008 AR, in particular with respect to: (i) legal restrictions concerning trade union rights (creation and international affiliation); (ii) the non-explicit recognition of the right to strike; (iii) the absence of legal provisions governing collective bargaining; and (iv) the exclusion of skilled and unskilled migrant workers from the scope of the majority of labour laws.</p> <p><b>2008 AR:</b> According to the BOWU: There are no major problems to exercise the PR in the country, and bipartite negotiations with Brunei Shell Petroleum have been fruitful so far for workers, without any government interference. However, the issue of freedom of association and the right to collective bargaining needs to be further discussed with the Labour Department so as to strengthen the capacity of workers' organizations and the Labour Department officials.</p> <p>According to the ITUC: In Brunei Darussalam, the suspension of democratic rights, dating from 1962 and renewed by the government every two years, prevents trade union activity. The law prohibits unions and federations from affiliating with international union bodies unless they receive prior written consent from both the Minister of Home Affairs and the Labour Department. Also, it does not explicitly recognize the right to strike. Except for those in the army, police and prisons, civil servants are permitted to form and join unions, but none have done so. Moreover, their associational rights as well as those of the members of the security forces are significantly limited by a strict prohibition against them to join political parties of any kind. In practice, there are only three trade unions registered in the country, all in the oil sector, representing a total of approximately 1,500 workers. Two of the unions representing office workers are allegedly inactive, while the remaining union, comprised of manual oil field workers, has limited activities. These unions exercise little independence from government authority. There was virtually no discernible trade union activity in 2006. As regards migrant workers, the majority of national laws apply only to nationals, thereby failing to cover skilled and unskilled migrant workers, who make up from 30 to 40 per cent of the total workforce. Migrant workers are over 100,000 in the country, including over 10, 000 garment workers, none of whom are members of a trade union. Some migrant workers have reportedly carried out work stoppages in protest, which are illegal under the labour law barring strikes. In September 2005, three hundred migrant workers employed by a garment factory held a public protest complaining that they have not been paid for six months. As the protest was not permitted to continue, government officials reportedly worked with foreign Embassy staff to find alternative employment for the workers while prosecuting the company's representatives.</p>	



	<p><b>According to the Government</b></p>	<p><b>2014–2015 ARs:</b> According to the Government: Challenges are related to realizing the PR in SMEs, which make up a significant part of the economy. Furthermore, a lack of resources and capacity to fulfil ILO reporting obligations hampers the Government from ratifying any further instruments before the reporting capacity has been strengthened.</p> <p><b>2012 AR:</b> The Government reiterated the same challenges as in the 2008 AR: (i) Lack of public awareness and/or support; (ii) Lack of information and data; (iii) legal provisions; (iv) lack of capacity of responsible government institutions; (v) lack of capacity of employers’ and workers’ organizations; and (vi) lack of social dialogue on the principle and right (PR).</p> <p><b>2010 AR:</b> The Government indicated the same challenges as in the 2008 AR: (i) Lack of public awareness and/or support; (ii) Lack of information and data; (iii) legal provisions; (iv) lack of capacity of responsible government institutions; (v) lack of capacity of employers’ and workers’ organizations; and (vi) lack of social dialogue on the principle and right (PR).</p> <p><b>2009 AR:</b> The Government reiterated the challenges indicated in the 2008 AR.</p> <p><b>2008 AR:</b> According to the Government: (i) Lack of public awareness and/or support; (ii) Lack of information and data; (iii) legal provisions; (iv) lack of capacity of responsible government institutions; (v) lack of capacity of employers’ and workers’ organizations; and (vi) lack of social dialogue on the principle and right (PR).</p> <p>In response to the ITUC’s observations, the Government stated as follows:(i) the Trade Unions Act (Cap. 128) and the Trade Disputes Act (Cap. 129) regulate trade unions and trade disputes respectively, and both legislations are still in force. Moreover, as of 2004, the Legislative Council was re-established and comprises 45 persons including representatives from the four districts; (ii) the current unions registered under the Trade Unions Act are the following: (a) The Brunei Government Subordinates Officers’ Union; (b) the Royal Brunei Customs Workers’ Union; and (c) the Brunei Oilfield Workers’ Union (BOWU); (iii) as regards the members of Royal Brunei Police Force, the Royal Brunei Armed Forces and the members of the Prison Services, they are not allowed to join any trade union. However, they are protected under specific laws, namely the Royal Brunei Police Act (Cap. 50), the Royal Brunei Armed Forces Act (Cap. 149), and the Prisons Act (Cap. 51); (iv) civil servants are not prohibited from joining trade unions; (v) concerning migrant workers, although this category of workers are not prohibited from joining trade unions and are protected under national labour laws, they are not members of any trade unions. Moreover, national laws do not differentiate between citizen and non-citizen workers; and (vi) as regards the garment industry, there were about 6,250 garment workers in 2006. The Government has taken legal action against a garment factory for failing to pay wages to citizens and non-citizens. The company faces 200 criminal charges concerning non-payment of wages under section 108 of the Labour Act (Cap. 93), and if found guilty, it could be fined up to B\$300,000 (about US\$ 222, 000 as of November 2007). Winding up proceedings have also been taken against the company whereby a liquidator has been appointed.</p>
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<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2014 AR:</b> According to the Government: ILO technical cooperation is needed in the following areas: (i) guidance on how to ensure the realization of the PR in SMEs; (ii) sharing of experiences from other countries; and (iii) strengthening the Government's capacity to fulfil its ILO reporting obligations.</p> <p><b>2008 and 2012-2013 ARs:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Brunei Darussalam, in particular in the following areas, by order of priority: (1) strengthening data collection and capacity for statistical collection and analysis; sharing of experiences across countries/regions; (2) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; legal reform (labour law and other relevant legislation); capacity building of responsible government institutions; strengthening tripartite social dialogue; training of other officials (e.g. police, judiciary, social workers, teachers); and (3) awareness-raising, legal literacy and advocacy; strengthening capacity of employers' and workers' organizations. These priorities may be satisfied through the preparation (survey and validation seminar) and the possible launch of a national programme to promote and realize the fundamental principles and rights at work in Brunei Darussalam, in consultation with the employers' and workers' organizations and the ILO.</p> <p>The NCCI and the BOWU supported the Government's request and emphasized the need for ILO assistance to strengthen the employers' and workers' organizations and prepare for a survey/seminar to promote and realize the fundamental principles and rights at work in Brunei Darussalam.</p>
	<b>Offer</b>	ILO (consultations on Decent Work Country Programme and assistance in reporting under the AR).
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers noted with particular interest that Brunei Darussalam, a new ILO member State, has provided a report (cf. paragraph 25 of the 2008 AR Introduction – ILO: GB.301/3).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015) <sup>1</sup>: CANADA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, since the start of the Annual Review (AR) in 2000.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Federal Government: Involvement of the Canadian Employers' Council (CEC), the Canadian Labour Congress (CLC) and the Confédération des syndicats nationaux (CSN) through communication of government reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the Canadian Employers Council (CEC). <b>2012 AR:</b> Observations by the Canadian Employers Council (CEC).
	<b>Workers' organizations</b>	<b>2014 AR:</b> Observations by the CSN. <b>2012 AR:</b> Observations by the CLC. Observations by the CSN. <b>2010 AR:</b> Observations by the CLC. <b>2008 AR:</b> Observations by the International Trade Union Confederation (ITUC). <b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p>Canada ratified in 1972 the Freedom of Association and the Right to Collective Bargaining Convention, 1948 (No. 87) (C.87). However, it has not yet ratified the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98).</p>
		<p><b>Ratification intention</b></p>	<p><b>Unable to ratify C.98 at this time, but a review of this instrument may take place with a view to possible ratification.</b></p> <p><b>2014-2015 ARs:</b> The Government reiterated the statement it made since the 2012 that federal, provincial and territorial Ministers responsible for labour issues agreed to initiate a review of C.98 in 2013 with a view to its possible ratification.</p> <p>According to the CEC: In recent years, C.98 has been interpreted in an overly expansive, “one size fits all” manner by various organs of the ILO. This interpretation is at odds with important features of Canada’s labour relations system that balance the interests of employers, unions, and workers. Consequently, the CEC does not support the ratification of C.98.</p> <p><b>2012 AR:</b> According to the Government: In January 2011, federal, provincial and territorial Ministers responsible for labour issues agreed to initiate a review of C.98 in 2013 with a view to its possible ratification.</p> <p><b>2010-2011 ARs:</b> According to the Government: Discussions concerning ratification of C.98 are continuing with provincial and territorial governments, in light of Supreme Court decisions (Health services cases).</p> <p>The CLC urged the Government to express clearly its intention to ratify C.98 and to convene at least one meeting in Canada (before the next ILO reporting cycle) with social partners so as to discuss how to address the barriers to ratification of this Convention and other core labour Conventions. Such a meeting could also help streamline the participation of social partners in Canada’s reporting process to the ILO.</p> <p><b>2009 AR:</b> The Government indicated that it was pursuing discussions with provincial and territorial governments concerning ratification of C.98. Moreover, it was also monitoring developments with respect to the June 2007 decision of the Supreme Court of Canada that found that freedom of association under section 2(d) of the Canadian Charter of Rights and Freedoms protects the right of employees to associate in order to achieve workplace goals through a process of collective bargaining.</p> <p><b>2008 AR:</b> The Government indicated that Canada is pursuing discussions with provincial and territorial governments concerning ratification of C.98.</p> <p><b>2006 AR:</b> According to the Government: While there is a high degree of conformity with the principle of collective bargaining in Canada, there are some differences between national legislation and specific provisions of C.98 as interpreted by the ILO Committee of Experts.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government would continue to examine the Convention in consultation with the provinces and territories.</p>



	<p><b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES</b>, according to the Government: In the Constitution, the Canadian Charter of Rights and Freedoms provides for freedom of assembly and association. The Charter applies to Parliament, the provincial/territorial legislatures and the federal provincial and territorial governments. Freedom of association is also enshrined in Quebec’s <i>Charte des droits et libertés de la personne</i> that applies to the government of Quebec and to the private sector in that province.</p>
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b> Government’s prospects: Continuing promotion of the principle and rights of the Declaration. <b>2005 AR:</b> The Federal Government stated that ILO’s technical advisory assistance was valuable during a workshop for federal, provincial and territorial government representatives on issues pertaining to Canada’s international labour obligations and the ILO’s supervisory mechanisms and the Declaration of Fundamental Principles and Rights at Work held in February 2003. <b>2003 AR:</b> The Government expressed interest in exploring the use of ILO communication products for the promotion of the 1998 <i>ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up</i>.</li> <li>• <b>Legislation:</b> The Canadian Charter of Rights and Freedoms as well as federal, provincial and territorial labour relations legislation relate to the principle and right (PR). <b>2015 AR:</b> According to the Government: On 16 June 2015, the union certification and decertification rules under the federal <i>Canada Labour Code</i> (Code), the <i>Parliamentary Employment and Staff Relations Act</i> (PESRA) and the <i>Public Service Labour Relations Act</i> (PSLRA) were modified by replacing a card-check system (whereby a union is certified by demonstrating majority support, usually through signed union cards) with a mandatory vote system (whereby a union is certified or decertified based on a secret ballot representation vote). Parties seeking the certification or decertification of a union under the Code, the PESRA or the PSLRA, require the support of at least 40 percent of employees in the bargaining unit to hold a vote. All votes are administered by the applicable labour board. Results of a representation vote are determined on the basis of the majority of ballots cast. See Bill C-525, the <i>Employees’ Voting Rights Act</i>: <a href="http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&amp;Mode=1&amp;DocId=6836511">http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&amp;Mode=1&amp;DocId=6836511</a> <b>2014 AR:</b> According to the CSN: Legal changes concerning collective bargaining include Act C-60 (the <i>Economic Action Plan 2013 Act, No. 1</i>). <b>2000-2005 ARs:</b> According to the Government: All Canadian governments have adopted labour legislation, which recognizes and provides a framework for collective bargaining for employees and employers within their respective jurisdictions.</li> </ul>
		<p><b>Basic legal provisions</b></p>	<p>– Canadian Charter of Rights and Freedoms.</p>



			<ul style="list-style-type: none"> <li>– Federal legislation: (i) Canada Labour Code (Part I); (ii) Public Service Staff Relations Act; (iii) Status of the Artist Act.</li> <li>– Provincial and territorial legislation:  <i>Alberta:</i> Labour Relations Code (LRC); Public Service Employee Relations Act (PSERA); Police Officers Collective Bargaining Act (POCBA).  <i>British Columbia:</i> Labour Relations Code; Public Service Labour Relations Act.  <i>Manitoba:</i> Labour Relations Act; Civil Service Act (certain sections); Public Schools Act; Fire Departments Arbitration Act.  <i>New Brunswick:</i> Industrial Relations Act; Public Service Labour Relations Act.  <i>Newfoundland:</i> Labour Relations Act; Public Service Collective Bargaining Act; Interns and Residences Act; Newfoundland Teachers Collective Bargaining Act; Fishing Industry Collective Bargaining Act; Royal Newfoundland Constabulary Act; St. John’s Firefighters Act.  <i>Nova Scotia:</i> Trade Union Act; Teachers’ Collective Bargaining Act; Corrections Act; Civil Service Collective Bargaining Act; Highway Workers’ Collective Bargaining Act.  <i>Ontario:</i> Labour Relations Act, 1995 (LRA); School Boards and Teachers Collective Negotiations Act, 1993; Crown Employees Collective Bargaining Act; Public Service Act; Colleges Collective Bargaining Act; Hospital Labour Disputes Arbitration Act; Police Services Act; Fire Protection and Prevention Act, 1997; Public Sector Transition Stability Act, 1997.  <i>Prince Edward Island:</i> Labour Act; Civil Service Act and Regulations; School Act.  <i>Québec:</i> Code du travail (LRQ, c. C-27) (Labour Code); <i>Loi sur le régime de négociations des conventions collectives dans les secteurs public et parapublic</i> (Act in respect of the process for negotiating collective agreements in the public and parastatal sectors); <i>Loi sur les relations de travail, la formation professionnelle et la gestion de la main-d’œuvre dans l’industrie de la construction</i> (LRQ, c. R-20) (Act in respect of labour relations, vocational training and manpower management in the construction industry); <i>Loi assurant le maintien des services essentiels dans le secteur de la santé et des services sociaux</i> (Act to ensure that essential services are maintained in the health and social services sector); <i>Loi sur le statut professionnel et les conditions d’engagement des artistes de la scène, du disque et du cinéma</i> (LRQ, c. S-32.1) (Act concerning the professional status and conditions of engagement for performing artists, recording and film artists); <i>Loi sur le statut professionnel des artistes des arts visuels, des médias et de la littérature et sur leurs contrats avec les diffuseurs</i> (LRQ, c. S-32.01) (Act in respect of the professional status of artists in the visual arts and crafts and literature and their contracts with promoters).  <i>Saskatchewan:</i> Trade Union Act; Police Act; Fire Departments Platoon Act; Construction Industry Labour Relations Act.  <i>Northwest Territories and Nunavut:</i> Public Service Act.  <i>Yukon:</i> Education Act; Public Service Staff Relations Act.</li> </ul>
		<p><b>Judicial decisions</b></p>	<p><b>2015 AR:</b> According to the Government: The Supreme Court of Canada (SCC) rendered three landmark decisions in January 2015 redefining the scope of constitutional protection for workers’</p>

rights under subsection 2(d) (freedom of association) of the *Canadian Charter of Rights and Freedom* (Charter). In its decisions, the SCC provided that s. 2(d) in the labour relations context protects the right of employees to:

- join a trade union of their choosing that is independent of management;
- engage in a meaningful process of collective bargaining, which requires good faith labour-management dialogue (although there is no guarantee of a particular bargaining result or outcome); and
- engage in strike action, within certain limits (e.g. essential services). Where strike action is justifiably limited in a way that substantially interferes with a meaningful process of collective bargaining, it must be replaced by an alternative dispute resolution mechanism commonly used in labour relations (such as arbitration).

The three SCC decisions are:

[\*Mounted Police Association of Ontario \(MPAO\) v. Canada \(Attorney General\)\*, 2015 SCC 1](#)  
[\*Meredith v. Canada \(Attorney General\)\*, 2015 SCC 2](#)  
[\*Saskatchewan Federation of Labour v. Saskatchewan\*, 2015 SCC 4](#)

Moreover, there was a court decision related to the right to organize and effective recognition of the right to collective bargaining: *Egg Films Inc. v. Nova Scotia (Labour Board)*, 2014 NSCA 33 (<http://canlii.ca/t/g6dfz>). Another relevant one was *United Food and Commercial Workers, Local 503 v. WalMart Canada Corp.*, 2014 SCC 45

<http://www.canlii.org/en/ca/scc/doc/2014/2014scc45/2014scc45.html>

**2014 AR:** According to the CEC: Canadian courts and other adjudicators continue to carefully consider and apply the right to collective bargaining, as informed by international labour law, to specific cases. The Supreme Court’s decision in *Fraser (Ontario (Attorney General) v. Fraser (“Fraser”))* (released in April 2011)) specifically addressed the interaction of the *Charter*’s exclusion of categories of workers from general labour relations legislation or “traditional” statutory collective bargaining regimes. The Supreme Court concluded that such an exclusion is permissible so long as the alternative regime ensures that employees can make collective representations respecting working conditions to their employer, and that the employer, in turn, considers those representation in good faith. Prior to the Supreme Court’s decision, the Ontario Court of Appeal determined that the exclusion of agricultural workers from Ontario’s *Labour Relations Act (“LRA”)* and their inclusion in a separate statutory regime, the *Agricultural Employees Protection Act (“AEPA”)*, was unconstitutional because it failed to provide adequate statutory protections to allow these workers to engage in collective bargaining. The Court of Appeal found that while the *AEPA* allowed workers to form or join employee associations and to make representations to their employers regarding their employment, unlike the *LRA* it did not compel employers to respond to and bargain with employees. Subsequently, an 8-1 majority of the Supreme Court held that the Ontario Court of Appeal’s decision should be overturned and that the *AEPA* is constitutional. It made this determination on the basis that the Ontario Court of Appeal had significantly misinterpreted the scope of the constitutional protection for collective bargaining. The Supreme Court stated that Canadian legislatures are *not* constitutionally required to enact a duty to bargain in good faith nor a mechanism for resolving disputes related to the interpretation and administration of collective agreements.

In *Mounted Police Association of Ontario (MPAO) v. Canada (Attorney General)* (2012)



several voluntary associations of members of the Royal Canadian Mounted Police (RCMP) challenged the RCMP's Staff Relations Representative Program (SRRP), which is the system of employee-management consultation, as well as the exclusion of RCMP members from the general collective bargaining regime established in the *Public Service Labour Relations Act*. Under this statutory scheme RCMP members are not entitled to engage in traditional collective bargaining with RCMP management; rather, RCMP members are represented by the SRRP, which should facilitate a process of consultation with management. The Superior Court acknowledged that the SRRP process involved "extensive" collaboration carried out in "good faith" between management and the SRRP, but determined that this process of consultation did not satisfy the constitutional requirement that RCMP members have access to a process of collective bargaining. The Superior Court concluded that the SRRP was not independent of RCMP management and, further, that it did not provide for actual negotiation between RCMP members and management over terms and conditions' of members' employment. In the Superior Court's view, these were the basic collective bargaining protections that were guaranteed by section 2(d) of the *Charter*.

In MPAO, which was released on June 1, 2012, the Court of Appeal determined that the Superior Court's decision should be overturned and that the SRRP is constitutional. The Court of Appeal reasoned that the RCMP's existing labour relations system provided RCMP members with a means through which to act collectively to achieve their workplace goals, and there was evidence that good faith consultation between workers and management did in fact occur within this system, whereby the government was not constitutionally required to "recognize and negotiate" with the applicant employee associations (or other employee representative), or otherwise provide RCMP members with a more robust system of collective bargaining or worker-management negotiation. The Supreme Court will hear the appeal of MPAO in November 2013.

According to the CSN: In *Travailleuses et travailleurs unis de l'alimentation et du commerce (TUAC) v. Wal-Mart Canada* (2012) the TUAC submitted a case alleging that the Wal-Mart had closed its business only to avoid the imposition of a collective agreement. The Court of Appeal of Québec found the appeal invalid and reasoned that an employer always has the right to close its business, even for anti-union reasons. The CSN has obtained permission to intervene in the case, and the case was appealed to the Supreme Court of Canada in 2012. The judgments outlined in the case give further emphasis to the negative impact of the 2009 decision by the Supreme Court in another case of Wal-Mart anti-union business strategies.

In *Mounted Police Association of Ontario (MPAO) v. Canada (Attorney General)* (2012) the MPAO and the British Columbia Mounted Police Professional Association (BCMPPA) submitted a case concerning violations of the rights of members of the Royal Canadian Mounted Police (RCMP) to bargain collectively. The MPAO and the BCMPPA were established to provide a collective means of resolving employment issues with the RCMP management. However, although the RCMP enjoys freedom of association, the Staff Relations Representative Program (SRRP) has become the only process by which RCMP members may put forward collective demands. In 2009, the Ontario Supreme Court ruled that the process of negotiation do apply to members of the RCMP and should not only be channeled through the SRRP. Subsequently, this judgment was reversed by the Court of Appeal in 2012. The Supreme Court will hear the appeal of MPAO in November 2013.

**2012 AR:** According to the Government: The Supreme Court of Canada issued its decision in the





			<p>Fraser case on April 29, 2011. A majority of the Court held that section 2(d) of the Canadian Charter on Rights and Freedoms protects the right to associate to achieve collective goals and requires both the employer and employees to meet and engage in meaningful dialogue on workplace issues, and that the employer must consider the employees' representations in good faith. The Court also held that section 2(d) does not impose a specific collective bargaining process, a particular model of labour relations or a particular outcome. On April 13, 2011, the British Columbia Supreme Court found that the 2002 legislation removing the right of teachers to collectively bargain class size and composition with the government through their unions was a breach of section 2(d) of the Charter, and was therefore unconstitutional and invalid. On May 5, 2011, the B.C. government announced that it will not appeal the court's ruling.</p> <p><b>2008 AR:</b> a decision of June 2007 by the Supreme Court has considered that the workers' right to associate in order to achieve workplace goals through a process of collective bargaining is protected under article 2(d) of the Canadian Charter of Rights and Freedoms. The Government reported that since this overturns the Court's prior jurisprudence, this decision could have significant implication for industrial relations in the country.</p>
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	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<b>2000-2003 ARs:</b> All categories of employers may engage in collective bargaining either under legislation or on a voluntary basis.
			<b>For Workers</b>	<b>2003 AR:</b> The right to collective bargaining, with a few exceptions, applies to “employees”, defined as workers who have an employment relationship and who are not employed in a confidential capacity with respect to labour relations or do not exercise management functions. In some jurisdictions, some or all of the following categories of workers may be excluded from collective bargaining legislation, but are nevertheless entitled to negotiate with their employers on a voluntary basis: agricultural workers, domestic workers, and members of the medical, dental, architectural, legal and engineering professions, when employed in their professional capacity.
			<b>Special attention to particular situations</b>	<b>2009-2010 ARs:</b> According to the Government: An additional project under the Labour-Management Partnerships Program (LMPP) were organized providing funding to support and promote the development of cooperative labour-management relations in Canada.
			<b>Information/ Data collection and dissemination</b>	<p><b>2014 AR:</b> According to the Government: In 2012-2013, the Federal Mediation and Conciliation Service (FMCS) Officers provided conciliation and mediation assistance in 317 collective bargaining disputes (of which 94 per cent were resolved without a work stoppage).</p> <p><b>2013 AR:</b> According to the Government: In 2011-2012, the FMCS Officers provided conciliation and mediation assistance in 293 collective bargaining disputes, as well as joint training and other assistance on 61 occasions including Facilitation Services, Relationship by Objectives Program, Interest-Based Negotiation Workshops, Committee Effectiveness Workshops, Mediation Post Work Stoppage, Mediation Training, and Labour-Management Committee Facilitation.</p> <p><b>2012 AR:</b> According to the Government: In 2010-2011, the FMCS Officers provided conciliation and mediation assistance in 302 collective bargaining disputes, as well as joint training and other assistance on 35 occasions including Facilitation Services, Relationship by Objectives Program, Interest-Based Negotiation Workshops, Committee Effectiveness Workshops, Mediation, Post Work Stoppage, Presentations, Mediation Training, and Labour-Management Committee Facilitation.</p> <p><b>2000-2003 ARs:</b> According to the Government: The Federal Government and the provinces gather and disseminate a wide range of information and data on issues related to trade unions and collective bargaining.</p>
		<b>At international level</b>	C.87 is ratified.	



<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2000-2003 ARs:</b> According to the Government: Each Canadian jurisdiction has established an independent quasi-judicial labour relations board that includes worker and employer members, to administer its collective bargaining laws. These boards determine appropriate bargaining units, certify bargaining agents and determine various unfair labour practice complaints, such as interference, dismissal or discipline for union activity and failure to bargain in good faith, and may also rule on the legality of strikes or lockouts. Many boards also assist the parties in resolving labour relations issues in the workplace.</p> <p>Monitoring and enforcement mechanisms exist to ensure the implementation of the PR. Labour boards in each jurisdiction can issue orders providing a wide range of remedies and, typically, the orders may be filed with the appropriate Court and then become enforceable as orders of the Court.</p> <p>The Canadian Courts have the authority to determine whether federal, provincial or territorial legislation infringes on the PR under the Charter and may declare such legislation unconstitutional.</p> <p>In instances where the PR is not respected, the boards can order a party to comply with the statutory duty to bargain in good faith. A number of boards also have the authority to arbitrate first-agreement bargaining disputes.</p> <p>All jurisdictions provide conciliation and mediation assistance to the parties to assist them in concluding collective agreements.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2012 AR:</b> According to the Government: Support was given to employers and unions in their collective bargaining at the federal level. In 2010-2011 the FMCS Officers provided conciliation and mediation assistance in 302 collective bargaining disputes.</p> <p><b>2003-2004 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in: (i) labour-management conferences such as the biennial conferences organized by the FMCS that address diverse subjects including best practices in industrial relations and collective bargaining and ways to improve labour-management relations; (ii) preventive mediation training programmes; (iii) projects funded by the Labour Management Partnerships Program that support the development of co-operative labour-management relations in Canada.</p> <p><b>2011 AR:</b> According to the Government: During fiscal year 2009-2010, the FMCS, provided training and other assistance of co-operative industrial relations across the country including facilitation services, joint steward-supervisor training, relationship by objectives program, interest based negotiation workshops, committee effectiveness workshops, grievance mediation, mediation training and labour management committee facilitation. Efforts are also being made to renew the Program and develop new modules that will address emerging issues in the workplace that impact on labour-management relations. New preventive mediation workshops were implemented in 2009-2010 to deal with relationships after a work stoppage. A web page and e-bulletin were also developed to better promote FMCS services. Under the Labour-Management Partnerships Program, funding was provided to projects addressing return to work and disability management services in the context of collective bargaining and the development of effective, inclusive and meaningful union-management executive committees to work co-operatively towards reducing the number of grievances from the shop floor.</p>



	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government:</p> <ul style="list-style-type: none"> <li>• In 2014-2015, the Labour Program, through its Federal Mediation and Conciliation Service (FMCS), supported federally legislated employers and unions in the renewal of their collective agreements. Conciliation and Mediation officers provided assistance in approximately 227 collective bargaining disputes. In 95% of the cases, disputes were resolved without a work stoppage. With respect to dispute prevention activities, during fiscal year 2014–15, a total of 88 relationship development services were provided. Of the 88 services, 32 grievance mediation services were provided, 24 training sessions were delivered, 23 facilitations were offered, 6 diagnostics were conducted and 3 presentations were delivered. FMCS was also instrumental in the resolution of grievances. During 2014-15, mediators were appointed on 32 grievance mediation cases to deal with 3,685 grievances.</li> <li>• In 2013-2014, the Labour Program, through its FMCS, supported employers and unions in the renewal of their collective agreements. Conciliation and Mediation officers provided assistance in approximately 225 collective bargaining disputes. In 97% of the cases, disputes were resolved without a work stoppage. With respect to dispute prevention activities, during the fiscal year 2013-2014, a total of 64 dispute prevention services were provided in the federal jurisdiction including diagnostic, training/workshops, facilitation and services provided in other jurisdictions. This represents a 36% increase over the 47 dispute prevention services provided during the previous fiscal year. In addition, a total of 8 multi-party open concept workshops took place with 338 participants attending these workshops. This regional program contains two (2) components consisting of a two-day workshop, Labour Relations and the Negotiation Cycle, which focuses on the negotiation cycle and how to ensure the best possible outcomes at the bargaining table and in the workplace. The second component is optional and consists of a one (1) day bargaining simulation exercise where participants are provided direct coaching in a practice environment. FMCS was also instrumental in the resolution of grievances. Over 250 grievances were resolved with the assistance of mediation officers. As well, on September 19-20, 2013, the FMCS co-hosted with the Canada Industrial Relations Board, the National Industrial Relations Conference. The Conference focused on the specific challenges facing organizations that operate in the federal jurisdiction and are governed by the Canada Labour Code. The Conference presented a unique opportunity for the federally-regulated labour and management community to exchange with colleagues facing similar challenges in the context of today’s economic realities. Over two hundred participants attended the conference. According to participants, the conference was a great success.</li> </ul> <p><b>2014 AR:</b> According to the Government: To support employers and unions in their collective bargaining at the federal level, in 2012-2013, the FMCS Officers provided conciliation and mediation, as well as joint training and other assistance to 33 different organizations for a total of 162 sessions, including a new two-day regional workshop open to FMCS clients to help them improve their labour-management relationship through collective agreements.</p> <p><b>2013 AR:</b> According to the Government: To support employers and unions in their collective bargaining at the federal level, in 2011-2012, the FMCS Officers provided conciliation and mediation assistance in 293 collective bargaining disputes. With respect to preventive mediation activities during 2011-2012, the FMCS Officers provided joint training and other assistance on 61 occasions including Facilitation Services, Relationship by Objectives Program, Interest-Based Negotiation Workshops, Committee Effectiveness Workshops, Mediation Post Work Stoppage, Mediation Training, and Labour-Management Committee Facilitation.</p> <p><b>2012 AR:</b> According to the Government: With respect to preventive mediation activities during 2010-2011, FMCS officers provided joint training and other assistance on 35 occasions including Facilitation Services, Relationship by Objectives Program, Interest-Based Negotiation Workshops, Committee Effectiveness Workshops, Mediation, Post Work Stoppage, Presentations, Mediation Training, and Labour-Management Committee Facilitation. The FMCS also co-sponsored the 2011 National Industrial Relations Conference together with the Canada Industrial Relations Board.</p>
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		<p><b>2009-2010 ARs:</b> According to the Government: The Government has hosted, in February 2008, a tripartite roundtable discussion on the possible implications on Canada's international labour obligations of the June 2007 Supreme Court decision, with the participation of representatives of federal, provincial and territorial governments, workers' and employers' organizations, academics and labour law experts. In addition, a workshop on ILO issues was organized which included a presentation by a senior ILO official on C.98 and the implications of its ratification. The Federal Mediation and Conciliation Service provided training in the building of cooperative industrial relations including joint labour-management effectiveness interest based bargaining, grievance mediation, relationship building and facilitation of collective bargaining. An additional 15 projects under the Labour-Management Partnerships Program (LMPP) were organized providing funding to support and promote the development of cooperative labour-management relations in Canada.</p> <p>The CLC had organized workshops across the country to raise awareness of workers on the Fundamental Principles and Rights at Work (FPRW).</p> <p><b>2008 AR:</b> According to the Government: During fiscal year 2006-2007, the FMCS Preventive Mediation Program (PMP) provided training and assistance in the building of co-operative industrial relations across Canada and in joint labour-management committee effectiveness, interest based bargaining, grievance mediation, relationship building, and the facilitation of collective bargaining. There were also 23 active projects under the LMPP, which provided funding to support and promote the development of co-operative labour-management relations in the country. In September 2007, FMCS will hold its biennial conference where government and employers' and workers' representatives from across the country discussed best practices in industrial relations and collective bargaining and ways to improve labour-management relations. The Government of Canada supported ILO research on public sector collective bargaining.</p> <p><b>2007 AR:</b> According to the Government: In September 2005, the FMCS biennial conference was attended by over 200 representatives of unions, employers and governments from across the country who discussed best practices in industrial relations and collective bargaining and ways to improve labour-management relations. During fiscal year 2005-2006, FMCS's Preventive Mediation Program provided training and assistance in the building of co-operative industrial relations across Canada and internationally; training and assistance were provided in joint labour-management committee effectiveness, interest based bargaining, grievance mediation, relationship building, and the facilitation of collective bargaining in more than 61 instances throughout Canada; efforts are also being made to renew the Program and develop new modules that will address emerging issues in the workplace that impact on labour-management relations. During the year, there were 35 active projects under the LMPP, which provides seed funding to support and promote the development of co-operative labour-management relations in Canada. In March 2006, the International Labour Affairs hosted a workshop on ILO issues that was attended by representatives of Canadian federal, provincial and territorial governments. The purpose of the workshop was to generate dialogue on ILO issues, with a focus on the principle of freedom of association and collective bargaining. Representatives of the Canadian Labour Congress and the Canadian Employers Council participated in a tripartite panel discussion on Canada's priorities in the ILO. A noted Canadian academic addressed the issue of "The Challenges of Collective Bargaining in the Canadian Public and Parapublic Sectors". A panel of provincial government representatives shared their jurisdictions' practices with respect to coverage of collective bargaining legislation. There was also a presentation and discussion concerning follow-up to the Committee on Freedom of Association's decisions.</p> <p><b>2006 AR:</b> According to the Government: A number of workshops on topics such as committee effectiveness training, interest-based negotiations, negotiation facilitation, conflict resolution training and relationship-by-objective training were held. Funding assistance was provided to 30 projects to assist efforts by unions and employers to improve labour-management relations. FMCS's 2005 conference brought key people involved in labour relations in Canada together to discuss critical industrial relations issues. The first phase of a project to assist the Chilean Ministry of Labour and Social Security to strengthen the institutional capacities of its mediation and conciliation services was completed.</p>
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		<p><b>2002-2005 ARs:</b> According to the Government: The following measures have been implemented to realize and promote the PR: (i) the training of government officials and social partners in the labour field; (ii) the negotiation of labour cooperation agreements; (iii) tripartite dialogue, national conferences, training, workshops and seminars; and (iv) international workshops.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2014 AR:</b> According to the Government: To support employers and unions in their collective bargaining and with respect to preventive mediation activities the Government of Canada provided \$1 million in funding in the 2011 Budget over two years to expand the Preventive Mediation Service so that more employers and unions can benefit from the services provided.</p> <p><b>2012 AR:</b> Under the Labour-Management Partnerships Program, funding was provided to project participants to develop skills to facilitate the resolution of existing and future problems, improve their labour-management relationship, reduce conflict in general through a more collaborative approach to communication, reduce costs associated with conflict (for example, the costs of grievance arbitration) and to transfer knowledge of collective bargaining best practices to other negotiation units.</p> <p><b>2010 AR:</b> The CLC indicated that the Labour Branch of the government had provided to its organization, the capacity to follow and participate in various ILO review process for Canada including for C.98.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>NIL.</b></p>
		<p><b>Workers' organizations</b></p>	<p><b>2014 AR:</b> According to the CSN: Concern has been raised that certain provisions of the Act C-60 may curtail the right to collective bargaining for certain groups of public sector workers, including employees of the public broadcaster Radio-Canada, and create a basis for governmental interference in collective bargaining covering those group of workers. Furthermore, Act 54, adopted in July 2013 by the National Assembly of Québec, forced striking workers in the construction sector to resume work and extended the expired collective agreement for one more year while also setting the salary increase.</p> <p><b>2010 AR:</b> The CLC indicated the following challenges: (i) lack of social dialogue; and (ii) the legislation in several Canadian provinces/territories do not comply with C.98 and a full legislative inventory should be conducted to assess the changes that flow from the 2007 Supreme Court decision.</p> <p><b>2000-2001 and 2008 ARs:</b> The ICFTU raised the following issues: (i) the legislation in several Canadian provinces/territories do not comply with C.98 and no willingness of these provinces to harmonize their laws with the ILO Conventions; (ii) some categories of workers are excluded from the legal framework on the PR (members of the medical, dental, architectural, legal and engineering professions, when employed in their professional capacity, agricultural workers and privately employed domestics); (iii) there is an excessive government intervention in collective bargaining in the private sector, which provides ways for the employer to bypass the union as collective bargaining agent and (iv) restrictions still persist on the right to form a union, bargain collectively and to strike, particularly in the public sector.</p>



<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the Government</b></p>	<p><b>2010 AR:</b> In response to the CLC’s observations, the Federal Government made the following additional observation: A tripartite roundtable to review non-ratified ILO Conventions, including C.98, is being planned for early 2010.</p> <p><b>2007 AR:</b> In response to the ICFTU’s observations, the Federal Government made the following additional observations: (i) since 2005, there have been a number of amendments to labour laws in Ontario that strengthen protection for the exercise of collective bargain rights; (ii) in British Columbia, the province is enjoying an unprecedented level of labour peace thanks to the recent success of this year’s public sector bargaining that saw the conclusion of 139 collective agreements (as of December 11, 2006). Furthermore, the British Columbia government is continuing an industrial Inquiry Commission review to examine the bargaining structure and to build on the success on the latest round of bargaining to ensure that negotiated settlements are reach in future rounds of bargaining.</p> <p><b>2001 and 2007 ARs:</b> In response to the ICFTU’s observations, the Federal Government made the following observations: (i) the PR is respected and promoted in Canada; (ii) in each province, there are labour laws promoting and regulating collective bargaining and there are independent labour relations boards in charge of administering the legislation; (iii) the legislation encourages the parties to engage in meaningful bargaining; (iv) the importance of conciliation and mediation as a means of helping the parties to come to an agreement voluntarily is recognized across Canada; (v) Canadian legislation generally does not restrict the right of employers and workers to participate in collective bargaining; (vi) groups such as members of the medical, dental, architectural, legal and engineering professions, when employed in their professional capacity, agricultural workers and privately employed domestics are excluded from coverage under the legislation in some jurisdictions, but are nevertheless entitled to negotiate with their employers on a voluntary basis; (viii) in the determination of who is an employee for the purpose of collective bargaining, jurisdictions generally exclude workers who exercise managerial functions or who act in a confidential capacity in matters relating to industrial relations, so as to avoid conflict of interest or domination of unions; (ix) all jurisdictions ensure the right to negotiate collective agreements and promote good faith bargaining between the parties.</p> <p><b>2000 and 2007 ARs:</b> In response to the ICFTU’s observations, the Federal Government referred to GB.274/2 which described the Declaration follow-up and suggested that a number of the questions raised by the ICFTU would fall outside the scope of the Declaration follow-up. The Government further indicated that it was not able to respond to a number of other ICFTU comments as they contained inaccuracies that made them unclear. The Government referred the Office to Canada’s report on the principles of freedom of association and the right to collective bargaining, which provides complete and accurate information with respect to collective bargaining legislation in Canada, including protections against employers’ interference and other unfair labour practices.</p>
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<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2012-2014 ARs:</b> The Government of Canada continued to seek advice from ILO officials with respect to interpretation and application of C.98 and invited them to participate in relevant federal-provincial-territorial workshops and tripartite discussions.</p> <p><b>2011 AR:</b> The Government of Canada requested ILO technical assistance with respect to interpretation and application of Convention No.98. It stated that it would include this topic in relevant federal-provincial-territorial workshops and tripartite discussions.</p> <p><b>2010 AR:</b> The CLC requested ILO's technical cooperation in the following area: (i) capacity building for workers' organization; (ii) training programme to help workers' organization better understand and implement FRPW; and (iii) support to the promotional activities of the CLC.</p> <p><b>2003 AR:</b> The Federal Government would be interested in the use of ILO communication products for the promotion of the 1998 ILO Declaration.</p>
	<b>Offer</b>	ILO.
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) encouraged Canada to initiate the necessary labour law reforms to remove the obstacles to ratification of C.98. They acknowledged the high number of promotional activities concerning the realization of the PR in Canada (and some other countries), and encouraged the Office to maintain its support to these activities. They also noted the decision adopted by the Supreme Court of Canada, which includes the right to collective bargaining under the Canadian Charter (cf. paragraphs 32, 34 and 35 of the 2008 AR Introduction – ILO: GB.301/3).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>2</sup>: CHINA**

***FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Reviews (ARs) in 2000.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , involvement of the China Enterprise Confederation (CEC) and the All China Federation of Trade Unions (ACFTU) by means of consultations and communication of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2011 AR:</b> Observations by the CEC. <b>2010 AR:</b> Observations by the CEC. <b>2009 AR:</b> Observations by the CEC. <b>2008 AR:</b> Observations by the CEC. <b>2007 AR:</b> Observations by the CEC.
	<b>Workers' organizations</b>	<b>2014 AR:</b> Observations by the ACFTU. <b>2011 AR:</b> Observations by the ACFTU. <b>2010 AR:</b> Observations by the ACFTU. <b>2009 AR:</b> Observations by the ACFTU. Observations by the International Trade Union Confederation (ITUC). <b>2008 AR:</b> Observations by the ACFTU and the ITUC. <b>2007 AR:</b> Observations by the ACFTU and the International Confederation of Free Trade Unions (ICFTU). <b>2000 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU.

<sup>2</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>China has ratified neither the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) (C.87) nor the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>NIL.</b>
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES.</b> The 1999 Constitution of the People’s Republic of China (article 35) provides that “Citizens of the People’s Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration”.

		<p><b>Policy/Legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li> <p><b>Legislation:</b></p> <p><b>2015 AR:</b> According to the Government, no new laws have been introduced over the previous year. However, the Government stated that the Chinese government has always attached importance to promoting collective bargaining and collective contract systems. The 1994 Labour Law of China legally establishes the collective contract system. Article 33 of the Labour Law provides that the staff and workers of an enterprise as one party may conclude a collective contract with the enterprise on matters relating to labour remuneration, working hours, rest and vacations, occupational safety and health, and insurance and welfare. A collective contract shall be concluded by the trade union on behalf of the staff and workers with the enterprise; in enterprise where the trade union has not yet been set up, such contract shall be concluded by the representatives elected by the staff and workers with the enterprise. The Trade Union Law of China as amended in 2001 stipulates that trade unions coordinate labour relations and safeguard the rights and interests enjoyed in work by the workers and staff members of enterprises through consultation on an equal footing and the collective contract system. The Labour Contract Law of China, which entered into force as of 2008, devotes a special section to explicit provisions on issues such as special collective contracts, industry-wide or region-wide collective contracts, the labour remuneration and the standards for working conditions stipulated in a collective contract and dispute resolution over the collective contracts. Besides, the Company Law and the Law on Prevention and Control of Occupational Diseases also provide for a collective contract. The "Collective Contract Provisions" and the "Interim Measures for Collective Wage Bargaining", promulgated by the former Ministry of Labour and Social Security, further lay down specific provisions on collective bargaining and collective contracts. Efforts are being made to constantly explore ways to further improve the relevant regulations on collective bargaining. To date, a total of 28 regions in China have introduced local decrees and regulations on collective bargaining. These laws and regulations not only confirm the right to collective bargaining between the enterprise and staff members and workers but also lay a solid foundation for the promotion of collective bargaining.</p> <p><b>2012 AR:</b> According to the Government: Local laws and regulations on collective bargaining practices have been formulated or amended in the provinces of Heilongjiang, Anhui, Fujian and Gansu.</p> <p><b>2009 AR:</b> According to the Government: A new Law on Mediation and Arbitration of Labour Disputes adopted at the 31st Session of the Standing Committee of the 10th National People's Congress on 29 December 2007, entered into force on 1 May 2008.</p> <p><b>2008 AR:</b> According to the Government: the Labour Law Contract was adopted at the 28<sup>th</sup> Session of the Standing Committee of the 10<sup>th</sup> National People's Congress on 29<sup>th</sup> June 2007 and will enter into force as of 1<sup>st</sup> January 2008. Section 1 of chapter 5 specifies collective contracts (articles 51-56).</p> <p><b>2007 AR:</b> Corporate Law (section 18); Law on Chinese-Foreign Contractual Joint Ventures (section 14); Law on Foreign-Capital Enterprises (section 13).</p> <p><b>2003 AR:</b> The Trade Union Law, 1950 (and its subsequent amendments) and the Labour Law relate to the principle and right (PR).</p> </li> </ul>
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			<ul style="list-style-type: none"> <li>• <b>Regulations:</b> The regulations concerning the Congress of Staff and Workers in Industrial Enterprises Owned by the Whole People (section 9) relate to the PR.</li> <li>• <b>Policy:</b> <b>2012 AR:</b> According to the Government: In May 2010, the Tripartite National Coordination of Labour Relations issued the <i>Notice on Further Extension of the Collective Bargaining System and Implementation of the Rainbow Plan (MHRSS No. 32 (2010))</i>, striving to set up a collective bargaining system within three years (2010-2012) covering all enterprises where trade unions have been established. Regional and sector-based collective agreements will be signed for small enterprises where trade unions yet need to be established. Since the delivery of the Notice, the coverage of the collective bargaining system has expanded and priority has been given to collective bargaining concerning wages in non-public enterprises. Additionally, in order to reduce the impact of the financial crisis on the Chinese labour relations, the Tripartite National Coordination of Labour Relations have issued <i>Guidance on Stabilization of the Labour Relations in Response to the Current Economic Situation</i>, which urges enterprises to accelerate the realization of collective bargaining practices in order to use it as an institutional safeguard for uniting enterprises and workers in sharing the risks related to the crisis and to seek common positions for development. Collective bargaining will be given priority through this Guidance. For enterprises with normal production and operation, the level and growth rate of wages shall be determined through collective bargaining, so that workers and enterprises can share the outcomes. Enterprises with poor production and operation may, through collective bargaining, adopt measures such as flexible employment, flexible working hours, flexible wages and vocational training, to make joint responses to the current financial crisis, and to stabilize employment and the labour relations.</li> </ul>	
		<b>Basic legal provisions</b>	(i) The 1999 Constitution (article 35); (ii) the 1992 Trade Union Law (section 3); (iii) the Labour Law (sections 33 and 35); (iv) the Interim Regulation on Private Enterprises; (v) the Regulations concerning the Registration of Social Organizations (sections 9 and 13); and (v) the Regulations on Collective Contracts (section 33).	
		<b>Judicial decisions</b>	<b>NIL.</b>	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<p><b>2000-2004 ARs:</b> Prior government authorization is necessary to establish employers' organizations (section 9 of the Regulations concerning the Registration of Social Organizations). Freedom of association can be exercised by all categories of employers.</p> <p>However, employers cannot exercise the right to collective bargaining.</p>



			<b>For Workers</b>	<p><b>2008 AR:</b> According to the ACFTU: The right to freedom of association and collective bargaining is protected by national laws and regulations and workers have the full right to organize.</p> <p><b>2000-2004 ARs:</b> Government authorization is not required to establish a workers' organization or to conclude collective agreements.</p> <p>Freedom of association can be exercised at enterprise, sector/industry, national and international levels by all workers in the public service, medical professionals, teachers, agricultural workers, workers engaged in domestic work, workers in export processing zones (EPZs) or enterprises/industries with EPZs status, migrant workers, workers of all ages and in the informal economy. The right to collective bargaining can be exercised only at enterprise and sector/industry levels, by agricultural workers, workers engaged in domestic work, workers in EPZs or enterprises/industries with EPZs status, migrant workers, workers of all ages and in the informal economy.</p>
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			<p><b>Special attention to particular situations</b></p>	<p><b>2014 AR:</b> According to the Government: Special attention has been given to ensuring successful collective bargaining practices for workers with the lowest wages, including rural migrant workers, workers in small and medium sized enterprises (SMEs), workers in multinational corporations, and production line workers in non-public enterprises where standards of minimum wage have kept wage developments down.</p> <p><b>2013 AR:</b> According to the Government: The ACFTU continued to give special attention to the rights and interests of women workers, industries employing migrant workers, and to collective bargaining practices in non-public small and medium-sized enterprises (SMEs), as outlined in the 2012 AR. Additionally, the ACFTU has expanded its special attention to organizing workers employed by employment agencies. In line with these priorities, the ACFTU continued to safeguard the interests of women workers, with support of the "<i>Special Provisions on Labour Protection of Women Workers</i>" issued by the State Council of China on 28<sup>th</sup> April, 2012, protecting the rights of women workers in collective bargaining practices. In Liaoning, Shanxi, Hunan and other provinces the regulation "<i>Special Collective Agreement on Special Rights and Interests for Women Workers</i>" has been promulgated. Overall, progress in adopting specialized collective agreements for women workers has been significant in 2011-2012 and has substantively contributed to protecting the rights women workers. China also continued to pay particular attention to the issue of collective bargaining in mining, construction and catering industries where migrant workers are more populated. Trade unions at all levels have set out to intensify their efforts in organizing rural migrant workers. In this regard, the Chinese trade unions are promoting an amendment to the Trade Union Law which should support migrant workers' right to organize. By the end of June 2012, an estimated 96,557 million rural migrant workers were registered as trade union members across China. With a view to improve working conditions in SMEs through collective agreements, trade unions continued their efforts to launch industry-wide and regional collective agreements, with regional or provincial trade unions representing enterprise-level unions, to safeguard the rights of workers facing high density of work, long hours of overtime, low wages and slow income growth. Trade unions special efforts to recruit and support workers employed by employment agencies to join trade unions has resulted in a trade union membership rate of 86.3 per cent among this category of workers, and the establishment of 1,910 trade unions in employment agencies in the Trade Union Federation of Jiangsu Province.</p>
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			<p><b>2012 AR:</b> According to the Government: Special attention has been given to protection of the rights and interests of women workers. Trade unions at all levels have urged enterprises to sign specialized collective agreements for women workers in accordance with the <i>Views on Adoption of the Specialized Collective Contracts for Protection of the Rights and Interests of Women Workers</i> issued by the ACFTU. As a complement, clauses on specialized contracts for women workers have been integrated into local <i>Implementation Measures of Law on Protection of the Rights and Interests of Women Workers</i> in 15 provinces, and <i>Guidance on Adoption of the Specialized Collective Contracts for Protection of the Rights and Interests of Women Workers</i> has been issued jointly by 20 federations of trade unions, provincial departments of human resources and social security and employers' organizations. By promoting adoption of specialized collective agreements for women workers, there has been a significant success in further protecting the special rights and interests of women workers, including improved maternity protection. In line with the priority to expand industry-wide collective agreements, China is paying particular attention to the issue of collective bargaining in mining, construction and catering industries where migrant workers are more populated. Compared to other places, the working and living conditions of workers within these industries are relatively poor, and the mobility of workers is greater. Therefore, industry-wide collective agreements aim to protect the rights and interests of both workers and enterprises, to establish harmonious and stable labour relations, and to promote a coordinated development of regional and industrial economies, as well as to maintain social stability. In addition, particular attention has been given to collective bargaining practices for front-line workers in non-public small and medium-sized enterprises (SMEs). These enterprises are accompanied with greater mobility of workers and less powerful trade unions, hence violations of the rights and interests of workers often occur, and conflicts in labour relations are more elevated. Trade unions have strived to launch industry-wide and regional collective agreements, with regional or provincial trade unions representing enterprise-level trade unions, to push the non-public SMEs to participate in collective bargaining practices.</p> <p><b>2003-2004 ARs:</b> According to the Government: workers and employers at the enterprise level are given particular attention with regard to the right to collective bargaining.</p>
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			<p>a trade union membership rate of 80.6 per cent in China. 97,636 million out of the trade union members are women workers, accounting for 37.7 per cent. 96,557 million out of the trade union members are rural migrant workers, accounting for 37.3 per cent. By the end of October 2012, 113,000 regional trade union federations were registered at provincial level. In terms of training activities, during 2011 ACFTU trained 175,000 trade union officials and 450 collective bargaining instructors from 28 provinces.</p> <p><b>2012 AR:</b> According to the Government: In 2010, the offices of human resources and social security reviewed 921,000 collective agreements covering 114 million workers. According to the statistics of ACFTU, as of the end of 2010 over 592,500 specialized collective agreements for women workers were signed nation-wide, covering more than 978,200 enterprises and 49,439 million women workers. In terms of training activities, ACFTU has held three workshops during 2011, with participation of a total of 480 trade union officials. As of June 2011, more than 5,500 officials of trade unions and collective bargaining instructors had received training in 20 provinces, including Hebei, Jilin, Shanghai, Jiangsu, Zhejiang and Xinjiang.</p> <p><b>2008 AR:</b> The Government indicated that the number of collective contracts at the end of 2006 had reached 521,1 thousand covering in total 9.06 million workers.</p> <p>According to the ACFTU: the national base trade unions increased by 149 thousand in 2006 with 19.648 million new members, leading to a total number of nearly 170 millions members with a membership rate of 73.6 per cent.</p> <p><b>2002 AR:</b> According to the Government: By the end of 2000, 67,195 foreign-funded enterprises and 432,704 private enterprises had set up trade unions with respective total memberships of 5,921,202 and 7,889,900; the number of collective contracts signed exceeded 240,000, covering more than 60 million workers.</p> <p><b>2001 AR:</b> According to the Government: By the end of 1999, there were 52,160 foreign-owned enterprises, 117,469 private enterprises with trade unions and 220,000 collective agreements covering 57 million workers and staff members.</p> <p><b>2000 AR:</b> According to the Government: There are statistics concerning the membership of employers' (436,000 members) and workers' organizations (130 million members). The number of collective contracts had reached 150,000 by the end of 1998, involving more than 50 million staff and workers.</p>
		<p><b>At international level</b></p>	<p><b>NIL.</b></p>



	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2014 AR:</b> According to the Government: Systematic inspection of collective agreements and related necessary investigations were carried out in 26 provinces.</p> <p><b>2010 AR:</b> According to the Government: The capacity building of the labour inspection organizations has been strengthened. By the end of 2008, 3291 labour inspection organizations organs have been established across the country, employing 23000 fulltime labour inspectors. The labour inspection organizations supervised the employment activities of employers, especially in small and medium sized enterprises, to ensure implementation of collective consultation by means of routine inspections, written requests, in-focus examinations, investigations of complaints.</p> <p><b>2009 AR:</b> According to the Government: A Labour Inspection Bureau was established within the Ministry of Human Resources and Social Security in July 2008 with a view to strengthening labour inspection in the country.</p> <p><b>2005 AR:</b> According to the Government: In cases where the PR has not been respected, the Government will ask the parties concerned to make “correction by coordination”.</p> <p><b>2003-2004 ARs:</b> According to the Government: Specific measures have been implemented to respect and promote this PR, such as: (i) a inspection/monitoring system; (ii) civil/administrative sanctions; (iii) a special institutional machinery; (iv) capacity building of responsible government officials; (v) training of other government officials; (vi) capacity building for employers’ and workers’ organizations, and others have been envisaged, such as: (i) legal reform on labour law and other relevant legislation; and (ii) penal sanctions. In cases where the PR has not been respected, the Government will ask the parties concerned to make “correction by coordination”.</p> <p><b>2000 AR:</b> According to the Government: (i) Labour inspection; (ii) people’s supervision; and (iii) the Government’s engagement in international cooperation.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2013 AR:</b> According to the Government: The National Tripartite Constituents on Coordination of Labour Relations continued their work to strengthen the collective bargaining system through joint meetings, training activities, agreements, supervision and inspection. The CEC continued to push for implementation of the <i>Rainbow Plan</i> by guiding and supporting local employers’ organizations in collective bargaining practices.</p> <p><b>2003-2004 ARs:</b> According to the Government: Tripartite discussions of issues have been implemented to realize the PR.</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: In accordance with the planning of the state tripartite conference of labour relations coordination, various regions of China have in recent years vigorously promoted the collective contract system and implemented the "Rainbow Plan". As a result, the coverage of collective bargaining and collective contracts has continuously extended, indicating that the collective contract system has achieved remarkable results. By the end of 2013, the human resources and social security departments in various regions of China had reviewed and registered 1.555 million copies of the current effective collective contracts, covering 3.146 million enterprise and 157 million workers, representing respectively an increase of 18.6%, 19.5% and 8.3% over 2012. In April 2014, the Ministry of Human Resources and Social Security, in conjunction with the ACFTU, CEC and the All-China Federation of Industry and Commerce, made specific arrangements to promote nationwide implementation of the collective contract system. It was explicitly required that emphasis be laid on promoting collective wage bargaining to ensure collective contracts concluded by the end of 2015 reach 80% and that special efforts be made to enhance the quality of collective bargaining and boost the effectiveness of the collective contracts with a view to gradually forming a standardized and effective collective bargaining mechanism. Currently, in accordance with the above overall planning, the various parts of the country are in the process of developing specific policy measures to fulfill their objectives and responsibilities. Meanwhile, to guide enterprises to rationally determine wages through collective bargaining, the Chinese government has actively promoted the establishment of a wage allocation macro-guidance system across the country, which is mainly based on such information as wage guidelines, guidance wage levels for the human resources market and</p>

	<p>labour costs by industry. Currently, the Chinese government is exploring ways to establish a nationally unified salary survey and information release system.</p> <p>In 2014, the ACFTU successively developed “Opinions on Enhancing the Quality of Collective Bargaining and Strengthening the Implementation of Collective Contracts” and “Work Programme to Further Collective Bargaining (2014-2018)”, earnestly striving to enhance the quality of collective bargaining and boost the effectiveness of collective contracts. To promote collective bargaining, the Chinese trade unions have also made great efforts to launch training programs. In 2014 at the China Institute of Industrial Relations, the ACFTU organized a national trade union collective bargaining workshop and a national collective bargaining workshop for trade union trainers, training a total of 240 trade union officials at all levels. As required by the ACFTU, trade unions across China have been developing local training programs, continuously intensifying their efforts in the training activities and working hard to improve the competency and qualifications of collective bargaining instructors. The ACFTU also attaches importance to raising public awareness of the importance of collective bargaining. Making full use of public media as a powerful means of publicity, the ACFTU makes great efforts to raise public awareness and public recognition of the work of collective bargaining and expand its social influence. Chinese trade unions’ collective bargaining activities pay special attention to frontline employees, rural migrant workers, dispatched workers and female staff members. Chinese trade unions will focus on industry-wide collective bargaining as an effective means to overcome the difficulties and problems that individual SMEs encounter in enhancing the quality of collective bargaining, and actively promote the general establishment of collective bargaining system in industries with a solid foundation and ripe conditions.</p> <p><b>2014 AR:</b> According to the Government and ACFTU: In 2012, the ACFTU continued its efforts to strengthen the trade union movement in the country and to promote universal establishment of trade unions in all enterprises. Measures to reach this goal included: (i) The implementation of a three-year programme promoting the establishment of trade unions at all levels. As part of the “<i>Work Plan of the All China Federation of Trade Unions to Promote the Universal Establishment of Trade Unions in Enterprises in 2011- 2013</i>” awareness raising activities and assessment of difficulties were carried out; (ii) The launch of actions targeting the establishment of trade unions in the top 500 global corporations in China. Priority has been given to the headquarters based in China, and activities include the establishment of a database of trade union members and efforts to organize dispatched migrant workers. Particular effort has been made to establish trade unions in corporations that have operated in China for more than five years without trade union presence and collective agreements; (iii) Identification of areas of critical importance for the future advancement of trade union establishment. Dispatched migrant workers, highly concentrated in development areas and industrial parks, have been identified as an important target group. Key instruments have been developed by the ACFTU in this regard, including the “<i>Directives on Strengthening Trade Union Work in the Development Area, Industrial Parks and Regions</i>” and the “<i>Regulations on Organizing Dispatched Migrant Workers in Trade Unions</i>”. The Shenyang Municipal Trade Union Council in Liaoning Province launched a guide for the organization of dispatched migrant workers, pushing for trade union establishment in all 149 enterprises employing dispatched migrant workers in the province; (iv) Innovation in the organization and establishment of trade unions specially adapted to challenging environments, such as small non-public enterprises. Innovative efforts include pooling of competent personnel and sharing of funds; and (v) Improve the quality of the established trade unions to ensure the protection of workers’ rights. In this regard, there is a need to intensify public awareness raising campaigns on workers’ rights and to provide guidance on democratic internal elections within the trade unions. Through the “<i>Rainbow Program</i>” priority has also been given to establishing a collective bargaining system over the last three years. In 2013, a tripartite assessment of the implementation of the “<i>Rainbow Program</i>” was conducted, resulting in a compilation of measures and experiences from across the country, identification of the major outcomes achieved along with recommendations for future action in extending collective bargaining coverage. In collaboration with the ACFTU, the China Enterprise Confederation (CEC) and the China Enterprise Directors Association (CEDA), the Ministry of Human Resources and Social Security launched a campaign to strengthen collective bargaining across the country. The ACFTU continued to promote collective bargaining through the ACFTU’s “<i>Work Program on Further</i></p>
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	<p><i>Extension of the Collective Wage Consultation” (2011-2013), “Views on Encouraging World’s Top 500 Enterprises in China to Adopt the Collective Wage Consultation System”, and “Implementation Plan for Training of the Collective Consultation Instructors” (2011-2013). The ACFTU has also promoted legal amendments needed for the establishment of a collective bargaining system, urged political leaders to support the development of tripartite consultation mechanisms and coordinated labour relations, and intensified its capacity building activities and vocational training of trade union members. In 2012, the ACFTU requested that a team of full-time collective bargaining instructors should be introduced in all provinces. By the end of 2012, 149,000 collective bargaining instructors had been trained across the country, out of which more than 2000 are working as full-time instructors. In parallel, the ACFTU intensified its training activities related to collective bargaining; 200,800 collective bargaining instructors in 31 provinces received training by the ACTFU in 2012.</i></p> <p><b>2013 AR:</b> According to the Government: In 2011 and 2012, the CEC carried out extensive promotional activities including public awareness raising, training and research, seminars and tripartite workshops on collective bargaining practices at enterprise level. The CEC and ILO carried out joint national training courses for trainers on collective bargaining practices. The CEC also led a joint national tripartite inspection group in Sichuan, Gansu and other provinces investigating the situation of collective bargaining practices, as basis for evaluations by the tripartite parties in formulating future efforts to strengthening the collective bargaining system. In the provinces of Hubei, Shanxi, and Inner Mongolia local employers’ associations and trade unions have, along with the Department of Human Resources and Social Protection, promoted actively the implementation of targeted action plans contributing to the establishment of collective bargaining systems at enterprise level. Enterprises participating in this activity significantly raised the implementation rate of collective agreements. With a view to improve collective bargaining practices, the CEC has also solved problems related to formalities, lack of efficiency, and incomplete consultation mechanisms.</p> <p>During 2012, Chinese trade unions have made significant efforts to promote universal establishment of trade unions in all enterprises. As part of the <i>“Work Plan of the All-China Federation of Trade Unions to Promote the Universal Establishment of Trade Unions in Enterprises in 2011- 2013”</i>, the ACFTU strives towards reaching a 95 % trade union membership rate in the top 500 global corporations in China and in foreign enterprises, employing more than 10 employees. Furthermore, the ACFTU has promoted the establishment of trade unions among specific groups of workers, such as dispatched workers, and in enterprises of foreign investment and SMEs. Efforts include the implementation of <i>“All-China Federation of Trade Unions Regulations on Organizing Dispatched Workers to Join Trade Unions”</i>, promoting the establishment of trade unions in enterprises engaging dispatched workers, in line with the requirement of <i>“Opinion by the All-China Federation of Trade Unions on Further Intensifying Trade Union Work in Development Areas and Industrial Zones”</i>. With a view to exchange lessons learned and promote successful examples on collective bargaining practices, two meetings were held in 2012 which analyzed the current situation and remaining problems concerning the implementation of a collective bargaining system. In the course of 2011-2012, trade unions provided capacity building for collective bargaining instructors. The ACFTU organized three training courses for trainers on collective bargaining practices, training more than 450 collective bargaining instructors. In parallel with the training initiatives made by the ACFTU centrally, local trade unions across the country intensified their training activities. In order to address difficulties related to the establishment of trade unions in non-public SMEs, the ACFTU has allocated 40 million Yuan annually for local unions, and regional federations have been strengthened to allow for sufficient support to local unions.</p> <p><b>2012 AR:</b> According to the Government: The CEC provides guidance to employers in terms of interpretation of the Rainbow Plan, in order to facilitate the implementation of the Plan. The CEC have also organized trainings aiming to improve its members understanding of concepts such as equal footing, outcome sharing and harmonious development.</p> <p>Over the last two years, Chinese trade unions have intensified their efforts to establish a collective bargaining system, giving priority to collective bargaining concerning wages. At a meeting of the Executive Committee of ACFTU held in July 2010 as well as a meeting in February 2011, the ACFTU proposed to fully conduct collective bargaining in all enterprises. Early 2011,</p>
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	<p>ACFTU drafted and issued three documents: <i>ACFTU's Work Program on Further Extension of the Collective Wage Consultation (2011-2013)</i>, <i>ACFTU's Views on Encouraging World's Top 500 Enterprises in China to Adopt the Collective Wage Consultation System</i>, <i>ACFTU's Implementation Plan for Training of the Collective Consultation Instructors (2011-2013)</i>, all of which promote collective bargaining and aim to improve the coordination and capacity of ACFTU's collective bargaining practices. In terms of training activities, ACFTU has held three workshops during 2011, aiming to enhance the capacity and qualifications of collective bargaining instructors and to push enterprises to participate in collective bargaining.</p> <p>Through its advocacy, trade unions have pushed the Tripartite National Coordination of Labour Relations to issue, in May 2010, <i>the Notice on Further Extension of the the Collective Contract System and Implementation of the Rainbow Plan</i>, which sets up the goal of collective bargaining to cover 80 per cent of the enterprises where trade unions have been established in the next three years. Trade unions at all levels take the opportunity of implementing this Tripartite Notice and to encourage establishment of a supervisory institution which would perform tripartite inspection. With respect to raising public awareness, trade unions at all levels advocate through the public media, television, internet and newspapers, so as to increase awareness of collective bargaining. Trade unions in different regions have set up special columns in local papers to disseminate successful practices of collective bargaining. Main national media such as People's Daily and CCTV have followed these local campaigns which have increased the public recognition of collective bargaining. Additionally, Chinese trade unions regularly compile and disseminate best practices related to collective bargaining. Through national meetings, trade unions exchange experience in collective bargaining. Three such meetings were held in 2010-2011.</p> <p><b>2011 AR:</b> According to the Government: In May 2010, Ministry of Human Resources and Social Security, together with the ACFTU and the CEC, had promulgated the Notice on Carrying Out Rainbow Programme to Further Advance the Implementation of the Collective Agreement System. This Programme aims at implementing the collective agreement system in unionized enterprises and increase the coverage of the regional and sectoral collective agreements by 2012.</p> <p>The ACFTU indicated that a national workshop on collective consultation on wages was held to exchange experience and lessons.</p> <p><b>2010 AR:</b> According to the Government: The Ministry of Human Resources and Social Security, together with the ACFTU and the CEC, had promulgated the Guiding Opinions on Tackling the Economic Crisis and stabilizing the Labour Relations. Firstly, the Opinions require promoting tripartite dialogue and cooperation among the government, employers and trade unions, and bringing into full play the unique role of tripartism in ensuring economic growth. Secondly, the Opinions promote the implementation of the Rainbow Project and take the collective negotiation on wage as a priority, so as to extend the coverage of collective consultation and improve its effectiveness.</p> <p>The CEC indicated that a workshop on collective bargaining for local CEC officials was planned for September 2009.</p> <p>The ACFTU indicated that it had organized a seminar on collective bargaining in Wuhan, Hubei Province in October 2008, in cooperation with the ILO.</p> <p><b>2009 AR:</b> According to the Government: The Ministry of Human Resources and Social Security carried out in April 2008 a nationwide Rainbow Project aiming at extending the coverage of collective consultations and collective contracts. The Project gives priority to wage collective consultation on wages and in non-public enterprises. It also aims at improving capacity building and effectiveness of collective consultations, so as to establish a collective consultation and collective contract system in all types of enterprise within 5 years. According to the ACFTU: The ACFTU has issued the Opinion on Carrying out the Collective Consultation Offer Project in 2008 to promote collective consultations on wages throughout the country. Ninety per cent of the enterprises in the Jiangsu Province are carrying out a collective consultation on wages once a year.</p> <p><b>2008 AR:</b> The Government and the CEC indicated that they had, together with the ACFTU, adopted the Opinion on Developing Industry-wide and Area-wide Collective Negotiation on 17<sup>th</sup> August 2006. These specify the importance, scope,</p>
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		<p>content, procedure, for dispute resolution and organization of the industry-wide and area-wide collective contracts.</p> <p>The Government added that it had improved the collective bargaining and collective contract system by: (i) further enhancing the coverage of collective contracts and promoting the area-wide and industry-wide collective negotiation; (ii) emphasizing on the signing of specific collective contracts dealing with wages, working hours quota etc. and (iii) developing training activities and advertisements.</p> <p>The CEC also stated that it would organize training activities on collective bargaining for employers, and draw a stand of collective bargaining. It also added that the CEC was a member of the national collective contract committee.</p>
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		<p><b>2007 AR:</b> The Government indicated that it had implemented the following measures in relation to the PR:</p> <ol style="list-style-type: none"> <li>(1) Extension of the collective consultation and collective contract system to comprehensively promote the Five Year Plan of Implementation Program on Administration by Law issued by the State Council on March 22, 2004;</li> <li>(2) Under the Circular on the Publicity Syllabus of further Enforcing the Work on Employment and Reemployment issued on December 3<sup>rd</sup> 2005, the Government should build up the collective consultation system, harmonize the benefits of the enterprises and the workers to increase the stability of the employment of the workers in instances where the enterprises reduces the staff;</li> <li>(3) Under the Main Point of the Labour and Social Security Work in 2006, the Government focuses on extending or signing once again collective contracts, extend the coverage of the collective contract, make great efforts to promote the regional collective consultation with middle and small non-stated-owned enterprises, advances the collective consultation on the labour standards on wages distribution, working time, labour quota and so on; and</li> <li>(4) Under the Circular on Further Resolving the Problem of the Wages in arrears for the Migrant Workers from the rural areas, which was issued on 2 September 2005, the Government would guide and promote the enterprises, especially those recruiting more migrant workers from the rural areas to develop the collective consultation on wages, guarantee systematically the legal rights of increasing wages of the migrant workers. And the Government would develop actively the region and industry collective consultation on wages, set up and improve the normal mechanism of increasing and adjusting the wages, and ensure that migrant workers share the outcomes of the reforming and developing of the enterprises.</li> </ol> <ul style="list-style-type: none"> <li>– The CEC stated that it is carrying out a pilot programme on collective contracts and collective consultations on wages in the developing district of Dalian City, Liaoning Province.</li> <li>– The ACFTU held a national meeting on promoting and organizing trade unions in the foreign enterprises on 30 March 2006; passed the Provisional Regulation on Enforcing the Work of Trade Unions in the enterprises on 6 July 2006; involved in the supervision of the implementation process of the Labour Law in 2005.</li> <li>– The ACFTU held a training course on the International Labour Standards (ILS) and Collective Bargaining with ILO and another training course for collective bargaining trainers.</li> </ul> <p><b>2003-2005 ARs:</b> According to the Government: Specific measures have been implemented to promote and realize the PR in the country: (i) training of other government officials; (ii) capacity building for employers' and workers' organizations; (iii) awareness-raising/advocacy.</p> <p><b>2002 AR:</b> The Government thanked the ILO for assisting the ACFTU with training to wage negotiators and the CEC (Chinese Entrepreneurs' Association, Chinese Enterprises' Federation) by undertaking a national survey on the role of employers' associations in tripartism.</p> <p><b>2000 AR:</b> According to the Government: The ILO and CEC jointly organized a seminar on skills for conducting collective bargaining, a training course on industrial relations, seminars on labour legislation and practice in China, and a training course on collective bargaining; other projects have been jointly organized by the ILO and the ACFTU, including a seminar on collective bargaining and collective contracts, two tours respectively to Asian and European countries to study the issue of industrial relations, a trainers' course on collective bargaining and collective contracts, a training course on training material for collective bargaining, and a trainers' course on wage negotiation.</p> <ul style="list-style-type: none"> <li>– The ACFTU made many efforts to promote the establishment of trade unions, focusing its attention on the organization of trade unions in foreign-capital enterprises and private enterprises.</li> </ul>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2014 AR:</b> According to the Government: The Government supports the social partners in achieving progress in strengthening industrial collective bargaining systems and establishing collective bargaining at regional levels. Successful cases include: (i) active guidance and support from the offices of human resources and social security of the Hainan province in the finalization of collective agreements for workers in the hotel and catering sectors; and (ii) the establishment of a consultation platform by the offices of human resources and social security of the Wuhan Municipality in Hubei province, along with active guidance to the social partners through the process leading up to a collective agreement between the workers’ representatives from the Wuhan Municipal Commercial, Trade, Finance and Tobacco Union Federation and the employers’ representatives from Wuhan Catering Sector Association. Following the establishment of collective consultations in the Wuhan catering industry, the majority of the workers concerned have gained better understanding of their rights, and the role of trade unions in representing and protecting their collective interests. In general, outstanding achievements in terms of wage increases have been recorded for those covered by collective agreements. For example, the average annual wage increase rate for workers in enterprises covered by collective agreements in Shenyang city was twice as high as the wage increase of workers in enterprises not covered by collective agreements.</p> <p><b>2013 AR:</b> According to the Government: Trade unions have made substantive progress in strengthening collective bargaining systems in the non-public SMEs and multinational enterprises, including the top 500 global corporations in China. Special initiatives to support the establishment of trade unions in the top 500 global corporations in China include: establishment of trade union focal points in headquarters of multinationals corporations; advance the establishment of trade unions in branch corporations in other places than headquarters; and, establishment of a database on the status of trade union establishment and membership development. On 12<sup>th</sup> April 2012, the first trade union was established in the top 500 global corporations in Sichuan Province, in the enterprise Pulse Electronic Corporation Limited of Mianyang, with more than 6,200 workers joining the union. Trade unions from Shanghai, Fujian and other major cities and provinces built on the experience of establishing trade unions in Wal-Mart, in intensifying their efforts targeting the top 500 global corporations in China. Furthermore, trade unions have been established in all the enterprises invested by Foxconn in Chongqing, Zhengzhou, Hengyang, Wuhan, Chengdu, Langfang, with a total membership of some 300,000 workers. Additional cases of success among the top 500 global corporations in China include: Dongfeng Honda Auto-Spare Part Corporation Limited; Doosan Engineering Machinery Corporation Limited (China); and, Imosi Auto-Glass Corporation Limited (China). Sector specific cases of success in realizing the right to collective bargaining include: security services and domestic services of Beijing; the software industry in Dalian high-tech zone of Liaoning Province; public transportation and the hotel and restaurant sector in Shenyang of Liaoning Province; the cultural and sports sector in Yangzhou of Jiangsu Province; the garlic and gypsum industries in Pizhou of Jiangsu Province; the gold mining industry in Sanmenxia of Henan Province.</p> <p><b>2012 AR:</b> According to the Government: In order to reduce the impact of the financial crisis on the Chinese labour relations, the Tripartite National Coordination of Labour Relations have issued <i>Guidance on Stabilization of the Labour Relations in Response to the Current Economic Situation</i>, which urges enterprises to accelerate the realization of collective bargaining practices in order to use it as an institutional safeguard for uniting enterprises and workers in sharing the risks related to the crisis and to seek common positions for development. Collective agreements have been reached in several industries and provinces in 2010, including in the plate processing industry, the catering industry, the coal industry, the energy-saving lamps industry, the taxi industry in Shanghai, as well as the headquarters of Wal-Mart Investment Co., Ltd. (China) and YaoPharma Co., Ltd. in Chongqing. As a result of the practices of collective bargaining the income of workers have increased, labour disputes within the industries have dropped, competition between enterprises within the same industry has been regulated, and it has been ensured that workers share the outcomes of enterprise development. Moreover, trade unions at all levels have urged enterprises to sign specialized collective agreements for women workers in accordance with the <i>Views on Adoption of the Specialized Collective Contracts for Protection of the Rights and Interests of Women Workers</i> issued by the ACFTU.</p> <p><b>2009 AR:</b> According to the Government: section 8 of the new Law on Mediation and Arbitration of Labour Disputes, 2007,</p>
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		<p>provides that the labour administrative departments, together with labour unions and enterprise representatives shall establish a tripartite labour relation mechanism to study and resolve jointly major issues of labour disputes.</p> <p>The ACFTU indicated that it had carried out, from June to September 2008, a special programme to promote the establishment of trade unions in multinational corporations, including the top 500 global corporations in China.</p>	
		<p><b>2008 AR:</b> According to the ITUC: The Draft labour contract law was first discussed at the 19th meeting of the NPC and published online in March 2006. The draft is significant for several reasons. Firstly because of the unprecedented level of public debate and consultation– according to reports the draft received some 200,000 online comments. Secondly the draft law addresses some of the crucial failings of the current labour law and provides specific penalties and remedies for failing to observe labour laws and regulations. It seeks to clarify the nature of a labour relationship between workers and employers – including those many instances where workers have no formal contract. It includes penalties for companies, which fail to provide proper written contracts, penalties for breaking contract terms. Significantly, it also attempts to legislate on the fast growing use of contract labour. The law also appears to bolster the role of trade unions in discussions on redundancies and other major changes. The first draft has been very publicly criticized by European and American business associations and the second draft was published in December 2006. Certain aspects relating to the role of the trade union have been reduced, as have some of the penalties for companies. However the law remains a significant step forward in the protection of labour rights. As with most legislation in China the most crucial issue is the implementation of the law. A final version was expected to be issued in the spring of 2007.</p> <p><b>2005 AR:</b> According to the Government: The adoption of the Regulations on Collective Contracts in May 2004 can be considered as a major change regarding this PR.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2010 AR:</b> The CEC noted that the capacity of collective negotiation of employers' organization needed to be strengthened.</p> <p><b>2008 AR:</b> According to the CEC: collective contracts do not apply to most private and small enterprises.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2009 AR:</b> The ACFTU indicated that it had participated actively in drafting and implementation of the Employment Promotion Law and the Law on Mediation and Arbitration of Labour Disputes. The ITUC reiterated the observations it made under the previous AR (2008) concerning China, in particular as regards: (i) the absence of freedom of association; (ii) trade union monopoly; (iii) the absence of law governing collective bargaining procedures (there are regulations on collective contracts only); (iv) the absence of legal protection for the right to strike; (v) the repression made on all attempts to establish independent trade unions; and (vii) the ineffectiveness of collective bargaining.</p>

		<p><b>2008 AR:</b> According to the ITUC: (i) some 3,000 workers from a Hong Kong-owned furniture factory in Shenzhen staged a protest on 3 April 2006 against long working hours and poor working conditions; the demonstration was dispersed by hundreds of riot police and three senior executives from a Shenzhen sporting goods factory were detained by police for allegedly “inciting workers to block roads”; (ii) sub-contracted migrant workers at the Huaen Building construction site in Beijing stopped work after not receiving overdue wages. On 19 July 2006, several of the workers were assaulted by hired men at the site and two were hospitalised; (iii) on 22 July 2006, workers from a private company protested against low wages and poor living conditions. In the evening, factory security and police sent in riot control vehicles and personnel to control the riot but the following day the conflict intensified. Scores of workers were injured, or detained but later believed to be released; (iv) on 26 August 2006, migrant workers in a company in Nanjing protested against massive unpaid wages. The workers were detained for obstructing traffic and two workers were put in administrative detention for organising the protest; (v) on 31 July and 1 August 2006, some 300 unemployed teachers from 20 different towns and townships in Suizhou, Hubei Province gathered in front of the government offices to submit a petition, demanding help from the Government to obtain livelihood assistance and benefits such as pensions and medical insurance. The teachers tried using the courts to get a decision on their status, but their legal representative dropped the case after receiving threats. Several teachers were forcibly taken to a “study camp” in mid July 2006 and were only released after 48 days; (vi) in September 2006, in the run up to National Day celebrations, a group of workers in Suining City, Sichuan province, were beaten after petitioning the local authorities for compensation on their labour dispute with their previous employer. The workers had been formally employed at a state owned guesthouse and had been laid off after this guesthouse went bankrupt and its assets were sold at a low price. The workers claimed corruption and were claiming unpaid unemployment benefits. The group of 40 workers was forcibly removed from the local Party Committee offices and two women workers were hospitalized as a result. Two other women were detained while others went into hiding for fear of further arrests. It is not known if all have since been released; (vii) on 7 December 2006, some 400 workers from the Shenzhen Safari Park in South China went on strike over inadequate compensation, unfair layoffs and unpaid wages during the privatization of the former state owned zoo. After the strike began, some 70 police officers entered the park and stopped workers from arranging protest signs; and (viii) laid off protestors were detained by public security officials in Beijing during a protest march on 15 December 2006 – some 50 protestors were detained in the afternoon and later released and sent back to their hometowns.</p>
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	<p><b>According to the Government</b></p>		<p><b>2014 AR:</b> According to the Government: Current challenges and difficulties in promoting collective bargaining are mainly related to; (i) economic contextual factors limiting the development of collective bargaining in less developed regions of the country; (ii) lack of adequate legal provisions. There is in particular a need for the legislation to be strengthened so as to allow for legal measures to be taken against employers who refuse to engage in collective bargaining; (iii) lack of coordination between the social partners in certain sectors hampering the institutionalization of collective bargaining practices; (iv) lack of capacity of certain employers’ organizations and trade unions, limiting development of industrial collective bargaining; and (v) prevailing employment practices and fear of retaliation may restrict some trade unions to establish effective consultation mechanisms. There is also a need to ensure the quality and substance of the content of collective agreements, and not only to ensure that consultation mechanisms are in place.</p> <p><b>2013 AR:</b> According to the Government: The main challenges and difficulties in promoting collective bargaining are related to: (i) contextual factors such as the norms of certain actors believing that collective bargaining practices might negatively affect the investment climate and economic growth; (ii) lack of capacity in the guiding role of government institutions; (iii) lack of capacity among certain sector-wide employers’ organizations and trade unions, limiting development of industrial collective bargaining.</p> <p><b>2012 AR:</b> According to the Government: Current challenges and difficulties in promoting collective bargaining are mainly related to; (i) lack of adequate legal provisions; (ii) lack of capacity in the guiding role of government institutions; (iii) lack of capacity among certain sector-wide employers’ organizations and trade unions; and (iv) lack of social dialogue practices.</p> <p><b>2003-2005 ARs:</b> According to the Government: The main difficulties encountered in China in realizing the PR are the lack of capacity of responsible government institutions and the lack of capacity of employers’ and workers’ organizations.</p> <p><b>2000, 2002 ARs:</b> In response to the ICFTU’s comments, the Government raised the following observations: (i) China has always been committed to the protection of workers’ fundamental interests and rights and has fulfilled its reporting obligations as regard the Follow-up to the Declaration; (ii) given that the follow-up should not constitute a complaint-based procedure nor a double scrutiny practice, the Government would not make any observations on the substance of the communication from the workers’ organization.</p>



<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: ILO could provide opportunities to strengthen cooperation with countries of market economy on collective bargaining, such as exchanges and cooperation on the basics, policies and regulations, practical experience, difficulties encountered and solutions in the fields of coordination of labour relations, improvement of the tripartite mechanism, conducting of collective bargaining and related issues. In addition, the Government would also appreciate ILO capacity-building assistance for those institutions and personnel involved in collective bargaining.</p> <p><b>2014 AR:</b> According to the Government: ILO technical cooperation is requested in the following areas: (i) Share practices of market economies on advancement of collective bargaining systems; and (ii) Increase exchange and cooperation with other member States concerning the coordination of labour relations, strengthening tripartite mechanism and in solving difficulties related to the implementation of the PR.</p> <p><b>2013 AR:</b> The Government reiterated the request for ILO technical support it made under the 2012 AR.</p> <p><b>2012 AR:</b> According to the Government: ILO technical cooperation is requested in the following areas: (i) Conduct assessments and training on legislation and practice related to collective bargaining and collective agreements; (ii) Share legal practice of market economies on advancement of collective bargaining systems; (iii) Share research and data on the role of tripartite mechanisms of other countries; (iv) Increase exchange and cooperation with other member States; (v) Assist in better solve theoretical and practical problems, and foster a more effective implementation of the PR.</p> <p><b>2011 AR:</b> The Government requested ILO's technical cooperation to organize more training activities and provide technical expertise.</p> <p><b>2010 AR:</b> According to the Government: ILO's technical cooperation is needed to formulate and implement the regulations and policies on collective consultation.</p> <p>The CEC requested additional training and capacity building for its staff.</p> <p><b>2009 AR:</b> The Government requested the ILO's cooperation for training labour inspectors.</p> <p><b>2008 AR:</b> According to the Government: ILO technical cooperation is requested for assistance on the legal reform, training and awareness raising activities.</p> <p>The CEC indicated that the capacity of employers' bargaining techniques should be enhanced and training activities should be organized.</p> <p><b>2007 AR:</b> According to the Government: Needs for ILO technical cooperation to facilitate the realization of the PR in the country exist in particular for legal reform and training.</p> <p><b>2005 AR:</b> According to the Government: Needs for ILO technical cooperation to facilitate the realization of this PR in the country exist in particular in the following areas, in order of priority: (1) strengthening capacity of employers' and workers' organizations; and (2) sharing of experiences across countries/regions.</p>
	<p><b>Offer</b></p>	<p>ILO.</p>



<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries, such as China (as well as the Gulf States and new member States, in particular in the South Pacific), had made important efforts during this process. However, according to them, more needed to be done. The IDEAs noted with concern that China (and another State) has not yet expressed its intention to ratify C.87 and C.98. Nonetheless, they also welcomed the efforts made by China (Adoption of a Labour Law Contract with provisions on collective bargaining) in implementing the principle and right and called upon the Government to provide further information on its new legislation and its implications. The IDEAs drew the attention to the practice in some countries, including China, where only one official trade union was allowed in practice and where some unions are subject to government’s interference or influence. In this regard, they recalled the following: “the right to official recognition is an essential aspect of the right to organize as it allows employers’ and workers’ organizations to be in a position to play their roles efficiently. Furthermore, any government intervention in employers’ and workers’ organizations’ internal affairs (right to establish and join organizations of their own choosing, without distinction whatsoever and without previous authorization, right to draw up internal constitutions and rules, right to elect their representatives in full freedom, etc.) constitutes interference in the functioning of these organizations, which is a denial of the principle and right” (cf. paragraphs 12, 30, 34 and 36 of the 2008 AR Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed China among the four countries in which 52 per cent of the total labour force of ILO member States live and which have not yet ratified C.87 and C.98. This leaves many millions of workers and employers without the protection offered by these instruments in international law, even if the governments concerned may consider that their law and practice are sufficient (cf. paragraph 32 of the 2007 AR Introduction). Furthermore, the IDEAs noted with concern that several countries had not yet expressed their intention to ratify and urged China to do so (cf. paragraph 33 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The ILO Expert-Advisers (IDEAs) commended China for its continuing dialogue with the Office and hoped that the positive measures taken would be expanded upon (cf. paragraph 12 of the 2005 Annual Review Introduction – ILO: GB.3292/4).</p> <p><b>2003 AR:</b> The IDEAs commended China for requesting the ILO’s technical cooperation, through the Annual Review process (cf. paragraph 4 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>





**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).





**BASE DE RÉFÉRENCE PAR PAYS AU TITRE DE L'EXAMEN ANNUEL DE LA DÉCLARATION DE L'OIT (2000-2015)<sup>1</sup>: GUINÉE-BISSAU**

*LIBERTÉ D'ASSOCIATION ET RECONNAISSANCE EFFECTIVE DU DROIT DE NÉGOCIATION COLLECTIVE (LANC)*

<b>SOUMISSION DES RAPPORTS</b>	<b>Accomplissement de l'obligation de rapport par le gouvernement</b>	<b>OUI</b> , sauf pour les examens annuels (EA) de 2001, 2004, 2006 et 2011.
	<b>Implication des organisations d'employeurs et de travailleurs dans l'élaboration des rapports</b>	<b>OUI</b> , implication positive et active de la Chambre de l'agriculture, du commerce et de l'industrie (CACI), de la Chambre du commerce, de l'industrie et de l'agriculture (CCIA), de la Confédération générale des syndicats indépendants (CGSI/GB) ainsi que de l'Union nationale des travailleurs de Guinée (UNTG) par voie de communication des rapports gouvernementaux.
<b>OBSERVATIONS DES PARTENAIRES SOCIAUX</b>	<b>Organisations d'employeurs</b>	<b>EA 2008:</b> Observations de la CACI. Observations de la CCIA.
	<b>Organisations de travailleurs</b>	<b>EA 2012:</b> Observations de l'UNTG. <b>EA 2010:</b> Observations de l'UNTG. <b>EA 2008:</b> Observations de la CGSI/GB. Observations de l'UNTG. <b>EA 2007:</b> Observations de la Confédération internationale des syndicats libres (CISL).

<sup>1</sup> Les bases de référence par pays continues dans l'examen annuel de la Déclaration de l'OIT sont fondées sur les éléments suivants, dans la mesure de leur disponibilité: les rapports de gouvernements, les observations des organisations d'employeurs et de travailleurs, les études de terrain préparées sous l'égide du pays et du BIT, ainsi que des observations/recommandations des Experts-conseillers de la Déclaration de l'OIT et du Conseil d'administration du BIT. Pour de plus amples informations sur la réalisation du principe et droit dans un pays donné concernant une convention ratifiée ou des cas éventuels qui ont été soumis au Comité de la liberté syndicale de l'OIT, prière de voir: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.

<b>EFFORTS ET PROGRÈS ACCOMPLIS DANS LA RÉALISATION DU PRINCIPE ET DROIT</b>	<b>Ratification</b>	<b>Etat des ratifications</b>	<p><b>La Guinée-Bissau a ratifié en 1977 la convention (n° 98) sur le droit d'organisation et de négociation collective, 1949 (C.98). Toutefois, elle n'a pas encore ratifié la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948 (C.87).</b></p>
		<b>Intention de ratification</b>	<p><b>OUI, depuis 2002, pour la C.87.</b></p> <p><b>EA 2015:</b> Selon le gouvernement : De nombreux efforts sont actuellement entrepris pour la ratification de la C.87 par les nouvelles autorités du pays.</p> <p><b>EA 2014:</b> Selon le gouvernement: L'Assemblée Nationale Populaire ayant donné son aval pour la ratification de la C.87. Le gouvernement attend seulement la promulgation de l'acte de ratification dudit instrument par le Président de la République et espère envoyer au BIT l'instrument y relatif d'ici la fin de l'année 2013, en principe.</p> <p><b>EA 2013:</b> Selon le gouvernement : La procédure interne de ratification la C.87 a été achevée, et il ne reste plus que son enregistrement formel par les autorités compétentes.</p> <p><b>EA 2012:</b> Le gouvernement réitère sa demande d'assistance au Bureau afin d'accélérer le processus de ratification de la C.87.</p> <p>L'UNTG s'associe à la demande du gouvernement tout en espérant l'assistance du BIT ne saurait tarder.</p> <p><b>EA 2010:</b> Selon le gouvernement: L'instrument de ratification de la C.87 avait été signé par le chef de l'Etat en 2009; mais suite au changement politique intervenu à la tête de l'Etat, la procédure de ratification doit être reprise avec l'aide du BIT.</p> <p>L'UNTG se félicite de la décision du gouvernement de compléter la ratification des conventions fondamentales de l'OIT en ratifiant notamment la C.87. Elle le prie instamment d'accélérer la procédure de transmission de l'instrument de ratification au BIT pour enregistrement.</p> <p><b>EA 2009:</b> Selon le gouvernement: L'instrument de ratification de la C.87 a été signé par le chef de l'Etat et va être très prochainement transmis au BIT.</p> <p><b>EA 2008:</b> Selon le gouvernement, le processus de ratification de la C.87 est toujours pendant et est tributaire de la révision législative qui est en cours en Guinée-Bissau. Qui plus est, en dépit du fait que la ratification de la C.87 a été approuvée par ordonnance (loi n° 10/91 du 3 octobre 1991), elle n'a pas encore été promulguée par le Président. En conséquence, le processus devra être repris depuis le début.</p> <p>Selon la CCIA, la CACI et la CGSI/GB, la procédure de ratification de la C.87, par voie d'ordonnance (loi n° 10/91 du 3 octobre 1991) n'a pu être finalisée.</p> <p><b>EA 2007:</b> Le gouvernement a déclaré que la ratification de la C.87 demeurerait une préoccupation fondamentale.</p> <p><b>EA 2003:</b> Le gouvernement a indiqué que la ratification de la C.87 avait été soumise à l'approbation de l'Assemblée nationale.</p> <p><b>EA 2002:</b> Le gouvernement a indiqué qu'il se préoccupait et qu'il s'efforçait de reprendre le processus de ratification de la C.87.</p>

	<b>Reconnaissance du principe et droit (perspective(s), moyens d'action, dispositions juridiques principales)</b>	<b>Constitution</b>  <b>Politique, législation et/ou réglementation</b>  <b>Dispositions juridiques principales</b>  <b>Décisions judiciaires</b>	<b>OUI</b> , la liberté d'association est garantie par les articles 45 et 47 de la Constitution.  <b>Législation:</b> La législation nationale reconnaît la liberté d'association notamment par la loi n° 8/91 du 3 octobre 1991 et le droit de grève, par la loi n° 9/91 du 3 octobre 1991.  <b>EA 2013 :</b> Selon le gouvernement: Le nouveau projet de Code du travail constitue une amélioration considérable dans la promotion de la liberté d'association et la reconnaissance effective du droit de négociation collective.  i) Constitution (art. 45 et 47); ii) loi générale du travail (art. 164 et suiv.); iii) loi n° 8/91 du 3 octobre 1991; et iv) loi n° 9/91 du 3 octobre 1991.  RAS.	
	<b>Exercice du principe et droit</b>	<b>Au niveau national (entreprise, secteur/industrie, national)</b>	<b>Pour les employeurs</b>	L'autorisation ou l'approbation du gouvernement n'est pas nécessaire pour constituer une organisation d'employeurs ou pour conclure des conventions collectives. Leurs statuts doivent seulement être déposés devant le notaire pour acquérir une personnalité juridique.  Tous les employeurs peuvent exercer la liberté d'association et le droit de négociation collective dans le cadre de l'entreprise, du secteur ou de l'industrie, ainsi qu'au niveau national (et international).
<b>EFFORTS ET PROGRÈS ACCOMPLIS DANS LA RÉALISATION DU PRINCIPE ET DROIT</b>	<b>Exercice du principe et droit</b>	<b>Au niveau national (entreprise, secteur/industrie, national)</b>	<b>Pour les travailleurs</b>	L'autorisation ou l'approbation du gouvernement n'est pas nécessaire pour constituer une organisation de travailleurs ou pour conclure des conventions collectives. Leurs statuts doivent seulement être déposés devant le notaire pour acquérir une personnalité juridique.  La liberté d'association et le droit de négociation collective peuvent être exercés dans le cadre de l'entreprise, du secteur ou de l'industrie, ainsi qu'au niveau national (et international) par les catégories suivantes de personnes: i) médecins; ii) enseignants; iii) travailleurs agricoles; iv) travailleurs domestiques; v) travailleurs des zones franches (ZFE) ou des entreprises/industries assimilées; vi) travailleurs migrants; vii) travailleurs de tout âge; et

				<p>viii) travailleurs de l'économie informelle.</p> <p>Tous les travailleurs du service public peuvent exercer le droit de négociation collective; toutefois, les militaires, la police et le corps paramilitaire ne peuvent exercer la liberté d'association.</p>
			<p><b>Attention spéciale accordée à des situations particulières</b></p>	<p><b>EA 2002 et 2007:</b> Selon le gouvernement: les femmes.</p>
			<p><b>Collecte et diffusion d'informations ou de données</b></p>	<p><b>EA 2007:</b> Le gouvernement a indiqué qu'il avait demandé aux partenaires sociaux des informations et statistiques, mais en vain.</p> <p><b>EA 2000:</b> Selon le gouvernement, des statistiques sur le nombre de syndicats sont disponibles, à l'exception du secteur non structuré.</p>
		<p><b>Au niveau international</b></p>	<p>Selon le gouvernement, il n'existe aucune restriction particulière pour l'affiliation des organisations d'employeurs ou de travailleurs au niveau international.</p>	
	<p><b>Mécanismes de contrôle, mise en œuvre et/ou sanctions</b></p>	<p><b>EA 2008:</b> Selon le gouvernement, il existe une possibilité de recours devant l'inspection du travail ou la justice en cas de licenciement injustifié.</p> <p><b>EA 2002 et 2007:</b> Selon le gouvernement, les dispositifs mis en place pour garantir le respect de la liberté d'association et du droit de négociation collective sont l'inspection du travail et les autres mécanismes de contrôle. En cas de non-respect du principe et droit (PED), il y a en général recours à la conciliation et à la médiation. En cas d'échec, des procédures judiciaires concernant la réparation ainsi que des sanctions civiles, administratives ou pénales sont prévues.</p>		
	<p><b>Implication des partenaires sociaux</b></p>	<p><b>EA 2008:</b> Selon le gouvernement: une cellule tripartite de suivi relatif au PAMODEC a été mise en place. Ce programme a également réalisé une étude nationale ainsi qu'un Atelier national tripartite sur les principes et droits fondamentaux au travail. De plus, la Chambre de l'agriculture, du commerce, et de l'industrie (CACI) a été créée en 2004.</p> <p><b>EA 2003:</b> Selon le gouvernement: Il y a un examen triparti des questions à l'ordre du jour.</p>		
	<p><b>Activités promotionnelles</b></p>	<p><b>EA 2015:</b> Selon le gouvernement : la liberté syndicale est une réalité en Guinée-Bissau où existent de nombreuses organisations syndicales ainsi qu'une organisation représentant les employeurs du secteur privé.</p> <p><b>EA 2013:</b> Selon le gouvernement : La création du Conseil permanent du dialogue social dans le cadre du Programme d'appui à la mise en œuvre de la Déclaration (PAMODEC) du BIT a permis la sensibilisation et la formation des partenaires tripartites ainsi que de milieu sur les principes et droits fondamentaux au travail.</p> <p><b>EA 2012:</b> Selon le gouvernement: Une fonctionnaire du ministère de la Fonction publique, du Travail et des Réformes administratives a participé en mai-juin 2011 au cours pré-Conférence du BIT/TURIN sur les normes internationales du travail au cours duquel les questions concernant le PED ont été traitées.</p> <p>L'UNTG déclare avoir également participé à ladite activité à Turin pendant la même période.</p> <p><b>EA 2010:</b> Selon le gouvernement: Les activités promotionnelles menées sont les suivantes: i) mise en place de formations au niveau local; ii) collaboration avec le projet PAMODEC; iii) création d'une cellule tripartite de négociation; iv) garantie de l'existence d'une liberté d'association générale.</p>		

		<p>L'UNTG indique avoir établi un comité chargé de sensibiliser les affiliés sur l'importance de la ratification de toutes les conventions fondamentales de l'OIT par la Guinée-Bissau. En outre, un membre de l'UNTG a participé au Cours sur les normes internationales du travail organisé par le Centre de Turin conjointement avec le BIT.</p> <p><b>EA 2009:</b> La validation du programme PAMODEC en Guinée-Bissau a été faite au cours d'un Atelier national tripartite axé sur l'étude nationale sur le suivi de la Déclaration. Les recommandations de l'atelier sont en cours d'exécution, avec notamment une formation de formateurs en matière de principes et droits fondamentaux au travail.</p> <p><b>EA 2008:</b> Selon le gouvernement, des séances de formation sont organisées pour les jeunes professionnels dans la fonction publique par le Centre de formation de promotion sociale. Le lancement du PAMODEC ainsi qu'une étude de cas au niveau national sur le suivi de la Déclaration a été initié en juillet et leur validation est prévue pour octobre 2007.</p> <p><b>EA 2003:</b> Selon le gouvernement, le renforcement des capacités des organisations de travailleurs ainsi que des activités de sensibilisation/mobilisation sont effectués.</p>	
	<p><b>Initiatives spéciales/Progrès</b></p>	<p><b>EA 2012:</b> Selon le gouvernement, la cellule tripartite pour la promotion de la Déclaration fonctionne avec l'appui du PAMODEC et a continué ses activités de sensibilisation à l'intention des magistrats, enseignants universitaires, inspecteurs du travail, travailleurs et des employeurs.</p> <p>L'UNTG confirme l'information fournie par le gouvernement concernant les activités de la cellule tripartite pour la promotion de la Déclaration.</p> <p><b>EA 2008:</b> Le gouvernement a indiqué qu'une nouvelle entité tripartite sous le nom de «concertation sociale» avait été créée. Le programme PAMODEC a également réalisé une étude nationale ainsi qu'un Atelier national tripartite sur les principes et droits fondamentaux au travail.</p> <p>L'autorisation ou l'approbation du gouvernement n'est pas nécessaire pour constituer une organisation d'employeurs ou de travailleurs ou pour conclure des conventions collectives.</p> <p><b>EA 2002:</b> Création d'une nouvelle organisation d'employeurs: la Chambre du commerce, de l'industrie et de l'agriculture (CCIA).</p>	
<p><b>DIFFICULTÉS DANS LA RÉALISATION DU PRINCIPE ET DROIT</b></p>	<p><b>Selon les partenaires sociaux</b></p>	<p><b>Organisations d'employeurs</b></p>	<p><b>EA 2008:</b> Selon la CCIA et la CACI: i) les organisations d'employeurs sont informées mais pas suffisamment impliquées dans le processus de ratification; ii) il y a une absence de politique de sensibilisation sur l'importance des normes fondamentales; iii) instabilité politique; iv) lourdeurs bureaucratiques et difficultés dans la gestion des finances publiques; v) faible niveau d'engagement politique pour la mise en œuvre des normes de l'OIT; et vi) faible implication des partenaires sociaux dans la conduite des affaires gouvernementales.</p>
		<p><b>Organisations de travailleurs</b></p>	<p><b>EA 2010:</b> L'UNTG réitère les difficultés qu'elle avait soulevées dans le cadre de l'Examen annuel de 2008, à savoir: i) la nécessité de diffuser les principes de la liberté syndicale à travers le pays à travers l'élaboration de séminaires ou les médias; ii) le fait que les travailleurs soient souvent renvoyés par les employeurs pour avoir participé à des grèves; iii) l'ignorance des normes fondamentales du travail et de la législation nationale; et iv) la faiblesse des moyens de l'administration du travail.</p> <p><b>EA 2012:</b> L'UNTG s'indigne du fait que les syndicats ne peuvent être formés dans les établissements bancaires et dans certaines entreprises commerciales (exemple: supermarchés).</p> <p><b>EA 2008:</b> Selon l'UNTG et la CGSI/GB: i) il est nécessaire de diffuser les principes de la liberté syndicale à travers le pays à travers l'élaboration de séminaires ou les médias; ii) les travailleurs</p>

		<p>sont souvent licenciés par les employeurs pour avoir participé à une grève; iii) ignorance des normes fondamentales du travail et de la législation nationale; et iv) faiblesse des moyens de l'administration du travail.</p> <p>Selon la CISL: i) Le droit de négociation collective n'est pas inscrit dans la Constitution et celle-ci ne protège pas non plus ce droit; ii) en pratique, il n'y pas de négociation sur les salaires et les syndicats sont harcelés lorsqu'ils appellent à la grève.</p> <p><b>EA 2007:</b> Selon la CISL, le gouvernement n'a cessé de harceler les dirigeants de l'Union nationale des travailleurs de Guinée (UNTG) du fait de leurs appels à la grève.</p>
	<p><b>Selon le gouvernement</b></p>	<p><b>EA 2013:</b> Selon le gouvernement: Il y a eu une longue grève dans le secteur de l'éducation qui a été résolue par voie de négociation entre le gouvernement et les syndicats. De même, certains secteurs d'activités, tels que les banques commerciales et certaines sociétés privées, sont résistants à la liberté d'association et au droit de négociation collective.</p> <p><b>EA 2012:</b> Selon le gouvernement, la situation décrite au cours de l'examen annuel de 2010 concernant les restrictions au PED n'a pas fondamentalement changé.</p> <p><b>EA 2010:</b> Selon le gouvernement, il conviendrait de renforcer les campagnes de sensibilisation. En outre, les problèmes suivants persistent quant à l'application du droit de grève: i) les salariés peuvent se voir licencier à la suite d'une grève (ou au mieux recevoir un salaire déduit des heures d'absences pour grève); ii) l'inspection du travail a pu constater que certains salariés syndiqués subissaient des attitudes répressives de la part de leurs employeurs malgré le fait que le droit de grève soit une liberté fondamentale reconnue par la Constitution nationale.</p> <p><b>EA 2009:</b> Le gouvernement espère que le Programme PAMODEC aidera le pays à élaborer une législation adéquate concernant le PED.</p> <p><b>EA 2008:</b> Le gouvernement a indiqué qu'il n'existait pas encore de législation sur la négociation collective et le droit à la liberté d'association. De plus, les travailleurs sont souvent renvoyés par les employeurs pour avoir participé à une grève.</p> <p><b>EA 2002:</b> Selon le gouvernement: Il existe des difficultés dans la mise en œuvre de réformes juridiques visant à promouvoir le PED.</p>

<p><b>COOPÉRATION TECHNIQUE</b></p>	<p><b>Demande</b></p>	<p><b>EAs 2014-15:</b> Selon le gouvernement : Le gouvernement sollicite la continuation de la mise en œuvre du Projet PAMODEC en Guinée-Bissau afin d’assister le pays à mieux promouvoir la liberté syndicale ainsi que les autres principes et droits fondamentaux au travail. Il sollicite également l’assistance du Bureau pour l’accélération du processus de ratification de la C.87 dans le cadre d’activités promotionnelles tripartites.</p> <p><b>EA 2013 :</b> Le gouvernement a sollicité l’appui technique du Bureau en matière de formation et de sensibilisation dans le domaine de la liberté d’association et la reconnaissance effective du droit de négociation collective.</p> <p><b>EA 2012:</b> Le gouvernement et l’UNGT réitèrent leurs demandes d’assistance technique du BIT formulées dans le cadre de l’examen annuel de 2010, y compris dans le cadre de l’accélération du processus de ratification de la C.87, tout en espérant que le Programme BIT/PAMODEC sera relancé dans les meilleurs délais afin d’y répondre. L’UNGT met un accent particulier sur la nécessité d’organiser des activités d’éducation ouvrière en matière de liberté syndicale.</p> <p><b>EA 2010:</b> Le gouvernement sollicite l’aide du BIT pour le renforcement des capacités de l’administration du travail, de l’inspection du travail ainsi que celles des organisations d’employeurs et de travailleurs.</p> <p>L’UNGT sollicite le renforcement de ses capacités en matière de promotion des conventions fondamentales, avec un accent particulier sur les techniques de négociation collective.</p> <p><b>EA 2009:</b> Le gouvernement espère que le BIT aidera le pays à élaborer prochainement un programme national sur le travail décent.</p> <p><b>EA 2008:</b> Le gouvernement a sollicité l’assistance technique du BIT pour: 1) organismes gouvernementaux responsables, échange d’expériences entre pays ou régions; 2) évaluation en coopération pour l’élaboration d’une législation sur la liberté d’association et la reconnaissance effective du droit de négociation collective.</p> <p><b>EA 2003:</b> Le gouvernement souhaiterait une coopération technique du BIT dans les domaines suivants, par ordre de priorité: 1) renforcement du dialogue tripartite; 2) renforcement des capacités tripartites; 3) mise en œuvre de sensibilisation, initiation juridique et mobilisation, renforcement de la collecte de données et de l’aptitude à tenir et analyser des statistiques.</p>
	<p><b>Offre</b></p>	<p><b>EA 2008:</b> BIT/PAMODEC.</p>
<p><b>OBSERVATIONS/ RECOMMANDATIONS DES EXPERTS-CONSEILLERS</b></p>	<p><b>EA 2008:</b> Les Experts-conseillers de la Déclaration sont encouragés à noter que certains pays, dont la Guinée-Bissau, qui rencontrent des difficultés structurelles, ont été en mesure de fournir un rapport avec l’assistance du BIT. Ils ont également encouragé en particulier le gouvernement de la Guinée-Bissau à adopter une législation nationale sur le principe et droit, en coopération avec le Bureau et le Programme d’appui à la mise en œuvre de la Déclaration – PAMODEC (voir paragr. 25 et 32 de l’Introduction à l’examen annuel de 2008, BIT, document GB.301/3).</p> <p><b>EA 2007:</b> Les Experts-conseillers de la Déclaration de l’OIT notent que la Guinée-Bissau fait partie des pays qui ont indiqué leur intention de ratifier les C.87 et C.98 depuis plusieurs années sans qu’aucun progrès ne soit intervenu (voir paragr. 33 de l’Introduction à l’Examen annuel de 2007, BIT, document GB.298/3).</p> <p><b>EA 2003:</b> Les Experts-conseillers de la Déclaration notent avec satisfaction que le gouvernement de la Guinée-Bissau a souligné qu’il est nécessaire de renforcer les capacités des organisations d’employeurs et de travailleurs et qu’il sollicite l’aide du BIT à cet effet. Le Bureau devrait mobiliser ses ressources aussi rapidement que possible, sous réserve naturellement que le renforcement envisagé ne concerne pas des structures de syndicat unique imposé ou des organisations d’employeurs. A la lumière des demandes faites par la Guinée-Bissau qui a sollicité la coopération du BIT pour l’évaluation des difficultés et leur incidence sur la réalisation des principes et droits de la liberté d’association et de la négociation collective, ils souhaiteraient que le Conseil d’administration demande que des contacts de haut niveau soient pris immédiatement entre le Bureau et deux ou trois pays qui ne bénéficient pas encore de projets techniques du BIT dans ce domaine (voir paragr. 73 et 74 de l’Introduction à l’Examen annuel de 2003, BIT, document GB.286/4).</p>	
<p><b>OBSERVATIONS/ RECOMMANDATIONS</b></p>	<p><b>EA 2015 :</b> Lors de sa session de Mars 2014, le Conseil d’administration a invité le Directeur général: a) à tenir compte de ses orientations sur les principales questions et priorités concernant l’aide à apporter aux Etats Membres dans leurs efforts pour respecter, promouvoir et réaliser les principes et droits fondamentaux</p>	



<b>DU CONSEIL D'ADMINISTRATION</b>	au travail; et b) à tenir compte de cet objectif dans les initiatives du Bureau visant à mobiliser des ressources. <b>EA 2009:</b> Lors de sa session de mars 2009, le Conseil d'administration a inclus la révision du suivi de la Déclaration sur les principes et droits fondamentaux au travail de 1998 à l'ordre du jour de la 99 <sup>e</sup> session (2010) de la Conférence internationale du Travail.
<b>RÉSOLUTION DE LA CONFÉRENCE INTERNATIONALE DU TRAVAIL</b>	<b>EA 2011:</b> Suite à un débat tripartite dans le cadre de la Commission de la Déclaration de 1998, la 99 <sup>e</sup> session (2010) de la Conférence internationale du Travail a adopté le 15 juin 2010 une résolution sur le suivi de la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail. Le texte figurant en annexe à cette résolution remplace l'Annexe de la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail et est nommé «Annexe à la Déclaration de 1998 (révisée)». En particulier, la résolution «[note] les progrès accomplis par les Membres dans le respect, la promotion et la réalisation des principes et des droits fondamentaux au travail et la nécessité de soutenir ces progrès en maintenant un dispositif de suivi». Pour davantage d'informations, voir les pages 3 à 5 du lien suivant: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143166.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143166.pdf</a> .





**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: INDIA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Reviews (ARs) in 2000, but no change reports in 2009, 2011 and 2015 ARs.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' (the All India Association of Industries (AIAI), the PHD Chambers of Commerce and Industries (PHDCCI), the Council of Indian Employers (CIE); the Employers' Federation of India (EFI); the All India Organisation of Employers (AIOE); the Standing Conference of Public Enterprises (SCOPE); the All India Manufacturers' Organisation - Lagdhu Udyog Bharati (AIMO)) and workers' organizations (Bharatiya Mazdoor Sangh (BMS); the Indian National Trade Union Congress (INTUC); the Centre of Indian Trade Unions (CITU); Hind Mazdoor Sabha (HMS); the All India Trade Union Congress (AITUC); Labour Progressive Union (LPF); and National Front of Indian Trade Unions (NFTI)) through communication of the Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2015 AR:</b> Observations by the CIE.</p> <p><b>2014 AR:</b> Observations by the CIE.</p> <p><b>2012 AR:</b> Observations by the CIE. Observations by the SCOPE.</p> <p><b>2011 AR:</b> Observations by the AIOE and the CIE.</p> <p><b>2010 AR:</b> Observations by the PHDCCI.</p> <p><b>2009 AR:</b> Observation by the AIAI. Observation by the PHDCCI.</p> <p><b>2008 AR:</b> Observations by the CIE comprised of 81 federations.</p> <p><b>2007 AR:</b> Observations by the AIMO.</p> <p><b>2003 AR:</b> Observations by the AIMO.</p>

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<b>Workers' organizations</b>	<p><b>2015 AR:</b> Observations by the CITU.</p> <p><b>2014 AR:</b> Observations by the BMS.</p> <p><b>2013 AR:</b> Observations by the AITUC. Observations by the INTUC Observations by the LPF.</p> <p><b>2012 AR:</b> Observations by the BMS. Observations by the CITU.</p> <p><b>2011 AR:</b> Observations by the INTUC.</p> <p><b>2010 AR:</b> Observations by the INTUC.</p> <p><b>2009 AR:</b> Observations by the INTUC. Observations by the International Trade Union Confederation (ITUC).</p> <p><b>2008 AR:</b> Observations by the AITUC. Observations by the BMS. Observations by the ITUC.</p> <p><b>2007 AR:</b> Observations by the AITUC. Observations by the HMS. Observations by the INTUC. Observations by the International Confederation of Free Trade Unions (ICFTU).</p> <p><b>2006 AR:</b> Observations by the ICFTU.</p> <p><b>2005 AR:</b> Observations by the AITUC. Observations by the ICFTU. Observation by the HMS.</p> <p><b>2004 AR:</b> Observations by the AITUC. Observations by the HMS. Observations by the ICFTU.</p> <p><b>2003 AR:</b> Observations by the AITUC. Observations by the HMS. Observations by the ICFTU.</p> <p><b>2002 AR:</b> Observations by the ICFTU.</p> <p><b>2001 AR:</b> Observations by the ICFTU.</p>
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<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>India has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87), nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<p><b>Unable to ratify C.87 and C.98 at the current stage. However, according to the Government: national laws are moving towards ratification of C.87 and C.98 and tripartite consultations and negotiations are taking place on this issue.</b></p> <p><b>2015 AR:</b> According to the Government: The Government reiterated the statement it made under the previous review. CIE reiterated its support for the ratification of C.87 and C.98. According to the CITU there is no political will to ratify C.87 and C.98.</p> <p><b>2014 AR:</b> According to the Government: The Government remains unable to ratify C.87 and C.98 as national laws and practices are yet to be harmonized with the provisions of the conventions. The CIE expressed its support for the ratification of C.87 and C.98. According to the BMS: Ratification of C.87 and C.98 is expected to be finalized in 2014, but the upcoming elections may cause delay.</p> <p><b>2013 AR:</b> According to the Government: No change has taken place in the Government's policy in relation to C.87 and C.98 over the last year. The Government of India applies the principle of ratifying an ILO Convention only when national legislation and practices are in full compliance with the provisions of the Convention. Therefore, ratification of C.87 and C.98 is not possible at the current stage. The AITUC, INTUC and LPF expressed their full support for the ratification of all core Conventions, including C.87 and C.98 as the principle and right (PR) is already provided for in the Constitution and national legislation.</p> <p><b>2012 AR:</b> According to the Government: National laws are moving towards ratification of C.87 and C.98 and tripartite consultations and negotiations are taking place on this issue. The CIE expressed its support for this ratification, adding that there were provisions for freedom of association and effective recognition of the right to collective bargaining in the Indian Constitution, such as: (i) the Trade Union Act (1926) which recognizes that 7 per cent of the workforce in an enterprise can form a trade union; and (ii) the Industrial Dispute Act (1947) which recognizes collective bargaining (sections 12&amp;18). According to the SCOPE: Freedom of association and recognition of the right to collective bargaining are already provided for by the Indian Constitution. There are no contradictions between Indian law and</p>

			<p>C.87 and C.98, and hence no urgent need for ratification of C.87 and C.98.</p> <p>The BMS indicated that like most trade unions in India, they support ratification of all eight core conventions, including C.87 and C.98.</p> <p>According to the CITU: As founding Member of the ILO it is the responsibility of the Government of India to ratify all ILO fundamental Conventions, including C.87 and C.98.</p> <p><b>2011 AR:</b> INTUC reiterated it was strongly supporting ratification of C.87 by India, while hoping that its leadership and efforts would lead soon to the effective ratification of this instrument.</p> <p><b>2010 AR:</b> The Government reiterated its statement under the 2008 AR on the impossibility to ratify C.87 and C.98 at the current stage.</p> <p>The PHDCCI and the INTUC expressed its full support for the ratification of C.87 and C.98 by India.</p> <p><b>2009 AR:</b> The Government reiterated its statement under the 2008 AR on the impossibility to ratify C.87 and C.98 at the current stage.</p> <p>The AIAI, the PHDCCI and the INTUC mentioned their strong support for the ratification of C.87 and C.98 by India.</p> <p><b>2008 AR:</b> According to the Government: The practice in India has been to ratify the ILO Conventions only when the national legislations and practices have achieved full compliance with the provisions of the international standards. Therefore, the ratification of C.87 and C.98 is not possible at the current stage.</p> <p>The CIE, the AITUC and the BMS expressed their support for the ratification of C.87 and C.98.</p> <p><b>2007 AR:</b> According to HMS and INTUC: Ratification of all the remaining non ratified Fundamental Conventions is supported by all trade unions of India.</p> <p><b>2006 AR:</b> The Government indicated that ratification of C.87 and C.98 would involve granting certain rights that are prohibited under the statutory rules for government employees, namely the right to strike and criticize openly government policies, the right to accept freely financial contribution, the right to join freely foreign organizations, etc.</p> <p>Since there is no change in the basic policy of the Government of India, it reiterates its stand that it is not possible to ratify these two Conventions.</p> <p><b>2000 AR:</b> The Government indicated that it was unable to consider ratification of the two Conventions due to a problem of a “technical nature” relating to restrictions placed on the rights of government officials in Indian legislation.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>Under article 19(1)(c), the 1950 Constitution provides that: “All citizens have the right to form associations or unions”.</p>



	<p><b>provisions)</b></p>	<p><b>Policy/Legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>▪ <b>Policy:</b>  <b>2015 AR:</b> According to the Government: The 2013-2017 Decent Work Country Programme (DWCP) contains the intention to ratify C. 87 and C. 98.</li> <li>• <b>Legislation:</b>  <b>2012 AR:</b> The National Rural Employment Guarantee Act 2006.</li> <li><b>2000-2005 ARs:</b> The Trade Unions Act, 1926, allows industrial workers to form trade unions. The Industrial Disputes Act, 1947, recognizes agreements between employers and workers.</li> <li><b>2002 AR:</b> The Trade Unions Act was amended in 2002 to authorize a trade union to register only if there is a minimum of 100 members or 10 per cent of the workforce, subject to a minimum of 7 workers members, whichever is less, per establishment or industry.</li> </ul>	
		<p><b>Basic legal provisions</b></p>	<p>(i) The 1950 Constitution, article 19(1)(c); (ii) the 2002 Trade Unions Act, 2002; (iii) the Trade Unions Act, 1926; and (iv) the Industrial Disputes Act, 1947.</p>	
		<p><b>Judicial decisions</b></p>	<p><b>2012 AR:</b> According to the BMS: Trade union rights are being challenged by the Government. There is a new Supreme Court decision prohibiting strike.</p> <p><b>2000 AR:</b> According to the Government: The highest courts of India and the courts have upheld the constitutionality and reasonableness of the restrictions imposed on freedom of association for government officials.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Exercise of the principle and right</b></p>	<p><b>At national level (enterprise, sector/industry, national)</b></p>	<p><b>For Employers</b></p>	<p><b>2012 AR:</b> According to CIE: There are 35 Tripartite Committees in India that negotiate on various levels since 1942.</p> <p><b>2003 AR:</b> Government authorization/approval is not required to establish an employers' organization, or to conclude collective agreements. Freedom of association and the right to collective bargaining can be exercised at enterprise, sector/industry, national and international levels by all categories of employers. However, there is as yet no central law that enables trade unions a regular recognition, but many state governments have enacted such laws, in the context of the multiplicity of trade unions or for the purpose of collective bargaining.</p>

			<p><b>For Workers</b></p>	<p><b>2006 AR:</b> According to the Government: The workers in India enjoy the rights and protection envisaged under C.87 and C.98.</p> <p>However, government servants are treated as a separate category and they have an exceptionally high degree of job security flowing from article 311 of the Constitution. However, they are not allowed to form trade unions.</p> <p><b>2003 AR:</b> Government authorization/approval is not required to establish a workers' organization, or to conclude collective agreements.</p> <p>Freedom of association and the right to collective bargaining can be exercised at enterprise, sector/industry, national and international levels by the following categories of persons: medical professionals; teachers; agricultural workers; workers engaged in domestic work; workers in export processing zones (EPZs) or enterprises/industries with EPZ status; migrant workers; workers of all ages; and workers in the informal economy.</p> <p>However, persons employed in the armed forces, paramilitary forces, police service and prison, cannot exercise this principle and right (PR). Nonetheless, there is as yet no central law that enables trade unions a regular recognition, but many state governments have enacted such laws, in the context of the multiplicity of trade unions or for the purpose of collective bargaining.</p>
			<p><b>Special attention to particular situations</b></p>	<p><b>2014 AR:</b> The BMS expressed its intention to give special attention to ensuring realization of the PR in rural areas.</p>
			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2003 AR:</b> According to the Government: Data are available on the number and membership of registered employers' and workers' organizations (not disaggregated by sex), and on the numbers of disputes received by, disposed of and or pending before the Industrial Tribunals.</p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2011 AR:</b> According to the AIOE and the CIE: Freedom of association is a fundamental right enshrined in the Constitution and fully enjoyed in India.</p> <p><b>2006 AR:</b> According to the Government: Government servants have the facility of negotiation machinery under the Joint Consultative Machinery and Administrative Tribunals for the recovery of their grievances.</p> <p><b>2003-2005 ARs:</b> According to the Government: The following measures have been implemented or are envisaged to promote the PR: (i) legal reform; (ii) inspection/monitoring mechanisms; (iii) penal sanctions; (iv) civil or administrative sanctions; and (v) special institutional machinery.</p> <p><b>2001 AR:</b> According to the Government: A joint team, comprising State Labour Departments, the Central Government's Labour Ministry and representatives of trade unions of the EPZs, has been inspecting the industrial units in EPZs regularly to assess and improve the conditions of workers. A special task force and crash programmes of inspection have been established by the Government to implement the labour laws in the unorganized sectors.</p> <p><b>2000 AR:</b> According to the Government: The legislation provides for dispute settlements before conciliation officers.</p>		



	<p><b>Involvement of the social partners</b></p>	<p><b>2014 AR:</b> The BMS indicated that tripartite meetings were held on a regular basis.</p> <p><b>2012 AR:</b> The Government mentioned employers' and workers' organizations involvement through the social security tripartite system.</p> <p><b>2009 AR:</b> The INTUC mentioned that it had concluded bipartite and tripartite agreements with key stakeholders.</p> <p><b>2005 AR:</b> According to the Government: A meeting of the tripartite Indian Labour Conference was convened in October 2003.</p> <p><b>2003 AR:</b> According to the Government: A meeting of the tripartite Standing Labour Committee (SLC) was convened in May 2002.</p>
	<p><b>Promotional activities</b></p>	<p><b>2014 AR:</b> According to the BMS: Promotional activities, including awareness raising campaigns and tripartite meetings are conducted on a regular basis with a view to move forward in the ratification process of C.87 and C.98. The efforts typically target the South Asian regional level aiming at reaching a comprehensive regional approach towards realizing the FPRW.</p> <p><b>2013 AR:</b> The AITUC mentioned that it had organized seminars and workshops on the fundamental principles and rights at work (FPRW) including C.87 and C.98 along with other trade unions.</p> <p><b>2012 AR:</b> According to the Government: There is training, monitoring, inspection and promotion of tripartite dialogue. The BMS indicated that it was planning to organise a rally in Delhi on July 26, 2011, before Parliament for the recognition of trade unions rights (strike, pension). The CITU stated that it had organized independent and joint activities with other central trade unions and also with the ILO to promote freedom of association and the right collective bargaining and ratification of C.87 and C.98 by India.</p> <p><b>2009 AR:</b> The PHDCCI indicated that it had strengthened the capacity of its members through newsletters and publications.</p> <p><b>2008 AR:</b> The CIE indicated that it had been organizing regional tripartite consultations on the Declaration Follow-up since 2003.</p> <p><b>2003 and 2005 ARs:</b> According to the Government: The following measures have been implemented or are envisaged to promote the PR: (i) capacity building of responsible government officials; and (ii) capacity building for employers' and workers' organizations.</p> <p><b>2000 AR:</b> According to the Government: Efforts are underway to educate and motivate employers and workers to have a collective approach to dispute settlements and differences.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2013 AR:</b> According to the AITUC, INTUC, LPF: A tripartite watchdog committee meets every six months to discuss the implementation, promotion and ratifications of ILO core Conventions, including C.87 and C.98.</p> <p><b>2012 AR:</b> The Government indicated that tripartite consultations and negotiations were taking place concerning ratification of C.87 and C.98. According to the BMS: All sectors and national level confederations (civil servants, GENC-Central Government and State Government Employees) affiliated to the BMS are being organized.</p> <p><b>2003 AR:</b> According to the Government: In the coal industry, subsequently to a strike notice given by many representatives of the CTUOs, the conciliation machinery invited the trade unions for conciliatory talks. A settlement was reached and the strike was averted.</p>



<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014–2015 ARs:</b> According to the CIE: Major challenges exist in ensuring enforcement of legislation related to the PR.</p> <p><b>2012 AR:</b> According to the SCOPE: The main challenge in ratifying C.87 and C.98 is that the conventions are not suitable for all regions as they do not transcend to the local practices in labour relations in some parts of the country.</p> <p><b>2010 AR:</b> According to the PHDCCI: There is a challenge to implement the PR in the army.</p> <p><b>2008 AR:</b> According to the CIE: About 90 per cent of workers are in the informal economy and need to be organized and integrated in the formal economy.</p> <p><b>2003 AR:</b> According to the AIMO: The establishment of an employers' organization is subject to the Labour Department's scrutiny.</p>
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		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> CITU indicated that there were no measures taken by the Government in order to move forward in ratification process. It further mentioned that the main challenge is how to raise awareness of the Government and employers on the country's legal gaps relating to the PR,</p> <p><b>2014 AR:</b> According to the BMS: The main challenge hampering the realization of the PR is lack of law enforcement.</p> <p><b>2013 AR:</b> According to the AITUC, the INTUC and the LPF: Trade unions' rights are facing many setbacks. The PR is not respected and implemented by local governments despite the central Government's recommendations. Some workers' organizations linked with political parties prevent unions from efficiently protecting workers' right in the country. In addition, there is a substantive lack of social dialogue and tripartism in the country.</p> <p><b>2012 AR:</b> According to the BMS: Trade union rights are being challenged by the Government. There is a new Supreme Court decision prohibiting strike, and the Government has indicated that it is planning to take back pension rights with a Bill pending before Parliament.</p> <p>According to the CITU: Most of the multinational companies that recently have been established in India do not follow national laws, or the Trade Union Act (1926). Since there are no laws for mandatory recognition of trade unions, these companies are able to deny trade union rights. The CITU has therefore demanded for trade union recognition to be made compulsory throughout the country. Although some states, such as West Bengal and Kerala, have laws for trade union recognition, this is not the case for major industrial states like Gujarat, Haryana, Punjab and Karnataka.</p> <p><b>2010 AR:</b> The INTUC reiterated the same challenges it mentioned under the 2009 AR and added that more social dialogue would be needed between the tripartite partners in India.</p> <p><b>2009 AR:</b> According to the INTUC: The armed forces, the police officials and the teachers were not allowed to participate in trade union activities.</p> <p>The ITUC reiterated most of the challenges it mentioned under the 2008 ARs, and added that: (i) there are moves to exempt export processing zones (EPZs) from the application of labour laws, and some states, such as Andhra Pradesh, have even dissuaded labour departments from conducting inspections in these zones; and (ii) in the Santacruz Electronics Export Processing Zone (SEEPZ) near Mumbai, 90 per cent of the workers are women who are generally young and too frightened to form unions.</p> <p><b>2008 AR:</b> According to the AITUC: The main difficulty lies in the informal economy and poverty is still the prevailing problem in India.</p> <p>The ITUC reiterated the same challenges mentioned under the 2007 AR. It added that barriers to the organizing of trade unions continued in law and practice, and the government maintained strong restrictions on the right to strike in 2006. The government remains committed to a policy of creating greater flexibility in labour law, which would be detrimental to workers and their unions.</p> <p><b>2007 AR:</b> According to the ICFTU: (i) the Trade Union Act does not apply in Sikkim where workers do not enjoy trade union rights; (ii) the Delhi State has exempted EPZs from most labour legislation and there is a ban on the formation of trade unions; (iii) employers have a hostile attitude towards trade unions, which discourages workers from organizing.</p>
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		<p><b>Workers’ organizations</b></p>	<p><b>2006 and 2007 ARs:</b> The ICFTU reiterated the challenges it raised in its earlier observations: (i) concerning freedom of association, there are legal and practical barriers to the setting-up of trade unions (informal economy, agricultural sector...) and strong restrictions on the right to strike (especially in Tamil Nadu), which is forbidden to government employees following a High Court Ruling; (ii) concerning the right to collective bargaining, there is no legal obligation for an employer to recognize a union or engage in collective bargaining. In the absence of a statutory right to collective bargaining, employers are frequently reluctant to negotiate, and in particular refuse to negotiate with the unions of the workers’ choice. Many restrictions on the exercise of this right are imposed in the public service, the construction and ship breaking industries and Export-Processing Zones (EPZs).</p> <p><b>2005 AR:</b> According to the ICFTU: Severe restrictions on trade union rights exist in the construction and ship-breaking industries. In the State of Tamil Nadu, a large number of public services are included in the legislative definition of “essential services”, hence severely limiting the right to strike.</p> <p><b>2003 and 2005 ARs:</b> According to the ICFTU: (i) trade unions experience considerable challenges in organizing the vast majority of workers (93 per cent) that operate in the informal economy; (ii) particular problems exist among workers in the public sector, millions of home-based workers (specially women) and among workers in Export-Processing Zones (EPZs); tea plantations and in the State of Sikkim; (iii) trade unions are pressured to enter into 10-year collective agreements, rather than the usual 5 years; and (iv) many labour disputes are unresolved.</p> <p><b>2003 AR:</b> According to the HMS: (i) the right to collective bargaining does not exist, in practice in the informal economy where the relationships between employer and worker is difficult and where only individual bargaining exists; (ii) EPZs are exempted from labour laws; (iii) in practice, workers in EPZs do not enjoy the right to organize and to bargain collectively.</p> <p><b>2003 AR:</b> According to the AITUC: The main difficulties encountered in the realization of the PR are: (i) lack of public awareness/support; (ii) social and economic circumstances; (iii) legal provisions in some cases; (iv) prevailing employment practices; (v) lack of capacity of employers’ and workers’ organizations and (vi) lack of social dialogue on this PR. The AITUC further observes that certain States (e.g. Tamil Nadu and Kerala) have enacted legislation to prohibit strikes by government employees.</p>
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	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> The two major acts on Trade Unions and Industrial Disputes are in many aspects in compliance with the Conventions, however further clarification is needed.</p> <p><b>2012 AR:</b> The Government indicated that resources and sustainability are the main concerns towards ratification of C.87 and C.98.</p> <p><b>2009 AR:</b> In response to the ITUC's observations, the Government indicated in particular that in India: (i) under the Trade Union Act, 1926, workers are free to form and join unions; (ii) given that many of the central trade unions have affiliation/sympathy for particular political party, some reasonable restrictions have been imposed to civil servants to ensure impartiality and political neutrality; (iii) if an employer refuses to recognize a particular union, a tripartite State Evaluation and Implementation Committee can, through assessment and verification of records, recommend to that employer to recognize the said union or one of the unions; (iv) the amendment of 2001 to the Trade Union Act, 1926, was brought about to reduce multiplicity of trade unions, orderly growth of trade unions and to promote industrial democracy and collective bargaining; (v) the right to strike is dealt with in section 22 of the Industrial Dispute Act, 1947; (vi) explanation and application of the Essential Services Maintenance Act (ESMA) varies from state to state in accordance with the government deliberate flexibility for application based on the needs to maintain basic minimum public services by states and maintain public order; (vii) the Supreme Court of India has further ruled in favour of the provisions of the Central Civil Services (Conduct) Rules, 1964, that prohibit the government servants from resorting to strike; (viii) the Trade Union Act, 1926, has not been extended to the State of Sikkim despite that Union Government has consistently impressed upon the State of Sikkim to make provision for the application of this Act. The State Government of Sikkim has expressed its inability in extending and enforcing the Trade Union Act, 1926, for the time being keeping in view the present level of industrial and economic growth of the State that is still industrially backward and at early stage of industrial development with only a few industrial establishments – which makes it superfluous at this stage to extend and enforce of all the labour laws at a time. However, the Union Government is constant dialogue with the State Government of Sikkim in this regard; (ix) The Government has been making efforts to ensure the enhanced bargaining power to the workers in the informal economy by encouraging the formation of cooperatives, and excellent examples exist such as the Self-Employed Women's Association (SEWA) that participates in all tripartite national level meetings; (x) in certain instances, the ITUC's observations concerning employers hostile to trade union membership, formation or activities may be true. However, as and when such incidents are reported, appropriate action as per the provisions of the criminal and labour laws, is taken; and (xi) concerning EPZs, the Special Economic Zones (SEZs) Act, 2005, provides for the simplification of procedures with objectives to attract investment, generation of economic activities, promotion of exports and creates more employment opportunities. However, it does not preclude the applicability of labour laws in SEZs. Rather, section 49(1), which deals with the power to modify different Acts, specially states that such modifications should not apply to the matters related to trade unions, industrial relations and labour disputes and welfare of labour applicable in any SEZs.</p> <p><b>2006 AR:</b> According to the Government: Unionization of government servants in India, as provided for in the Conventions, is not possible because of the highly politicized trade union system of the country.</p> <p><b>2005 AR:</b> According to the Government: The main difficulties encountered in realizing the PR in India are as follows: (i) lack of public awareness and/or support; (ii) lack of data; social and economic circumstances; (iii) political situation; (iv) prevailing employment practices and (v) lack of capacity of employers' and workers' organizations.</p> <p><b>2003 AR:</b> In response to the AIMO's observations, the Government denied the fact that the establishment of an employers' organization was subject to the Labour Department's scrutiny.</p>
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		<p>In response to the ICFTU's observations, the Government made the following comments: (i) the unions agreed to a ten-year collective agreement because the terms were beneficial to them; (ii) increasing number of cases reflects the transparent nature of the labour dispute settlement system and efforts are being made to avoid delay in backlog of unresolved cases in the specialized labour courts; (iii) the amended 2001 Trade Union Act provides that a union has to represent a minimum of hundred (100) workers or ten (10) per cent of the workforce in order to be registered, which is quite reasonable in the Indian context; (iv) the Government is currently carrying out a proposal for the amendment of the 1970 Contract Labour (Regulation and Abolition) Act; (v) the law on trade unions does not apply in the State of Sikkim; (vi) there is no restriction on the Export-Processing Zones (EPZs)/Special Economic Zones (SEZs), which are considered as essential services by certain State government; (vii) the right to strike is defined under the 1981 Essential Services Maintenance Act (ESMA); (vi) registered trade unions are recognized under the Code of Discipline; (vii) the Government appreciates the ICFTU's conclusion that India has a reasonable record of trade union rights in the formal economy and that trade unions can generally operate in a non-hostile environment.</p> <p><b>2000 and 2003 ARs:</b> In response to the ICFTU's observations, the Government made the following comments: (i) the 1950 Constitution (article 19 (1)), the national laws and practices are by and large in conformity with ILO Convention No. 87 and No. 98; (ii) however, India could not ratify these two Conventions due to a problem of a "technical nature" related to restrictions on the rights of freedom of association and collective bargaining for government officials.</p>
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TECHNICAL COOPERATION	Request	
		<p><b>2015 AR:</b> According to the Government: there are specific technical assistance requests to further discuss and clarify the issue of compliance between national laws and certain provisions of C.87 and C.98.</p> <p>According to the CIE: ILO technical cooperation is needed to promote social dialogue and support tripartite discussions on the ratification of C.87 and C.98.</p> <p>According to the CITU, there is a need for technical assistance from ILO in supporting awareness-raising campaigns and organizing workshops at provincial and regional levels.</p> <p><b>2014 AR:</b> According to the CIE: ILO technical cooperation is needed to promote social dialogue and support tripartite discussions on the ratification of C.87 and C.98.</p> <p>According to the BMS: ILO technical cooperation is requested to: (i) conduct a study on the role of multinational companies in the ratification process of C.87 and C.98, as they are suspected to hamper the ratification process; and (ii) support the BMS's efforts to realize the FPRW in rural areas.</p> <p><b>2013 AR:</b> According to the AITUC, INTUC and LPF: ILO's technical assistance is requested to promote the PR in the country through awareness-raising campaigns, dissemination of information on the core Conventions in local languages and strengthening social dialogue in the country. For the sake of efficiency, this assistance should be provided directly to workers' organizations without using government institutions.</p> <p><b>2012 AR:</b> According to the Government: There is a need for ILO to develop in house capacities (monitoring, training, inspections, etc.).</p> <p>According to the BMS: There is a need for ILO technical cooperation to facilitate the realization of freedom of association and effective recognition of the right to collective bargaining in India, in particular in the following areas: awareness-raising; sharing experiences across countries/regions and training.</p> <p>The CITU requested ILO technical assistance to support its campaign for ratification of C.87 and C.98 and for the establishment of mandatory recognition of trade unions in India.</p> <p><b>2009 AR:</b> According to the INTUC: ILO's technical cooperation is requested to promote the PR in the country.</p> <p><b>2008 AR:</b> According to the CIE: ILO technical cooperation is required for the integration of workers from the informal economy to the organized economy.</p> <p>The AITUC requested ILO assistance to fight against poverty.</p> <p>The BMS stated that a country assessment was needed on the Declaration Follow-up.</p> <p><b>2007 AR:</b> According to the AITUC: ILO technical cooperation is required in cooperation with the Government with a view to strengthen the capacity building of the government and the employers' and workers' organizations in promoting and realizing the PR, rather than supporting the NGOs.</p>



		<p><b>2005 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of this PR in India, in particular in the following areas in order of priority: (i) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; sharing of experiences across countries/regions; capacity building of responsible government institutions; training of other officials (police, judiciary, social workers, teachers); strengthening tripartite social dialogue; training of officials dealing with labour law enforcement/administrative; (ii) strengthening capacity of workers' and employers' organizations; legal reform (labour law and other relevant legislation); awareness-raising/advocacy activities and legal literacy and (iii) strengthening data collection and capacity for statistical analysis.</p> <p><b>2000 AR:</b> In response to the ICFTU's observations, the Government made the following comments: (i) agricultural and contractual workers have the right to organize and bargain collectively in India; (ii) however, there are major obstacles as to their effective unionization due to the fact that most operate in the informal economy; (iii) the Labour Laws neither make any distinction between Export-Processing Zones (EPZs) and other areas nor between workers in these zones and other sectors.</p>
	<b>Offer</b>	<b>NIL.</b>
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that the Government of India (and three other governments) had indicated the current impossibility to ratify C.87 and C.98 without further justification. They encouraged the Government of India to (and some other governments) to initiate the necessary labour law reforms to remove the obstacles to the ratification of these two Conventions. They also noted that restrictions on the right to organize of certain categories of workers in India (and some other countries), such as workers in the public service and workers in the informal economy, were not compatible with the realization of this principle and right (cf. paragraphs 29, 32 and 38 of the 2003 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs listed India among the four countries in which 52 per cent of the total labour force of ILO member States live and which have not yet ratified C.87 and C.98. This leaves many millions of workers and employers without the protection offered by these instruments in international law, even if the governments concerned may consider that their law and practice are sufficient. Furthermore, the IDEAs observed that with a view to giving full effect to this principle and right, the Government should be able to offer to all workers the opportunity to exercise their rights, and not have restrictions on the right to organize for workers in the public service (cf. paragraphs 32 and 37 of the 2003 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The IDEAs listed India among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (cf. paragraph 13 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2003 AR:</b> The IDEAs were encouraged to see the Government of India pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help. In light of requests by India for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field (cf. paragraphs 73 and 74 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>2</sup>: IRAN, ISLAMIC REPUBLIC OF**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of employers' organizations (Iran's Confederation of Employers' Associations (ICEA) and the Confederation of Iranian Employers (CIE)), and workers' organizations (the Iran Confederation of Islamic Labour Conference (ICILC), the Iranian Confederation of Labour Syndicates (ICLS), the Higher Confederation for Coordination of Islamic Labour Councils (HCCILC), the Higher Assembly of Workers' Representatives Islamic Republic of Iran (HAWR-IRI), the Higher Confederation for Labour Syndicates (HCLS), High Coordination Centre of Trade Unions (HCCTU), Confederation of Iranian Workers Representatives (CIWR) and the Workers' House of the Islamic Republic of Iran (WH-IRI) through communication of government reports and tripartite meetings on reporting issues.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the ICEA. <b>2014 AR:</b> Observations by the ICEA. <b>2013 AR:</b> Observations by the ICEA. <b>2012 AR:</b> Observations by the ICEA. <b>2009 AR:</b> Observations by the CIE. <b>2008 AR:</b> Observations by the ICEA. <b>2007 AR:</b> Observations by the ICEA.

<sup>2</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.





	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations by the HCCILC. Observations by the HCCTU. Observations by the CIWR. Observations by the WH-IRI.</p> <p><b>2014 AR:</b> Observations by the ICLS.</p> <p><b>2013 AR:</b> Observations by the HCCILC. Observations by the HAWR-IRI. Observations by the HCLS.</p> <p><b>2012 AR:</b> Observations by the ICLS.</p> <p><b>2009 AR:</b> Observations by the ICILC. Observations by the International Trade Union Confederation (ITUC).</p> <p><b>2008 AR:</b> Observations by the ICILC. Observations by the ITUC.</p> <p><b>2007 AR:</b> Observations by the ICILC. Observations by the International Confederation of Free Trade Unions (ICFTU).</p> <p><b>2006 AR:</b> Observations by the ICFTU.</p> <p><b>2000-2005 ARs:</b> Observations by the ICFTU.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>The Islamic Republic of Iran has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>YES, since 2001, for C.87 and C.98.</b></p> <p><b>2015 AR:</b> The Government reiterated its intention to ratify the Conventions after the necessary labour law reforms are in place. HCCILC, HCCTU, CIWR and WH-IRI reiterated or expressed their support for the ratification of the Conventions. WH-IRI further indicated that the labour law reform is underway and the new Government is willing to ratify C.87 and C.98.</p> <p><b>2014 AR:</b> According to the Government: The Government of I.R. Iran intends to ratify C.87 and C.98. While the adoption of the Fifth National Economic Development Plan (2011-2015) has created more favourable conditions for realizing the FPRW, a labour law reform will need to take place before any advancement can be made in the ratification process. The ICEA reiterated its support for the ratification of C.87 and C.98. The ICLS expressed its support for the ratification of C.87 and C.98.</p> <p><b>2013 AR:</b> According to the Government: Ratification of all unratified fundamental Conventions, including C.87 and C.98, enjoys tripartite support. Following the labour law reform currently under tripartite review, the Government is hopeful to obliterate the legal problems that still prevail along the ratification of the remaining Conventions. The ICEA reiterated its support to ratification of C.87 and C.98 by the I.R. Iran. The HCCILC, the HAWR-IRI and the HCLS expressed their support to ratification of C.87 and</p>

			<p>C.98 by the Islamic Republic of Iran.</p> <p><b>2012 AR:</b> According to the Government: The Government of I.R. Iran is committed to its obligations and has accepted freedom of association as one of the important and fundamental principles and rights at work. On this basis, it is forecasted that necessary conditions will be materialized and executive mechanisms will be developed for ratification of C.87 and C.98.</p> <p>The ICEA expressed its support for the ratification of C.87 and C.98.</p> <p>The ICLS expressed its genuine support for the ratification of C.87 and C.98 by Iran, emphasizing the importance these instruments have on trade union activities.</p> <p><b>2010 AR:</b> According to the Government: The Ministry of Labour and Social Affairs has submitted to the Council of Ministers and the President of the Republic the ratification of C.87 and C.98, recalling the importance of these instruments and the importance of ratifying all ILO fundamental Conventions.</p> <p><b>2009 AR:</b> According to the Government: A comprehensive tripartite survey has been conducted at national level concerning ratification of C.87 and C.98. Upon completion, this survey is hoped to facilitate the ratification process. ILO technical assistance is requested in this ratification process.</p> <p>The CIE mentioned its support for the ratification of C.87 and C.98 by the Islamic Republic of Iran.</p> <p>The ICILC stated that it had a neutral position concerning this issue.</p> <p><b>2008 AR:</b> The Government reiterated that the feasibility study on the possibility of ratification of C.87 and C.98 was still under way.</p> <p>The ICEA supported the ratification of C.87 and C.98.</p> <p>The ICILC reiterated its support for the ratification of C.87 and C.98 by the Islamic Republic of Iran.</p> <p><b>2007 AR:</b> The Government stated that the feasibility study on the possibility of ratification of C.87 and C.98 was still under way.</p> <p>The ICILC expressed its support for the ratification of C.87 and C.98 by the Islamic Republic of Iran</p> <p><b>2006 AR:</b> According to the Government: The Government and the social partners request ILO's technical assistance in the ratification process. A feasibility study on the possibility of ratification of C.87 and C.98 is being carried out. Workers' organizations support the ratification of these two Conventions, but employers' organizations do not.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government intended to ratify C.87 and C.98.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b> The 1989 Constitution (article 26) provides for freedom of assembly and association.</p>
		<p><b>Policy/legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy</b> <p><b>2014–2015 ARs:</b> According to the Government: The newly adopted Draft National Plan of Action for Decent Work greatly contributes to strengthening tripartite collaboration and ensuring government compliance with the FPRW covered by the Plan.</p> <p><b>2013 AR:</b> The Government indicated that in the development of the 5<sup>th</sup> National Development Plan of the Islamic Republic of Iran (2011-2015), due attention was also spared on the need for the consultation with the social partners and the observance of the FPRW.</p> <p>According to the HCCILC, the HAWR-IRI and the HCLS: Following the Governments’ initiative to adopt the first Economic Development Plan of the Islamic Republic of Iran, workers’ organizations have jointly requested for a two month period to review the draft Plan and provide feedback to ensure the inclusion of and coherence with the FPRW.</p> </li> <li>• <b>Legislation</b> <p><b>2014–2015 ARs:</b> According to the Government: The Government has taken certain initiatives to adopt the amendments of the Labour Code. All demands and concerns raised by the social partners have been incorporated into the amendments and conformity with the provisions of C.87 and C.98 has been ensured.</p> <p><b>2013 AR:</b> According to the Government, the HCCILC, the HAWR-IRI and the HCLS: Negotiations on labour law reform are ongoing through social dialogue and bipartite meetings between trade unions and employers’ organizations. At this stage, requests made jointly by the trade unions and employers’ associations have been accepted by the Government. The Government has strived to ensure that provisions concerning freedom of association and the right to collective bargaining shall be incorporated into the labour law reform in compliance with the Constitution of the Islamic Republic of Iran and the respective national laws and regulations. The HCCILC, the HAWR-IRI and the HCLS are looking forward the finalization of the labour law reform process which is currently before Parliament for final adoption.</p> <p><b>2012 AR:</b> According to the Government: Following the Law on the 5<sup>th</sup> National Development Plan of Iran, approved in October 2010, the Government has been commissioned to take necessary action during 2011 to present a National Document for Decent Work and amend the Labour Law. Provisions of articles 25 and 73 of the Law on the 5<sup>th</sup> Development Plan directly refers to the strengthening of social dialogue and the right to organize. Amendment of the Labour law is taking place and is currently in the hands of the Ministry of Cooperative, Labour and Social Welfare, with the objective to modify the Labour Law in line with international labour standards. Special measures have already been taken related to freedom of association, such as modification of the regulations covering establishment of unions, the scope of duties, authority and performance of trade unions and similar associations, i.e. the subject of article (13 1) of the Labour Law.</p> </li> </ul>

			<p><b>2011 AR:</b> The Government mentioned that the process of amendment of the Labour Code was being developed taking into consideration the principle and right (PR).</p> <p><b>2008 AR:</b> An ILO mission provided technical assistance to the Government on labour law reform, labour administration and social dialogue in relation the PR and other topics.</p> <p><b>2005 AR:</b> The 1990 Labour Code and its amendments relate to the PR. Legal reform is in process since 2003 in cooperation with the ILO.</p>	
		<b>Basic legal provisions</b>	(i) The 1989 Constitution (article 26); (ii) the Labour Code (sections 139-146); and (iii) the Agreement of 24 December 2001.	
		<b>Judicial decisions</b>	<p><b>2012 AR:</b> According to the Government: The Government recognizes the decision of April 14, 2010 where ICEA was accepted as the sole high employers' confederation of Iran. This confirms the previous verdicts No. 880575, dated October 16, 2009, issued by the Legal Court of Tehran and No. 1754-1753 and dated February 18, 2010, issued by the Revision Court of Tehran.</p>	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<p><b>2012 AR:</b> According to the Government: In a new Code of Practice, approved October 30, 2010, the minimum of ten employers required to form an association has been removed, employers' associations can now be formed with any number of employers.</p> <p><b>2003-2005 ARs:</b> According to the Government: Prior government authorization is necessary to operate employers' organizations and to conclude collective agreements. All categories of employers can establish their organizations.</p>
			<b>For Workers</b>	<p><b>2012 AR:</b> According to the Government: A new Code of Practice, approved October 30, 2010, includes the deletion of the requirement of the minimum of five unions for the formation of a nation-wide Federation covering a specific sector or industry.</p> <p><b>2011 AR:</b> According to the Government: There is no ban for trade union registration and for collective bargaining.</p> <p><b>2003-2005 ARs:</b> According to the Government: Prior government authorization is necessary to operate workers' organizations and to conclude collective agreements. The PR can be exercised by all categories of workers, except military and the police, migrant workers, workers in the public service, workers in the informal economy and establishments with less than ten employees.</p>

			<p><b>Special attention to particular situations</b></p>	<p><b>2012 AR:</b> According to the Government: As part of the promotion of freedom of association and participation of maritime and ship owners' organizations in social dialogue, the Government has undertaken certain measures, including tripartite meetings in the presence of the representatives of workers' organizations and maritime and ship owners' associations, with a view to elaborate on the challenges facing the sector. Four meetings were held in 2011. Additionally, case studies have been undertaken aiming to develop necessary instructions for safety at work. The Government has also asked the Maritime and Ship Owners' Associations to participate in drafting the National Regulations for Maritime Labour, in order to create regulations in line with international labour standards.</p> <p><b>2003-2004 ARs:</b> According to the Government: Religious minorities and certain specific industry/sectors. Special attention to women is envisaged.</p>
			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2012 AR:</b> According to the Government: According to the General Office of Workers' and Employers' Organizations, 1050 hours of education on freedom of association and collective negotiations were held for 2900 organizations in 2010. The Islamic Labour Council has reported 30 cases of labour disputes over the last three years. Additionally, the Institute of Labour and Social Security has conducted research related to the topic of freedom of association and collective bargaining.</p> <p><b>2009 AR:</b> According to the Government: A feasibility study on ratification of C.87 and C.98 is being carried out.</p>
		<p><b>At international level</b></p>	<p>According to the Government: There are no particular restrictions for the international affiliation of employers' and workers' organizations.</p>	
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2012 AR:</b> According to the Government: Labour inspectors are obliged to regularly inspect work places. The nationwide Islamic Labour Council investigates labour disputes and has dealt with 30 cases of complaints over the last three years.</p> <p><b>2009 AR:</b> According to the Government: The number of labour inspectors has been almost doubled to ensure that workers and employers freely enjoy the right to organize. As a result, the number of workers' and employers' organizations has considerably increased.</p> <p><b>2002-2003 ARs:</b> According to the Government: When the PR has not been respected, section 178 of the Labour Code provides for penalties ranging from fines to imprisonment. The PR is enforced through training and supervision, law, collective agreements, free dispute settlement procedures and tripartite consultations at all levels.</p> <p><b>2000-2002 ARs:</b> According to the Government: In instances where the PR is not respected, the Minister of Labour shall only provide guidance to members with grievances and ensure that the matter is dealt with in accordance with the appropriate legal procedures.</p> <p><b>2000-2002 ARs:</b> According to the Government: Employers' and workers' organizations can submit to the Ministry of Labour and Social Affairs, observations and suggestions on legal issues and the implementation of regulations. Their suggestions and observations, after being thoroughly examined by the relevant committee are submitted to the Islamic Consultative Assembly of the Council of Ministers.</p>		



	<p><b>Involvement of the social partners</b></p>	<p><b>2014–2015 ARs</b> According to the Government: Social dialogue is regularly practiced and tripartite technical committees are discussing the ratification of C.87 and C.98. The social partners have been included in the process of legal revisions through various councils, including the Supreme Council of Employment. All demands and concerns raised by the social partners have been adhered to.</p> <p>According to the ICEA: With support from the Government, the relationship between workers’ and employers’ organizations has been strengthened over the last year. Tripartite discussions have been held to reach mutual understanding and common ground towards the ratification of C.87 and C.98.</p> <p>The ICLS indicated that dialogue was ongoing with the Government and, to some extent, with employers’ representatives.</p> <p><b>2013 AR:</b> According to the Government the HCCILC, the HAWR-IRI and the HCLS: Social dialogue is regularly practiced and negotiations concerning a labour law reform are currently ongoing through social dialogue and bipartite meetings.</p> <p><b>2012 AR:</b> According to the Government: Representatives of workers’ and employers’ organizations are regularly present at the meetings of the Supreme Council of Employment, held once every two weeks for consultative decisions on issues concerning labour relations. The 4<sup>th</sup> tripartite National Labour Conference was held in February 2010.</p> <p>According to the ICLS: The Government does not involve social partners in preparing or implementing labour and social policies. However, there is a good bipartite dialogue with the employers’ organizations.</p> <p><b>2011 AR:</b> According to the Government: the employers’ and workers’ organizations have been involved in the reporting process to provide a real situation in respect of ratification of C.87 and C.98.</p> <p><b>2009 AR:</b> According to the Government: A comprehensive tripartite survey has been conducted at national level concerning ratification of C.87 and C.98.</p> <p><b>2005 AR:</b> According to the Government: Employers’ and workers’ organizations have been involved in the task force to review national labour laws and harmonize them with the provisions of ILO fundamental labour Conventions.</p>
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	<p><b>Promotional activities</b></p>	<p><b>2014 AR:</b> The Government indicated that a nation-wide tripartite conference promoting the FPRW had been held.</p> <p><b>2013 AR:</b> According to the Government, the HCCILC, the HAWR-IRI and the HCLS: Promotional activities related to the labour law reform have been conducted to ensure in particular that all the FPRW are integrated in this exercise within the context of the national law, and that workers' living standards are further improved.</p> <p><b>2012 AR:</b> According to the Government: In order to promote the awareness of workers' and employers' organizations training courses have been conducted covering freedom of association and the right to collective bargaining for the members of workers' and employers' organizations. According the General Office of Workers' and Employers' Organizations, 1050 hours of education on freedom of association and collective negotiations were held for 2900 organizations in 2010. Additionally, the 4<sup>th</sup> tripartite National Labour Conference was held in February 2010, as well as regular tripartite meetings (once every two weeks) of the Supreme Council of Labour for consultative purposes on issues concerning labour relations.</p> <p>The ICEA indicated that there are associations that are working at grass-root level to promote and undertake negotiation efforts in favour of ratifying C.87 and C.98, as well as raise awareness about the importance for Iran to follow international labour standards.</p> <p>The ICLS indicated its participation in the National Tripartite Labour Conference on Decent Work in Iran in January 2011.</p> <p><b>2009 AR:</b> The ICILC indicated that it had encouraged the organization of tripartite meetings.</p> <p><b>2008 AR:</b> According to the Government: The Ministry of Labour and Social Affairs and the employer's and workers' organizations cooperated with an ILO mission on labour law reform, labour administration and social dialogue in relation with the PR and other topics. Moreover, the Government has incorporated the creation of independent and strong employers' and workers' organizations as a priority in its national strategy for development.</p> <p><b>2007 AR:</b> According to the Government: Some amendments are being made to the Labour Code to promote employers' and workers' organizations' rights and their multiplication through free and democratic ways. Moreover, the Government is creating strengthened, flexible and responsible labour institutions as well as raising public awareness for the promotion of the PR in the country.</p> <p><b>2001-2002 ARs:</b> According to the Government: Government officials and social partners have been trained on labour standards.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2014 AR:</b> According to the Government: The newly adopted Draft National Plan of Action for Decent Work is a special initiative that will contribute greatly to strengthening tripartite collaboration and ensuring government compliance with the FPRW, covered by the Plan. Furthermore, in 2013, the Government signed a Memorandum of Understanding (MoU) on Educational Research Cooperation with workers’ organizations. The MoU is expected to enhance the capacity of the workers’ organizations and optimize the relationship between workers’ and employers’ organizations to improve working conditions.</p> <p><b>2013 AR:</b> According to the Government, the HCCILC, the HAWR-IRI and the HCLS: The Government has indicated that in adopting the Fifth National Economic Development Plan (2011-2015) it has provided for the support to the creation of more favorable conditions for realizing the FPRW and the implementation of the decent work country programme (DWCP). Furthermore, an achievement was reached by the trade union movement who joined forces to contest a proposed Government scheme that meant to separate health and social security aspects in the labour law reform. Social partners maintained that disintegrating health and social security from the labour law would not be ultimately beneficial to the workers. Abiding by the social partners arguments, the Government finally approved the trade union position.</p> <p><b>2012 AR:</b> According to the ICLS: The ICLS was created in November 2010 and is a confederation composed of 30 federations of trade unions.</p> <p><b>2011 AR:</b> According to the Government: Free elections for the establishment of an employers’ confederation were provided in 2010 following the Agreement of 14 April 2010 to settle disagreements between the ICEA and the CEI.</p> <p><b>2010 AR:</b> According to the Government: The Ministry of Labour and Social Affairs has submitted to the Council of Ministers and the President of the Republic the ratification of C.87 and C.98.</p> <p><b>2009 AR:</b> According to the Government: The number of labour inspectors has been almost doubled to ensure that workers and employers’ freely enjoy the right to organize. As a result, the number of workers’ and employers’ organizations has considerably increased.</p> <p><b>2008 AR:</b> According to the ICILC: several meetings were held with the Government on the amendments of chapter VI of the Labour Code concerning the establishment of labour councils and the right to strike. These amendments need to comply with the provisions of C.87 and C.98.</p> <p><b>2005 AR:</b> According to the Government: The decision to allow the free establishment of associations.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2014–2015 ARs:</b> According to the ICEA: Legal incompatibilities need to be overcome and common ground needs to be reached among the tripartite partners so as to put the ratification process for C.87 and C.98 on the right track.</p> <p><b>2013 AR:</b> According to the ICEA: The provisions of C.87 and C.98 need first to be regulated at national level through tripartite agreements before the ratification of these instruments. Tripartite discussions should mainly focus on the right to strike and its relation to freedom of association.</p> <p><b>2012 AR:</b> According to the ICEA: Current legislation allows certain trade union activities but creates a lack of freedom of association, and makes it difficult to practice the freedom that is permitted within the national legislation. The ICEA identifies the political situation as the main barrier to ratification of C.87 and C.98.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2015 AR:</b> WH-IRI indicated that there were no tripartite meetings during the last 8 years.</p> <p><b>2014 AR:</b> According to the ICLS: There is inadequate legislation to ensure the PR. Due to resistance from some directions and disagreements concerning the right to strike, the Labour Code revisions have not yet been finalized. While freedom of association and the right to collective</p>



			<p>bargaining are recognized in the amendments, the right to strike is not. Another challenge is related to the close connection between the Government and the employers. The ICLS estimates that more than 50 per cent of the employers are represented in or have close relationships with the Government.</p> <p><b>2013 AR:</b> According to the HCCILC, the HAWR-IRI and the HCLS: The economic sanctions on the Islamic Republic of Iran have worsened the workers’ situation in terms of salary decrease, working conditions and increase in layoffs. These conditions are making it more difficult to realize the PR and delaying ratification of C.87 and C.98. However, the HCCILC, the HAWR-IRI and the HCLS expect that the ratification of C.87 and C.98 will follow once the labour law reform is approved by Parliament.</p> <p><b>2012 AR:</b> According to the ICLS: There are difficulties related to promotion of social dialogue in Iran due to lack of political will from the Government.</p> <p><b>2009 AR:</b> The ITUC reiterated the same challenges that it had raised under the 2008 AR concerning the Islamic Republic of Iran, in particular as regards: (i) the non-existence of independent trade unions; (ii) the Government’s control over trade unions that are essentially a channel for government control over workers; (iii) there is no right to strike, and a 1993 law prohibits public sector stoppages; (iv) labour legislation does not apply to export processing zones (EPZs); (v) about 90 per cent of workers (about 700,000) are operating in small workshops and are not protected by existing labour legislation; and (vi) obstacles to organizing include the presence of security and intelligence forces in workplaces and the increasing trend toward temporary contracts.</p> <p><b>2008 AR:</b> According to the ICILC: the Government still plays an active role in the formation of the Labour Councils, and prior authorization is needed. The ICILC added that thanks to discussions being currently held on chapter VI of the Labour Code, there would certainly be an improvement on that issue in a near future.</p> <p>The ITUC reiterated the same challenges noted in the 2000-2007 ARs and added that unions faced ruthless repression during 2007, particularly the union at the Tehran and Suburbs Bus Company. It added that national legislation in the country deprived some categories of workers from the exercise of the PR. The Government issued a three-year interim legislation that deprives temporary workers in enterprises of less than ten workers (representing about 90 per cent of the workforce) from the protection of the law including the right to organize.</p> <p><b>2000-2007 ARs:</b> According to the ICFTU: (i) There are still no independent trade unions, and only one workers’ organization is authorized by the Government; (ii) since January 2003, most workers are unprotected by the Labour Law, including the right to organize; (iii) the Labour Legislation does not apply in Export-Processing Zones (EPZs); (iv) the 1990 Labour Code focuses on Islamic societies and associations and prohibits independent trade organisations; (v) an amendment to the Labour Code in 2003 allows workers to form and join so called “trade unions”, without prior authorization, but the Ministry of Labour determines their rights and responsibilities; (vi) obstacles to organizing include the presence of security and intelligence forces in workplaces, and the increasing trend towards temporary contracts; (vii) trade unions’ rights are denied, although there has been more tolerance for workers’ organizations; (viii) despite the ban on strikes, there have been numerous protests and work stoppages in recent years and (ix) all collective agreements have</p>
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	<p><b>According to the Government</b></p>	<p>to be submitted to the Ministry of Labour for examination and approval.</p> <p><b>2014–2015 ARs:</b> The Government observed that bureaucratic procedures may affect the pace for labour law reform and ratifications.</p> <p><b>2013 AR:</b> According to the Government: Possible legal gaps are being tackled in the framework of the current tripartite labour law reform which aims at ensuring satisfactory compliance with freedom of association and the right to collective bargaining.</p> <p><b>2012 AR:</b> According to the Government: When implementing the amendment of article 44 of the Constitution, in which the government is obliged to shift several public industries to the private sector and pursue privatization as an economic principle, several challenges have arisen. There is concern that by shifting factories to the private sector and removing the supportive mechanisms of the Government, workers will be exposed to unstable conditions. In order to prevent this from occurring, there is a need to reinforce social dialogue and tripartite exercises, as well as to strengthen workers' and employers' organizations. The Government intends to divert towards a direction where collective agreements can be reached based on the real demands and needs of these workers.</p> <p><b>2011 AR:</b> According to the Government: Shortage of technical skills for negotiations, social dialogue and distinguishing criteria for representation has led to the lack of collective negotiations at the provincial level.</p> <p><b>2009 AR:</b> In response to the ITUC's observations, the Government expressed its willingness to receive a more cooperative approach from the ITUC in addressing the alleged challenges and finding solutions.</p> <p><b>2007 AR:</b> In response to the ITUC's observations, the Government indicated that some amendments were being made to the Labour Code to promote employers' and workers' organizations' rights and their multiplication through free and democratic means, irrespective of the latter's affiliation to the Workers' House as a political party.</p> <p><b>2001-2005 ARs:</b> According to the Government: the main difficulties encountered in realizing the PR in Iran are as follows: (i) lack of public awareness and/or legal support; (ii) lack of information and data; (iii) social and economic circumstances; (iv) political situation; (v) legal provisions; (vi) prevailing employment practices; (vii) lack of capacity of responsible government institutions; (viii) lack of employers' organizations; (ix) lack of capacity of workers' organizations and (x) lack of social dialogue on the PR.</p> <p><b>2005 AR:</b> In response to the ICFTU's comments, the Government made the following observations: (i) chapter VI [on workers' and employers' organizations] of the current Labour Code is being revised and amended to ensure compliance of national legislation with ILO Conventions No. 87 and No. 98; (ii) serious and meaningful national tripartite consultations are being held by the Government with ILO technical assistance in this respect; and (iii) the Ministry of Labour and Social Affairs will continue to cooperate fully and directly with the ILO to strengthen the PR.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: ILO assistance would be needed to support tripartite technical committees and expert consultations on the ratification of C.87 and C.98. This technical cooperation would enable the Government to create more favourable prospects for ratification of the Conventions.</p> <p>According to the WH-IRI: ILO cooperation is required in terms of training, increasing awareness campaigns and sharing good practices.</p> <p><b>2014:</b> The Government welcomed the ILO to support tripartite technical committees and expert consultations on the ratification of C.87 and C.98, and indicated that cooperation with the ILO would enable the Government to create more favourable prospects for these ratifications.</p> <p>The ICEA requested ILO technical cooperation to build the capacity of employers' organizations, to enable them to better</p>

		<p>promote the ratification of C.87 and C.98 and further improve the relationship with workers' organizations.</p> <p>The ICLS requested ILO technical cooperation in promoting and realizing the FPRW including the PR and in providing training for trade union leaders and members.</p> <p><b>2013 AR:</b> The Government indicated that it was yet looking forward ILO's technical support in relation to the request it made under the 2012 AR.</p> <p>The HCCILC, the HAWR-IRI and the HCLS indicated that a request for technical cooperation to improve the situation concerning the FPRW in the country was submitted to ILO, but yet pending.</p> <p><b>2012 AR:</b> According to the Government: In order to deal with the above mentioned challenges, the Government needs support in sensitization and exchange of successful models and experiences from other countries, also covering management of trade union protests, as well as legal procedures and knowledge about international labour standards. Additionally, capacity building for workers' and employers' organizations on collective bargaining practices is one of the most important needs of the country.</p> <p>Due to the sensitivity of the issue of freedom of association in Iran, the ICEA requested the ILO to support the ratification process on a general level only.</p> <p>The ICLS requested the ILO to provide technical assistance to tripartite partners in Iran, especially to the ICLS as a new confederation in need for support to strengthen its action through capacity building.</p> <p><b>2011 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Iran exist in the following areas: (i) training and capacity building for workers' organizations; (ii) determining requirements for the most representative organizations for collective bargaining; and (iii) strengthening social dialogue.</p> <p><b>2009-2010 ARs:</b> The Government requested ILO technical cooperation to facilitate the ratification process of C.87 and C.98 through awareness raising, data collection and dissemination, policy advice, legal reform, capacity building for labour administration, employers' and workers' institutions and strengthening social dialogue. This assistance should be integrated in the DWCP that would need ILO technical review and support.</p> <p>According to the ICILC: An ILO survey was needed to assess the situation of the PR in the country.</p> <p><b>2008 AR:</b> The Government volunteered for the preparation of a case study on the realization of the Fundamental Principles and Rights at Work in the country, followed by a national tripartite workshop to validate this survey and draw a national plan of action to realize the Declaration.</p> <p>The ICEA requested ILO technical cooperation regarding training programmes on freedom of association and collective bargaining.</p> <p>According to the ICILC: ILO legal advice is needed to ensure compliance of chapter VI of the Labour Code with the provisions of C.87 and 98 and ensure that freedom of association for employers' organizations and labour councils are respected.</p> <p><b>2007 AR:</b> The Government reiterated its request for ILO technical cooperation in the areas mentioned under the 2005 AR, and with a priority given to amendments made to the labour laws and capacity building of employers' and workers' organizations.</p> <p>The ICEA and the ICILC requested ILO technical cooperation for training on freedom of association and collective bargaining techniques and the promotion of the fundamental principles and rights at work.</p> <p><b>2005 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Iran exist in the following areas, in order of priority: (1) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the PR, strengthening data collection and capacity for statistical analysis; strengthening social</p>
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		<p>dialogue; sharing of experiences across countries/regions; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; awareness-raising, legal literacy and advocacy; strengthening tripartite social dialogue; and (2) legal reform.</p>
	<p><b>Offer</b></p>	<p>ILO advisory services on freedom of association and collective bargaining issues.</p>
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) encouraged the Government of the Islamic Republic of Iran (and some other governments) to complete the legal review process to remove the obstacles to ratification of C.87 and C.98. They also noted that restrictions on the right to organise of certain categories of workers in the Islamic Republic of Iran (and some other countries), such as workers in the public service and workers in the informal economy, were not compatible with the realization of this principle and right (cf. paragraphs 32 and 38 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs stated that the Office was following up on freedom of association and collective bargaining issues in Iran. In this respect, they noted with interest the information provided by the Islamic Republic of Iran under the Declaration follow-up (cf. paragraph 37 of the 2003 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2003 AR:</b> In light of requests by the Islamic Republic of Iran for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, the IDEAs called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field (cf. paragraph 74 of the 2003 Annual Review Introduction – ILO: GB.298/3).</p>	
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>	



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: IRAQ**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, for the 2001, 2006, 2007 and 2012 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Iraq Federation of Industries (IFI), the Iraq Federation of Trade Unions (IFTU), the General Federation of Iraqi Workers (GFIW), and the General Federation of Trade Unions (GFTU) through communication of Government's report and consultation.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the IFI. <b>2014 AR:</b> Observations by the IFI. <b>2013 AR:</b> Observations by the IFI. <b>2012 AR:</b> Observations by the IFI. <b>2010 AR:</b> Observations by the IFI. <b>2007 AR:</b> Observations by the IFI. <b>2006 AR:</b> Observations by the IFI.	
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the GFIW. <b>2014 AR:</b> Observations by the GFIW. <b>2012 AR:</b> Observations by the GFIW. <b>2010 AR:</b> Observations by the GFIW. <b>2009 AR:</b> Observations by the GFIW. Observations by the International Trade Union Confederation (ITUC). <b>2008 AR:</b> Observations by the ITUC. <b>2007 AR:</b> Observations by the IFTU. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the IFTU. Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Iraq ratified in 1962 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and the Protection of the Right to Organise Convention. 1948 (No. 87) (C.87).</b>

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



		<p><b>Ratification intention</b></p>	<p><b>YES, since 2001, for C.87.</b></p> <p><b>2015 AR:</b> According to the Government: a new labour law was completed and sent to Parliament for approval. Given that the new law is in compliance with the provisions of C87, the ratification of this Convention would be easier. However, because of new Iraqi Government, the process of approval is slow.</p> <p>IFI and GFIW indicated that tripartite meetings are held regularly and the tripartite parties are smoothly cooperating toward the ratification of C.87.</p> <p><b>2014 AR:</b> According to the Government, the IFI and the GFIW: The tripartite partners are making joint efforts for the ratification of C.87 to be submitted to Parliament in a near future. Further steps in this process may possibly be taken after the parliamentary elections in 2014.</p> <p><b>2013 AR:</b> According to the Government and the IFI: Ratification of C.87 has been submitted to Parliament and is now pending approval. ILO advocacy on FPRW to Parliamentarians is needed in order to finalize this process.</p> <p><b>2012 AR:</b> According to the Government, the IFI and the GFIW: Following consultations between the Government and the social partners, ratification of C.87 has been submitted to the Council of Ministers for approval. Once approved by the Cabinet, this ratification will be submitted to Parliament. ILO's support is needed to speed up this ratification process.</p> <p><b>2011 AR:</b> According to the Government: Despite contextual difficulties in relation with the situation in Iraq, the amendment process of national labour laws is going on with a view to ratifying C.87. In this regard, the Government would appreciate receiving ILO technical support.</p> <p><b>2010 AR:</b> The Government indicated that the national labour law of 1952 was not in compliance with C.87. Furthermore, it mentioned that a draft text had been submitted to the National Assembly with a view to amending the national labour legislation. At the end of this process, C.87 should be ratified by Iraq.</p> <p>The IFI and the GFIW supported the ratification process for C.87 by the Government.</p> <p><b>2009 AR:</b> The Government stated that it had not ratified C.87 because it conflicted with the labour law, which did not allow more than one trade union. However, recent changes in the legislation gave the Government permission to establish trade unions.</p> <p>The GFIW stated that it was in agreement with the Government's views regarding C.87. It also observed that the draft of the new labour Code could help solve current issues and be beneficial to tripartism in the country.</p>
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			<p><b>2008 AR:</b> The Government reiterated its support for the ratification of C.87 and indicated that it has already been submitted to Parliament for endorsement.</p> <p><b>2007 AR:</b> The Government indicated that ratification of C.87 would be submitted very soon to Parliament.</p> <p>The IFI and the IFTU support the ratification of C.87 by the Government.</p> <p><b>2006 AR:</b> According to the Government: Ratification of C.87 will be done after the adoption of the new Labour Code, which integrates the provisions of this Convention.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.87.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>2007 AR:</b> According to the Government: article 22 of the national Constitution, 2006, recognizes the principle of freedom of association.</p> <p><b>2006 AR:</b> According to the Government: A new Constitution will be submitted to referendum at the end of 2005. The draft text recognizes the principle and right (PR).</p>





		<p><b>Policy/Legislation and/or Regulations</b></p>	<p><b>Policy:</b></p> <p>According to the Government: The State follows a policy of supporting full, productive employment and respects the fundamental principles and rights at work (FPRW) both in the law and in practice. This includes: a) Paragraph 1: union freedom and effective recognition of the right of collective bargaining; and b) Section 16, articles 135-142 (dealing with collective agreements and bargaining) was separated from the act and made an independent law (the Union Organisation Act), providing adequate protection for unions. It has received its first reading in the Council of Representatives.</p> <p>Within the general policy framework, the National Development Plan 2013-2017 provides a framework for strengthening the effectiveness of trade unions and civil society organizations in developing the labour sector, expanding social protection, developing the labour market and reducing unemployment.</p> <p><b>Legislation:</b></p> <p><b>2015 AR:</b> According to the Government: A new employment Bill has been drafted with the involvement of the social partners and ILO, and approved by the Council of Ministers. This Bill is currently at its third reading. However, Iraq has recently seen changes in the Council of Representatives, which needs time to exercise its duties and vote on bills that have been held up.</p> <p>The Unions' and Professional Federations' (UPF) Bill has been drafted and scrutinised by the State Shura Council. There is overlap between the UPF Bill and the Union Organisations' Act, No. 52 (1987). The latter is linked only to the Labour Code (Act No. 71, 1987) and workers' constitutional rights and freedoms. It does not go beyond that to deal with any particular profession or sector. The UPF Bill is a framework Bill that applies to all labour, professional and craft organizations, such as the associations of physicians and engineers. It has no connection with union organizations, which are regulated by the current Union Organisations' Act and pertains to the formation of elections for and structure of the General Federation of Trade Unions in Iraq.</p> <p>The Union Organisations' Act, which does not permit more than one general federation to exist at the country level and more than one general professional union or one federation of workers' unions at governorate level, is still in force. However, following the upheaval in Iraq in 2003, a number of illegal labour unions emerged. This situation remained until proper elections were held and union organizations received legal recognition, in mid-2012. This resulted in the election of: a) an executive office to lead the Iraqi trade union movement; b) 14 trade union federations in each governorate; c) six general, professional unions in Baghdad; d) 83 professional unions in the governorates; and e) 1,612 union committees in all provinces, with the exception of Kurdistan Region.</p> <p><b>2014 AR:</b> According to the Government: The draft Labour Code has been elaborated with the social partners and ILO experts and recognizes the FPRW. The draft is still before Parliament for a second hearing and vote during 2013. After passing Parliament, the State Advisory Council (Shura) needs to adopt it and the Council of Ministers to ratify it. For the time being, the legal obstacles related to the Executive Law 71/1987 remain vis-à-vis the provisions of C.87.</p>
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			<p><b>2013 AR:</b> According to the Government and IFI: Legal obstacles to Executive Law 71/1987, in particular with respect to trade union monopoly, need to be removed in compliance with the provisions of C.87. ILO technical cooperation is needed in this exercise.</p> <p><b>2007 AR:</b> According to the Government: The draft of the Labour Code, which is currently under review with ILO technical cooperation, recognizes the PR.</p> <p><b>2006 AR:</b> According to the Government: A revised Labour Code drafted in cooperation with the social partners and the ILO has been submitted to Parliament for review and adoption. This draft text recognizes the PR.</p>		
		<b>Basic legal provisions</b>	(i) Article 22 of the national Constitution, 2006; (ii) Act No.52 on Trade Union Organizations (1989); (iii) Act No. 43 on the Federation of Chambers of Commerce (1989); (iv) Act No. 44 on the Union of Iraqi Industries (1989); (v) sections 6, 116, 128, 147 of Act No. 71 of 1989; and (vi) sections 130 to 196 of the Labour Code.		
		<b>Judicial decisions</b>	NIL.		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<p><b>2012 AR:</b> According to the Government: No prior government authorization is needed to form an employers' organization.</p> <p><b>2001 AR:</b> According to the Government: Freedom of association and the right to establish employers' organizations are ensured by law.</p>	
			<b>For Workers</b>	<p><b>2013 AR:</b> According to the Government and the IFI: Although C.87 has not yet been ratified by Iraq, the provisions of this Convention are already being implemented in the country. In spite of the legal obstacles to Executive Law 71/1987, which only allows for one trade union in the country, multiple trade unions are now operating.</p> <p><b>2012 AR:</b> According to the Government: No prior government authorization is needed to establish a trade union.</p> <p><b>2006 AR:</b> According to the IFTU: The Government does not interfere in its activities and respects freedom of association.</p> <p><b>2001 AR:</b> According to the Government: Freedom of association and the right to establish workers' organizations are ensured by law.</p>	
			<b>Special attention to particular situations</b>	NIL.	

	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>Information/ Data collection and dissemination</b>	<p><b>2014 AR:</b> According to the Government: There are six general unions by occupation in Baghdad and 84 affiliated unions by occupation in the governorates, 14 trade union federations in each governorate and more than 1,612 trade union committees covering the private and public sectors in Iraq.</p> <p><b>2001 AR:</b> According to the Government: There is a lack of information and data concerning the PR.</p>
		<b>At international level</b>		According to the Government: There are no particular restrictions for the international affiliation of employers' or workers' organizations.
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2008 AR:</b> According to the Government: only one trade union existed before 2003 but since, a large number of other trade unions have been created. The Government is currently preparing facilities for trade unions elections.</p> <p><b>2001 AR:</b> According to the Government: Labour legislation is implemented by labour inspection committees (section 16 of the Labour Code).</p>		
	<b>Involvement of the social partners</b>	<p><b>2015 AR:</b> According to the Government: The Ministry of Labour and Social Affairs seeks to strengthen partnerships with social partners, such as GFTU and IFI, by involving them in the Higher National Committee for Employment; the Tripartite Consultation Committee; the Minimum Wage Committee; labour inspection groups; and in industrial services committees. The Government, IFI and GFIW indicated that regular tripartite meetings are being held on issues related to C.87.</p> <p><b>2014 AR:</b> The Government, the IFI and the GFIW reported that tripartite discussions concerning the ratification of C.87 were ongoing. The Government added that the draft Labour Code had been elaborated with the social partners and that the Ministry of Labour and Social Affairs was seeking to promote partnership among the social partners through the following tripartite bodies: the High National Committee for Employment; the Tripartite Consultation Committee; the Minimum Wage-Setting Committee; and in several labour inspection groups and industrial services committees. The GFIW indicated that social dialogue had improved over the last year and that previous disagreements with the Government concerning the PR had been resolved.</p> <p><b>2013 AR:</b> According to the Government and the IFI: The Ministry of Social Affairs is engaging in social dialogue with both workers' and employers' representatives concerning ratification process for C.87.</p> <p><b>2012 AR:</b> According to the Government, the IFI and the GFIW are associated in national decision making process, in particular through various tripartite bodies including the National Consultative and Social Dialogue Committee and the Tripartite Labour Tribunal. Also, there are multiple trade unions involved.</p> <p><b>2007 AR:</b> The IFI stated that it had been elected to the board of the Arab Labour Organization (ALO).</p> <p><b>2001 AR:</b> According to the Government: section 116 (1) of the Labour Code provides that "Workers' and employers' organizations are represented on labour inspection committees entrusted with the proper implementation of the labour legislation".</p>		



	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: tripartite representation in production has been expanded in all committees and bodies, where required under International Labour Standards.</p> <p><b>2014 AR:</b> According to the IFI and the GFIW: The social partners are collaborating to facilitate the submission of the ratification of C.87 to Parliament.</p> <p><b>2013 AR:</b> According to the Government and the IFI: In December 2011, tripartite partners participated in seminars on international labour standards (ILS) organized by the Arab Labour Organization (ALO) in Beirut.</p> <p><b>2012 AR:</b> According to the Government, the IFI and the GFIW: Tripartite workshops and awareness raising activities on freedom of association have been organized in 2011 with the support of British trade unions and the ITUC.</p> <p><b>2010 AR:</b> According the Government: A Senior Officer of the Ministry has participated in the May 2009 ILO/Turin Course on International Labour Standards during which issues concerning the Declaration and its follow-up had been addressed, including those relating to the PR.</p> <p><b>2009 AR:</b> According to the Government: A draft of a new Labour Code that incorporates the principles of C.87 is being prepared, and a Committee for the Implementation of International Labour Standards has been established.</p> <p>According to the GFIW: The workers were involved in the ratification process of C.87, and the Government has promoted workers' activities. This reflects the good relationship between the Government and the workers.</p> <p><b>2008 AR:</b> The Government indicated that social dialogue is well functioning and as an example, the Government submitted a copy of a specific Committee within the Ministry of Labour and Social Affairs where governmental, employer and worker representatives deal with ILO issues and adopt recommendations.</p> <p><b>2007 AR:</b> According to the Government: Tripartite committees have been set up to ensure the realization of the PR.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2014 AR:</b> According to the Government, the IFI and the GFIW: Elections have taken place within the workers' and employers' organizations in mid-2012. The elections, which were the first to be held in ten years, were conducted in line with the labour legislation and without any government interference. Following the elections, the legitimacy of the IFI and GFIW was formally acknowledged by the Government. The elections within the workers' organizations led to the election of: (i) An executive Bureau to lead the Iraqi trade union movement, (ii) 14 trade union federations in each governorate, (iii) Six general unions by occupation in Baghdad, (iv) 84 unions by occupation in the governorates, and (v) 1,612 trade union committees in all governorates, except in Iraqi Kurdistan.</p> <p><b>2012 AR:</b> According to the Government, the IFI and the GFIW: Following consultations with the social partners and the ILO, and following integration of their comments into a new draft Labour Code, the draft Labour Code has been submitted to Parliament in May 2011. This draft Code integrates the principle of freedom of association and will allow ratification of C.87.</p> <p><b>2006 AR:</b> According to the Government: A draft Constitution and a draft Labour Code have been prepared that recognize the PR. The Government no longer interferes in employers' and workers' organizations activities.</p>



<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2015 AR:</b> IFI stated that there is good relationship and cooperation among the tripartite parties; however the political and security instability in the country has been a major challenge affecting the progress toward ratifying C.87.</p> <p><b>2014 AR:</b> According to the IFI: While political instability and the security situation continue to make it difficult to exercise freedom of association, the social situation in Iraq has improved over the last year.</p> <p><b>2012 AR:</b> According to the IFI: The political instability and the social and security situation make it difficult to exercise freedom of association.</p> <p><b>2010 AR:</b> The IFI shared the Government's opinion that the current national security situation had made it difficult to promote and realize the PR in the country.</p> <p><b>2007 AR:</b> According to the IFI: The social and economic situation (economic crisis with more than 50 per cent unemployment rate and insecurity) makes it difficult to exercise the PR in Iraq.</p> <p><b>2006 AR:</b> The IFI mentioned that it wished to be consulted in the Government's decisions concerning economic and social issues.</p>
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		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> GFIW indicated that the existing political and security conditions in the country pose challenges in realizing the PR.</p> <p><b>2014 AR:</b> The GFIW supported the IFI's view concerning the improvement of the social situation in Iraq over last year, despite the difficulties to exercise freedom of association because of the security situation in the country.</p> <p><b>2012 AR:</b> According to the GFIW: The political instability and the social and security situation make it difficult to exercise freedom of association.</p> <p><b>2010 AR:</b> According to the GFIW: The GFIW supports the Government's and the IFI's view that the current national security situation makes it difficult to promote and realize the PR in the country.</p> <p><b>2009 AR:</b> According to the GFIW: The war situation in the country has reduced the trade union activism.</p> <p>The ITUC reiterated the same challenges mentioned in the 2008 AR concerning Iraq, in particular with respect to: (i) the new draft Labour Code prepared with the assistance of the ILO and made public in 2007. This draft contains shortcomings which the ILO has asked to be rectified (remove the prohibition against companies in the oil sector cooperating with trade unions; give stronger protection against anti-union discrimination; remove the stipulation that at least 50 per cent of workers at a single workplace must agree for the union to represent it, before it is legal; clarify whether the Labour Code will include Law 150 of 1987, which prohibits public sector workers organizing or going on strike); (ii) in August 2008, after pressure from Public Services International, the Government said it would consider repealing laws that ban public service unions; (iii) former laws (i.e., Law 150 of 1987) are still in force and contain many barriers to trade union rights, including the right to organize and to go on strike including; (iv) trade union funds are full controlled by the authorities; and (v) in practice, most workers are banned from union membership given the predominance of the public sector in the country, only one national centre of trade unions (the General Federation of Iraqi Workers – GFIW) is officially recognized, and threats exist against workers trying to start a strike, especially in state-owned companies where some employers have referred to provisions in former laws.</p>
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			<p><b>2008 AR:</b> The ITUC reiterated the same challenges mentioned in the 2007 AR and added that trade unions were still fully controlled by the authorities. Moreover, a member of the Executive Bureau of the General Federation of Iraqi Workers (GFIW), Alaa Issa Khalaf, was shot dead on 25 January 2006, when leaving home for work by several unidentified men and on 27 April 2006, as the leader of the health workers' union was leaving his office, Thabet Hussein Ali was abducted by a group of terrorists. His bullet-ridden corpse was discovered the following day and he was carrying signs of severe torture, including wounds caused by an electric drill. Furthermore, on 18 August 2006, Tariq Mahdi, a leader of the Union of Health Service Employees was murdered by a militia in Mahmoodya. On 27 July 2006, a demonstration by workers at a cement factory in Tasloja (Sulaimaniya), in support of a wage increase, was violently suppressed by the company's security guards. 13 strikers were injured. The guards were subsequently arrested by the police.</p> <p>It added that the Supreme National Commission for De-Baathification (SNCD) sent the two following notifications to the Iraq Federation of Trade Unions (IFTU): (i) a letter concerning the rules to be followed in the trade union elections based on Decree 3 of the Government Council; (ii) a list of five people who were "not permitted to hold any leadership post in any federation, company, association or trade union in Iraq".</p> <p>Finally, it underscored that the laws were outdated and/or need to comply with international labour standards. The Draft Labour Code has not yet been adopted. Therefore, the employment laws dating back to the era of Saddam Hussein remain in force, such as the ban on workers in the public sector from organizing or going on strike. Indeed, Law No. 150 changed the status of workers in state-owned enterprises to consider them as civil servants, and therefore depriving them from the right to organize.</p> <p><b>2007 AR:</b> According to IFTU: The political and social situation in Iraq makes it difficult to exercise the PR.</p> <p>The ICFTU raised the following challenges: (i) the new labour code drafted with input from the ILO has still not been implemented; (ii) Decree 875 gave the Government total control over the existing unions' finances; (iii) the fact that only one national trade union has been granted official recognition gives the opportunity to employers to refuse to acknowledge other unions in the workplace unless they join the IFTU; (iv) the Federation of Workers' Councils and Unions in Iraq (FWCUI) claims 300,000 members across Iraq, but has been denied recognition as a representative workers' organization; (v) many employers have reportedly used the existence of the old laws to threaten any workers seeking to take strike action in public enterprises.</p> <p><b>2006 AR:</b> The IFTU mentioned that it wished to be consulted in the privatization process. According to the ICFTU: (i) there were many encouraging signs of trade union activities among workers, but full freedom of association is not yet restored given that several national-level union other than the IFTU (for example the Federation of Workers' Councils and Unions in Iraq (FWCUI) are not officially recognized; (iii) given that old laws are still in force, there are many obstacles to trade union's rights, including the ban on organizing and the right to strike in the public sector only one trade union organization was given official recognition; (ii) strikes are banned in the public sector; (iii) workers trying to take strikes action are being threatened.</p>
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			<p><b>2005 AR:</b> According to the ICFTU: (i) there are no offices to register trade unions and employers refuse to recognize unions on the ground that they are not registered.</p> <p><b>2000-2002 ARs:</b> According to the ICFTU: (i) there is a single trade union structure through the GFTU that is controlled by the ruling Ba'ath Party; (ii) there are no unions for public sector workers and workers in state enterprises; (iii) severe restrictions exist on the right to strike, including the threat of imprisonment.</p>
	<p><b>According to the Government</b></p>		<p><b>2015 AR:</b> According to the Government: Despite the new Parliament and Government, critical national security conditions, make it difficult to realise the PR in Iraq.</p> <p><b>2014 AR:</b> According to the Government: The political instability and the security situation make it difficult to move ahead with the ratification process and to realize freedom of association. The legal obstacles reported under the 2013 AR related to the Executive Law 71/1987 vis-à-vis the provisions of C.87 remain. Additionally, the Trade Union Organization law 52/1978 does not allow for the existence of more than one federation in the country or more than one union by sector of occupation.</p> <p><b>2013 AR:</b> According to the Government: There are legal obstacles related to the Executive Law 71/1987, which needs to be revised, in cooperation with ILO, to allow final ratification and implementation of C.87.</p> <p><b>2012 AR:</b> According to the Government: The political instability and the social and security situation make it difficult to exercise freedom of association.</p> <p><b>2010 AR:</b> The Government indicated that the current national security situation had made it difficult to promote and realize the PR in the country.</p> <p><b>2009 AR:</b> According to the Government: The existing Labour Code was against C.87 and the ILO's experts were assisting the Government in drafting a new Labour Code. Furthermore, the Government stated that there were not enough workers' education facilities in the country.</p> <p><b>2008 AR:</b> The Government indicated that a serious problem of insecurity still prevailed in the country, mainly due to terrorism.</p> <p><b>2006 AR:</b> According to the Government: The main difficulty encountered in realizing the PR in Iraq is related to the political and security situation.</p>





<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: There is a need for capacity building on ILS and the PR for government officials at national and international levels and for sharing experience with other countries.</p> <p>IFI requested ILO technical assistance in drafting new law for employers and strengthening the capacity of its board members on FPRW.</p> <p><b>2014 AR:</b> According to the Government, the IFI and the GFIW: ILO technical cooperation is needed in the following areas: (i) sensitization on the content and implications of C.87 for the tripartite partners. The newly elected trade union leaders and employers' representatives specifically wish to participate in training activities on the FPRW in the ILO/TURIN Centre; (ii) sensitization on the content and implications of C.87 for Parliamentarians; (iii) technical support in revision of the Executive Law 71/1987; (iv) strengthening social dialogue to allow for the tripartite partners to reach common ground and move ahead in the ratification process of C.87; and (v) greater support from the ILO to ensure that activities are undertaken inside Iraq and that the Iraq tripartite partners are invited to regional workshops and conferences.</p> <p><b>2013 AR:</b> According to the Government and the IFI: ILO technical cooperation is mainly needed in three areas in order to allow finalization of the ratification process; (i) Technical support in revision of the Executive Law 71/1987; (ii) Sensitization on the content and implications of C.87 for Parliamentarians and the tripartite partners, and; (iii) Strengthening labour administration/inspection, employers' and workers' organizations and social dialogue in the country.</p> <p><b>2012 AR:</b> According to the Government, the IFI and the GFIW: Policy advice, tripartite and leadership training activities should be developed in cooperation with the ILO to help the country better promote and realize freedom of association at national level, and speed up the ratification process for C.87. ILO's support is requested for capacity building of labour administration/inspection and of employers' and workers' organizations, including specific training activities in the ILO/TURIN Centre and sharing experiences with other countries.</p> <p><b>2011 AR:</b> According to the Government: Policy advice and tripartite training activities should be developed in cooperation with the ILO to help the country better promote and realize the PR at national level, and speed up the process for ratification of C.87.</p> <p><b>2010 AR:</b> According to the Government: Policy advice and tripartite training activities should be developed in cooperation with the ILO to help the country better promote and realize the PR at national level.</p> <p>The IFI and the GFIW requested ILO's technical assistance to strengthen the building capacity of the tripartite partners.</p> <p><b>2009 AR:</b> According to the Government: The ILO's cooperation is needed in the drafting of the labour laws and the setting up of the tripartite mechanism for social dialogue.</p> <p>The GFIW stated that the ILO's support was needed in the provision of the training courses on the relevance of C.87.</p> <p><b>2008 AR:</b> According to the Government: Technical assistance is needed for capacity building on freedom of association for workers' and employers' association and to the Ministry of Labour and Social Affairs. It added that ILO technical cooperation would increase the leadership quality of workers' and employers' representative on freedom of association and other international labour standards. Other needs were put forward by the Government, namely labour inspections and vocational trainings.</p>
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		<p><b>2007 AR:</b> According to the Government: ILO technical cooperation is necessary to strengthen capacity building of employers' and workers' organizations, labour inspection and social dialogue.</p> <p>According to the IFI: There is an urgent need for ILO technical cooperation to strengthen the capacity of employers' organizations on the PR.</p> <p>According to the IFTU: ILO should support trade unions' capacity building on the PR.</p> <p><b>2006 AR:</b> According to the Government: Given the negative effects of the war on the activity of the Ministry of Labour and Social Affairs and the employers' and workers' organizations, the Government needs ILO technical cooperation project to facilitate the realization of the PR in Iraq in the following areas, in order of priority: (1) capacity building of responsible government institutions and employers' and workers' organizations; (2) training of government officials and employers' and workers' organizations on the PR, in particular social dialogue and collective bargaining techniques; and (3) training of other officials (judiciary, social workers, teachers).</p> <p>The IFI and the ICFTU requested special ILO assistance in capacity building.</p>
	<b>Offer</b>	ILO, International Trade Union Confederation (ITUC), and British trade unions.
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>		<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) encouraged the Government of Iraq (and few other governments) to complete the legal review process to remove the obstacles to ratification of C.87. They also listed Iraq among the countries where some unions are subject to government's interference or influence. In this regards they recalled the following: "the right to official recognition is an essential aspect of the right to organize as it allows employers' and workers' organizations to be in a position to play their roles efficiently. Furthermore, any government intervention in employers' and workers' organizations' internal affairs (right to establish and join organizations of their own choosing, without distinction whatsoever and without previous authorization, right to draw up internal constitutions and rules, right to elect their representatives in full freedom, etc.) constitutes interference in the functioning of these organizations, which is a denial of the principle and right" (cf. paragraphs 32 and 36 of the 2007 AR Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs listed Iraq among the countries that have been indicating their intention to ratify C.87 and C.98 for several years, with no indication that progress had been made (cf. paragraphs 73 and 74 of the 2003 Annual Review Introduction – ILO: GB.286/4) (cf. paragraph 33 of the 2007 AR Introduction – ILO: GB.298/3).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>		<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: JORDAN**

***FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, but "no change" reports for the 2002 and 2004 Annual Reviews (ARs).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Jordan Chamber of Commerce (JCC), the Jordan Chamber of Industry (JCI) and the General Federation of Jordanian Trade Unions (GFJTU) by means of consultations and communication of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the JCI. <b>2013 AR:</b> Observations by the JCI. <b>2010 AR:</b> Observations by the JCC. <b>2006 AR:</b> Observations by the JCC. Observations by the JCI.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the GFJTU. <b>2014 AR:</b> Observations by the GFJTU. <b>2014 AR:</b> Observations by the GFJTU. <b>2011 AR:</b> Observations by the GFJTU. <b>2010 AR:</b> Observations by the GFJTU. <b>2009 AR:</b> Observations by the GFJTU. Observations by the International Trade Union Confederation (ITUC). <b>2008 AR:</b> Observations by the GFJTU. Observations by the ITUC. <b>2007 AR:</b> Observations by the GFJTU. Observations by the International Confederation of Free Trade Unions (ICFTU).

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



		<p><b>2006 AR:</b> Observations by the GFJTU. Observations by the ICFTU.</p> <p><b>2005 AR:</b> Observations by the ICFTU.</p> <p><b>2002 AR:</b> Observations by the ICFTU.</p> <p><b>2001 AR:</b> Observations by the ICFTU.</p> <p><b>2000 AR:</b> Observations by the ICFTU.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Jordan ratified in 1968 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>YES, since 2002, for C.87.</b></p> <p><b>2015 AR:</b> According to the Government: a tripartite committee has been reviewing for 2 years the Labour Code taking into consideration the provisions of C.87, among others. JCI and GFJTU expressed support to the ratification of C.87. GFJTU further mentioned the need to ensure compliance between national legislation and the provisions of C.87.</p> <p><b>2014 AR:</b> The Government reiterated the statement it made under the 2013 AR. The GFJTU expressed its support for the ratification of C.87 and indicated that it had continuously urged the Government to ratify the instrument.</p> <p><b>2013 AR:</b> The Government reiterated the statement it made under the 2012 AR and confirmed that the ratification of C.87 was in process. It further indicated that over the last two years, a joint commission of social partners had reviewed the possibility to develop a Labour Code and introduce the necessary amendments to realize freedom of association and regulate the industrial relations. The JCI expressed full support to ratification of C.87, and indicated that, after several tripartite consultations, the new draft Labour Code to bring national legislation into conformity with C.87 will soon be promulgated.</p> <p><b>2012 AR:</b> According to the Government: Concerning the possibility to ratify C.87, the final adoption of the Labour Code by Parliament will certainly play a positive role as this Code provides workers with more freedom to organize, without any government interference.</p> <p><b>2010-2011 ARs:</b> According to the Government: The tripartite committee set up in 2007, has come</p>



			<p>out with proposals to bring national labour laws closer to the requirements of C.87. As a result of these proposals, labour laws have been amended.</p> <p>The GFJTU expressed its full support for the ratification of C.87. It requested the Government to ratify this instrument and apply the PR in the public sector.</p> <p><b>2009 AR:</b> According to the Government: A tripartite committee is in the process of drafting the Labour Law so as to ease the ratification process for C.87.</p> <p>The GFJTU supported the ratification of C.87 by Jordan and indicated that it was sending a yearly letter to the King of Jordan to that effect.</p> <p><b>2008 AR:</b> According to the Government: A joint committee, composed of the social partners, has been studying, for more than two years, the possibility of developing the Labour Code and making the required amendments thereto, especially as regards collective labour relations and the right to organize for both workers and employers. Amendment proposals have been referred to the Council of Ministers for approval. This process illustrates government efforts to bring national labour laws closer to the requirements of Convention No. 87 and pave the way for the ratification of this instrument. The committee will continue its consideration of further amendments to the subjects concerned.</p> <p>All these steps are taken in the framework of the efforts to bring the national legislation closer to the requirements of Convention No. 87 in order to pave the way for its ratification. Given the fact that tripartite consultation affects the interests and rights of the social partners, Jordan is aware of the importance of such a consultation in this field.</p> <p>The GFJTU expressed its support for the ratification of C.87.</p> <p><b>2006 AR:</b> According to the Government: Ratification of C.87 is still under consideration.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government intended to ratify C.87.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>The 2002 Constitution (article XXIII, paragraph 2(f)) provides for the protection of labour by the State, and for enacting legislation based on the principle of “freedom of association within the law”.</p>
		<p><b>Policy/Legislation and/or Regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2015 AR:</b> According to the Government: Interim Act No 26 of 15/07/2010 which amends the Labour Code was promulgated. It provides for wider freedoms granted to trade unions as to the organization of their internal affairs through the formulation of their internal statutes and their amendment without any interference from the Government. The current law does not provide for the condition of soliciting the views of the Ministry when the General Federation of Trade Unions formulates its own internal statutes. Interim Act No. 26 will be submitted to the House of Representatives (Majlis Al-Nouwab) for its adoption as a permanent law. The GFJTU indicated that the Labour Law still needs to undergo revision.</p> <p><b>2014 AR:</b> The GFJTU indicated that parliamentary discussions on legal amendments concerning the right to establish trade unions in the public sector had taken place.</p> <p><b>2013 AR:</b> According to the Government: Steps have been taken to adapt the provisions of the draft Labour Code to the requirements of C.87.</p> <p><b>2011 AR:</b> According to the Government: Interim Act No.26 of 15 July 2010 provides for the possibility for trade unions to amend their internal rules without any government interventions.</p> <p><b>2010 AR:</b> According to the Government: By virtue of an Act amending the Labour Code, No. 48 of 2008, some amendments of the tripartite committee have been approved. Those include the inclusion in the scope of the Labour Code of agricultural and domestic workers in accordance with a regulation which will be enacted to this effect, and the establishment of the Tripartite Committee for Labour Affairs (section 43 of the Labour Code).</p> <p><b>2007 AR:</b> According to the Government: It has established a tripartite committee to consider the amendments required on the Labour Code in compliance with international standards. The Ministry of Labour expects that the proceedings of this committee will be completed and that a final version of the draft amendments to the Labour Code will be submitted to the Parliament by the end of 2006. The amendments under discussion include several subjects, such as the right to organize and bargain collectively, the means of settlement of collective disputes and other questions concerning individual and collective relations. Moreover, some emerging gaps in the law will be addressed to cope with new developments in the national labour market.</p> <p><b>2000 AR:</b> The 1996 Labour Code relates to the principle and right (PR).</p> <ul style="list-style-type: none"> <li>• <b>Regulations:</b></li> </ul> <p>Decree No. 2 of 1997 relates to the PR.</p> <p><b>2013 AR:</b> According to the Government: Regulation No. 21/2010 concerning the Labour Affairs Tripartite Committee was published in accordance with section 43 of the Labour Code.</p>



		<b>Basic legal provisions</b>	(i) The 2002 Constitution (article XXIII, paragraph 2(f)); (ii) the Labour Code No. 98 of 1996; and (iii) Decree No. 2 of 1997.		
		<b>Judicial decisions</b>	<b>NIL.</b>		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<p><b>2003 AR:</b> Government authorization/approval is required for the registration of an employers' organization.</p> <p>The PR can be exercised at enterprise, sector/industry and national levels.</p> <p>Only freedom of association can be exercised at international level by all categories of employers.</p>	
		<b>At national level (enterprise, sector/industry, national)</b>	<b>For Workers</b>	<p><b>2003-2005 ARs:</b> Government's authorization/approval is required for the registration of a workers' organization.</p> <p>The PR can be exercised at enterprise, sector/industry and national levels.</p> <p>Only freedom of association can be exercised at international level by the following categories of persons: medical professionals; workers in export processing zones (EPZs) or enterprises/industries with EPZ's status; workers who have reached the age of 18 years; workers in the informal economy; teaching workers in the private sector.</p> <p>However, workers in the public service cannot exercise the PR. The same applies to agricultural workers and domestic workers, since they are not subject to the provisions of the LL. Migrant workers cannot exercise the right to freedom of association.</p> <p><b>2000 AR:</b> According to the Government: The Registrar of Trade Unions is required to take a decision concerning the registration of an organization within 30 days of the submission of the application. Once approved, he proceeds to register the organization, and to publish the registration in the <i>Official Gazette</i>. If rejected, founders of the proposed organization may appeal against his decision before the Supreme Court of Justice within 30 days of their being notified of the decision.</p>	





			<p><b>Special attention to particular situations</b></p> <p><b>2015 AR:</b> According to GFJTU: special attention should be given to migrant workers, human trafficking, child labour and women’s rights.</p>
			<p><b>Information/ Data collection and dissemination</b></p> <p><b>2004 AR:</b> According to the Government: There are 43 employers’ organizations and 17 trade unions.</p>
		<b>At international level</b>	<b>NIL.</b>
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2011 AR:</b> According to the GFJTU: There are no problems concerning the application of freedom of association in the private sector.</p> <p><b>2008 AR:</b> The GFJTU indicated that a Tripartite Committee was established in June 2007.</p> <p><b>2006 AR:</b> According to the Government: The 2004 Labour Inspection Report recorded the following activities and measures: (i) advice and guidance to associations: 6,825 cases; (ii) warning to establishments: 918 cases; contraventions to Labour Code: 24,567 cases.</p> <p><b>2003-2005 ARs:</b> According to the Government: The following measures have been implemented to enforce and realize the PR: (i) legal reform Labour Code and other relevant legislation; (ii) inspection/monitoring; mechanisms; (iii) capacity building of responsible government officials; (iv) and capacity building for employers’ and workers’ organizations.</p> <p><b>2002 AR:</b> According to the Government: The 2001 labour report recorded the following activities and measures: (i) advice and guidance (15,042 cases); (ii) warning (2,198 cases); (iii) violations of the Labour Code referred to the competent courts (4,269 cases).</p>	
	<b>Involvement of the social partners</b>	<p><b>2015 AR:</b> According to the Government: social partners are involved in the current labour law reform process. According to JCI and GFJTI: tripartite consultations have been taking place.</p> <p><b>2013 AR:</b> According to the Government: The Government of Jordan fully recognizes the importance of tripartite consultations, in particular through the Labour Affairs Tripartite Committee, in paving the way to ratification of C.87. According to the JCI: Tripartite discussions on the new Labour Code including the PR have been held in Jordan.</p> <p><b>2011 AR:</b> According to the GFJTU: Social dialogue is fully operational in Jordan, with a pre-eminence of freedom of association.</p> <p><b>2009 AR:</b> According to the Government: A tripartite committee is in the process of drafting the Labour Law so as to ease the ratification process for C.87. Moreover, tripartite activities are being developed through the ILO Project on Social Dialogue.</p> <p><b>2006 AR:</b> According to the Government: Employers’ and workers’ organizations are participating in the National Commission labour laws review. They also take part in the social dialogue project carried out by the Government in cooperation with the ILO.</p> <p><b>2005 AR:</b> According to the Government: Consultations and dialogue have been held with all trade unions.</p> <p><b>2003-2004 ARs:</b> According to the Government: Tripartite discussions of issues have been implemented.</p>	



	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: The ministry contributes to raising the capacities of social partners in relation to Convention No. 87 by means of the activities it carries out, which include holding courses and seminars for parties to the production process to raise their capacities and increase knowledge of the Convention.</p> <p>According to JCI and GFJTU: trainings and workshops are regularly taking place on the PR, including the distribution of brochures and the setting up of a hotline for complaints. GFJTU further mentioned that a conference on migrant workers was held in 2014 and that there are many ILO projects ongoing in Jordan due to the support of ILO Lebanon.</p> <p><b>2014 AR:</b> According to the GFJTU: The GFJTU has carried out awareness raising campaigns on the FPRW and regularly engages with the Government to promote the ratification of C.87. The GFJTU has sent several letters urging the Minister of Labour to ratify C.87 without delay.</p> <p><b>2013 AR:</b> According to the Government: The Ministry of Labour contributes to the social partners' capacity building on C.87, in particular through social dialogue and the organization of seminars and workshops, in cooperation with ILO.</p> <p><b>2012 AR:</b> The Government indicated that the Ministry of Labour had continued to carry out capacity building activities on C.87 (seminars and workshops) for the social partners, in cooperation with ILO.</p> <p><b>2010-2011 ARs:</b> According to the Government: The Ministry of Labour contributes to the social partners' capacity building on C.87, in particular through social dialogue and the organization of seminars and workshops, in cooperation with ILO. The GFJTU indicated it was promoting freedom of association among its members, in cooperation with the ILO.</p> <p><b>2009 AR:</b> The Government reported that the Ministry of Labour had been organizing workshops to strengthen the social partners' capacities on the PR in cooperation with the ILO Project on Social Dialogue.</p> <p>The GFJTU indicated that a letter was sent every May 1<sup>st</sup> to the King of Jordan asking for the ratification of C.87.</p> <p><b>2008 AR:</b> According to the Government: The Ministry contributes to the improvement of the capacity of the social partners with regard to Convention No. 87 through the social dialogue project, implemented with the ILO, which undertakes many activities, including courses and seminars for the social partners, to familiarize them with the Convention.</p> <p>The GFJTU indicated that several workshops have been organized, namely the social dialogue project (2001-2006) in collaboration with the ILO, continuous campaigns through the media to put pressure on the Government to ratify C.87 and awareness raising activities to explain the provisions of C.87.</p> <p><b>2003-2004 ARs:</b> According to Government: Awareness raising/advocacy activities are envisaged.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2013 AR:</b> According to the Government: The Labour Affairs Tripartite Committee has been established in 2010 to prepare surveys on unratified ILO Conventions and make related recommendations.</p> <p><b>2011 AR:</b> The GFJTU mentioned that a new Labour Code had been elaborated in cooperation with the ILO. It hoped that the Parliament would adopt it soon.</p> <p><b>2008 AR:</b> According to the GFJTU: Migrant workers have obtained the right to organize in Jordan.</p> <p><b>2006 AR:</b> According to the Government: A social dialogue project is being carried out in cooperation with the ILO and social partners include capacity building of government institutions and employers' and workers' organizations.</p>



<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2013 AR:</b> According to the JCI: The main difficulty in the realization of the PR was to find coexistence between migrant workers' right to organize and the preservation of Jordan's sovereignty.</p>
		<b>Workers' organizations</b>	<p><b>2015 AR:</b> According to the GFJTU: the Labour Law is currently before the Parliament and there are no particular challenges relevant to the ratification.</p> <p><b>2014 AR:</b> According to the GFJTU: Challenges are related to: (i) lack of legal provisions recognizing the PR; and (ii) restrictions on migrant workers' right to exercise freedom of association. While current regulations allow for migrant workers to establish their own unions, the GFJTU has requested the Government to authorize migrant workers to become members of the GFJTU.</p> <p><b>2009 AR:</b> The GFJTU indicated that the workers in the public sector were not allowed to participate in trade union activities.</p> <p>The ITUC reiterated most of the challenges it had raised under the previous AR (2008) concerning Jordan, and further mentioned that: (i) despite the right to form trade unions, there are many obstacles to freedom of association as trade unions must obtain approval by the Ministry of Labour in order to become officially registered, and registration is directly linked to 17 professions and sectors in which trade unions already exist, making trade union pluralism effectively impossible; (ii) new law threatens freedom of association as it would extend to trade unions restriction concerning freedom of association for NGOs (i.e., prohibition for an NGO to become a member of a partner of a foreign NGO and limits on funding); (iii) in export processing zones (EPZs) and qualified industrial zones (QIZs) that are subject to national laws, workers, 70 per cent of whom are foreign and classed as "non-citizens", are not legally allowed to form or participate in unions. As a result, many suffer from very low pay and terrible working conditions; and (iv) foreign workers are barred from trade union membership, despite union's pressure on the Government to amend the labour law and to allow them to join union, without voting right. In this regard, in 2007, the ILO "expressed hope" that the Labour Law would be amended to protect migrant workers.</p> <p><b>2008 AR:</b> The GFJTU indicated that public workers are neither allowed to organize nor to participate in collective bargaining.</p> <p>The ITUC reiterated the challenges mentioned in the 2007 AR and added that: (i) Civil servants, domestic staff, gardeners, cooks and agricultural workers are not covered; (ii) many of the workers</p>



			<p>in the EPZs are migrant workers and therefore do not have the right to join trade unions. In some zones, migrant make up 58 per cent of the workers.</p> <p><b>2007 AR:</b> The GFJTU hoped that labour law review would take place with a view to allow improved trade unions' registration.</p> <p>According to the ICFTU: (i) the single trade union system is still in place; (ii) migrant workers still have no trade union rights; (iii) there is only one trade union federation; (iv) strikes are not legal but in practice, they are tolerated.</p> <p><b>2006 AR:</b> The GFJTU raised the following challenges: (i) Non-Jordanians are not allowed to join trade unions; (ii) the minimum number of members required for employers to set up their own organizations is 30, whereas workers have to number over 50 to be able to establish their own organizations.</p> <p><b>2000-2006 ARs:</b> The ICFTU raised the following challenges to freedom of association in Jordan: (i) the registration system through the Ministry of Labour and with one registered trade union per profession or sectors makes effective trade union pluralism impossible; (ii) all trade unions are affiliated to the GFJTU, and the Government subsidizes and audits the GFJTU's salaries and activities and monitors the unions' elections; (iii) the Labour Code does not confer protection against anti-union discrimination; (iv) there are restrictions on the right to strike even though strikes are tolerated in practice; (v) public sector workers do not enjoy the rights to organize and the right to strike; (vi) civil servants, agricultural workers, domestic servants, gardeners and cooks are not covered by the Labour Code; (vii) over one million foreign workers are barred from trade union membership and the right to strike; even though some unions do not seek to represent their interests, there are not able to recruit them as members.</p>
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	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> According to the Government: The development and amendment of the Labour Code is a significant challenge in view of the constitutional stages necessary before the adoption of any amendment to the law. These include (stage 1) consultation between the relevant parties and (stage 2) submission to the official bodies in order to begin the constitutional process, followed by submission to Parliament – all within a parliamentary procedural framework affirmed by the Constitution to ensure the effective participation of all civil society groups, quite apart from the machinery and staff necessary to implement and achieve these developments and the technical and material resources that have to be available to each of the social partners.</p> <p><b>2011 and 2013-2014 ARs:</b> According to the Government: the major challenges in the realization of the PR in the country are as follows: (i) The political and social situation in Jordan; (ii) The need for constitutional procedures for the approval of any amendments to the Labour Code, and; (iii) The need to upgrade the social partners' capacity so as to better deal with the PR - an ongoing project is being implemented in this regard.</p> <p><b>2010 AR:</b> The Government reiterated the statement it made under the 2009 AR.</p> <p><b>2009 AR:</b> According to the Government: there is a lack of capacity of government officials and employers' and workers' representatives concerning the PR.</p> <p><b>2008 AR:</b> The Government indicated that the need to enhance the capacity of the social partners, for Jordan is currently implementing a project aimed at improving the capacity of the employees of the Ministry of Labour. In addition, the social dialogue project undertakes a number of activities, which contribute to the enhancement of the capacity of the social partners, and increase their knowledge of the issues related to the provisions and requirements of the Convention.</p>
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In addition to all of these procedures aforementioned, several bodies and a big number of staff would be necessary for achieving progress to this effect, let alone the material and technical capacity that would be available on the side of the social partners.</p> <p><b>2007 AR:</b> In response to the GFJTU’s observations, the Government indicated that registration was formal and there was no government interference in trade unions’ elections.</p> <p>In response to the ICFTU’s observations, the Government made the following comments: (i) a strike can take place before obtaining the prior permission of the Government. In this regard, section 135 of the Labour Code provides that “No worker shall go on strike without giving the employer, and not the Government, notice thereof at least fourteen days before the date set for the strike”. All strikes, which take place in the country, are applied in practice according to the rules provided by the law.</p> <p>The Ministry has never tried to oblige workers to give it notice of their strikes or to have its approval. On the contrary, it was always endeavouring to urge parties to abide by law, and in particular, that: workers give notice of the strike to the employer within the legally determined period; and employers inform workers of their intention to lock-out within the legally determined period for this purpose; (ii) section 97 of the Labour Code has given the workers in any occupation the right to establish their own trade union. Moreover, the classification and identification of groups of occupations and industries for the purpose of establishing trade unions representing their workers cannot be achieved without the agreement of the workers’ movement itself, according to section 98 of the Labour Code. The decision of the Registrar of Trade Unions concerning the registration of a trade union is associated with certain requirements mentioned in section 102 of the Labour Code, such as the submission of an application by the founding members accompanied by the statutes of the union and the election of the first administrative board. This means that his authority is limited rather than absolute. Furthermore, his decision to register a union or not is not deemed final since an appeal against that decision can be submitted to the Supreme Court by the founding members or by any person who has suffered damages. It is true that the General Federation of Jordanian Trade Unions (GFJTU) is the only existing Federation to date, but the law has given the trade unions the right to form other federations among themselves, without the approval of the Government (section 110 of Labour Code).</p> <p><b>2005 AR:</b> According to the Government: the main difficulties encountered in Jordan in realizing the PR in Jordan are as follows: (i) social and (ii) economic circumstances and legal provisions.</p> <p><b>2000-2005 ARs:</b> In response to the GFJTU’s and ICFTU’s observations, the Government mentioned the following observations: (i) the role of trade unions in the Ministry of Labour is confined to formal registration and declaration of the registered trade unions; (ii) the Government does not intervene in the work or activities of workers’ and employers’ organizations; (iii) the establishment of a list of professions for the purpose of classifying trade union was done in consultation with workers’ representatives in order to avoid conflicts between trade unions; (iv) there is no need for Government’s authorization on strike and non-Jordanians are not barred from using this right by the Labour Code; (v) public sector workers are governed by special laws; (vi) most of agricultural workers are covered by the provisions of the Labour Code, but it is difficult to organize them because of the seasonal nature of their work; (vii) household workers are excluded from the Labour Code mainly because of the particularity of their relationship with their employer that makes it difficult to subject them to the application of the Labour Code and (viii) most of the agricultural workers are covered by the provisions of the Labour Law.</p> <p><b>2003-2004 ARs:</b> According to the Government: The main difficulties encountered in Jordan in realizing the PR in Jordan are as follows: (i) social values, cultural traditions; (ii) social and economic circumstances; (iii) legal provisions; and (iv) lack of social dialogue on this PR.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: ILO technical cooperation is required for capacity building of government officials and social partners, awareness raising campaigns and legal reform. Specifically, the Government reported that regarding the development of its capacities and resources in the field of union organization, collective bargaining and collective relations, Jordan needs to cooperate with the International Labour Organization and other specialist bodies on the following: a) Programmes to raise awareness of concepts relating to these topics, focusing on the three parties to the production process, relevant official bodies and parliamentarians, in the service of the process of legislative development; b) Implementation of programmes, both in Jordan and overseas, to develop the capacities of ministry staff specializing in the field of international labour standards, particularly on how to deal with these issues; and c) Familiarizing the representatives of social partners with the experience and legislation of developed countries in these areas through field visits, consultation and collaboration with the representatives of social partners in those countries.</p> <p>JCI and GFJTU requested additional ILO training on the PR.</p> <p><b>2014 AR:</b> The Government reiterated the request it made under the 2013 AR.</p> <p>The GFJTU requested ILO technical cooperation to support awareness raising activities and capacity building for workers' organizations.</p> <p><b>2013 AR:</b> According to the Government: ILO technical cooperation is needed in the following areas: (i) awareness raising on the content of C.87 for the relevant public officials and Parliamentarians, in order to allow for legal reform to take place; (ii) the establishment of programmes, inside and outside the Kingdom, aimed specifically at enhancing the capacity of the officials of the Ministry of Labour; and (iii) sensitize the social partners on the content of C.87 and the experiences of countries with developed industrial relations systems, through field visits, consultation and cooperation with representatives of the social partners in those countries.</p> <p>According to the JCI: ILO should continue its technical support programme in Jordan.</p> <p><b>2012 AR:</b> The Government reiterated the request it made under the 2010 AR.</p> <p><b>2011 AR:</b> The GFJTU requested ILO technical support on freedom of association issues.</p> <p><b>2010 AR:</b> According to the Government: ILO's technical assistance is needed in the following areas: (i) the establishment of programmes aimed at raising awareness on the PR among tripartite partners and parliamentarians so as to facilitate the development of national legislation; (ii) the establishment of programmes, inside and outside the Kingdom, aimed specifically at enhancing the capacity of the officials of the Ministry of Labour and the employers' and workers' organizations to deal with the PR and international labour standards (ILS) in general.</p> <p><b>2009 AR:</b> According to the Government: ILO's support is needed to: (i) strengthen the capacity of the Government and the employers' and workers' organizations regarding the PR, including on laws and experiences from different countries; and (ii) to encourage trade unions to promote the dissemination in Jordan of good practices in the world concerning the PR.</p> <p>According to the GFJTU: The ILO's support is needed to assist the Ministry of Labour in the ratification of C.87.</p> <p><b>2008 AR:</b> According to the Government: ILO technical assistance is required regarding overseas companies based in Jordan and the training of migrant workers. Jordan needs to cooperate with the ILO and with all other competent bodies in the following fields: programmes aimed at raising awareness of the concepts related to the subject matters and focused on the three production and official parties concerned, including parliamentarians, in such a way that the development of the legislation would be facilitated; programmes, inside and outside the Kingdom, aimed specifically at enhancing the capacity of the officials of the Ministry working in the field of ILS, to deal with the matters concerning these standards; familiarize representatives of the social partners with the experience and the legislation of developed countries in these fields through field trips and cooperation with, and consultation of the social partners in these countries.</p> <p>The GFJTU requested ILO support in assisting the Government to ratify C.87. It added that training on collective bargaining was also needed.</p>
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		<p><b>2007 AR:</b> According to the GFJTU: There is a need for capacity building of trade unions on the PR, especially on the provisions of C.87.</p> <p><b>2005 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Jordan exist in the following areas, in order of priority: (1) strengthening tripartite social dialogue; strengthening capacity of workers' organizations; (2) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the principle; (3) awareness-raising, legal literacy and advocacy; (4) strengthening data collection and capacity for statistical analysis; (5) Sharing of experiences across countries/regions; (6) legal reform (labour law and other relevant legislation); (7) capacity building of responsible government institutions; (8) training of other officials (police, judiciary, social workers, teachers); and (9) strengthening the capacity of employers' organizations.</p>
	<b>Offer</b>	ILO.
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) encouraged the Government of Jordan (and few other governments) to complete the legal review process to remove the obstacles to ratification of C.98. They acknowledged the high number of promotional activities concerning the realization of the PR in Jordan (and some other countries), and encouraged the Office to maintain its support to these activities. Finally, they noted that restrictions on the right to organise of certain categories of workers in Jordan (and some other countries), such as migrant workers, domestic workers, workers in the export processing zones (EPZs), workers in the public service and agricultural workers, were not compatible with the realization of this principle and right (cf. paragraphs 32, 35 and 38 of the 2008 AR Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs observed that with a view to giving full effect to this principle and right, the Government should be able to offer to all workers the opportunity to exercise their rights, and not have restrictions on the right to organize for migrant workers (cf. paragraph 37 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2004 AR:</b> The IDEAs indicated that Jordan had requested ILO technical assistance for realizing the principle and right (cf. paragraph 84 of the 2003 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2003 AR:</b> The IDEAs were encouraged to see the Government of Jordan pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help. In light of requests by Jordan for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field (cf. paragraphs 73 and 74 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p>	





<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/--relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/--relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015) <sup>1</sup>: KENYA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Federation of Kenya Employers (FKE), the Central Organization of Trade Unions (COTU-KENYA) and the Union of Kenya Civil Servants (UKCS) through communication of Government reports and tripartite meetings on reporting issues.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the FKE. <b>2014 AR:</b> Observations by the FKE. <b>2013 AR:</b> Observations by the FKE. <b>2012 AR:</b> Observations by the FKE. <b>2010 AR:</b> Observations by the FKE. <b>2008 AR:</b> Observations by the FKE. <b>2007 AR:</b> Observations by the FKE. <b>2006 AR:</b> Observations by the FKE. <b>2005 AR:</b> Observations by the FKE.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by COTU-KENYA. <b>2014 AR:</b> Observations by COTU-KENYA. <b>2013 AR:</b> Observations by COTU-KENYA. <b>2012 AR:</b> Observations by COTU-KENYA. <b>2011 AR:</b> Observations by COTU-KENYA. <b>2010 AR:</b> Observations by COTU-KENYA. Observations by Union of Kenya Civil Servants (UKCS). <b>2009 AR:</b> Observations by COTU-KENYA. Observations by the International Trade Union Confederation (ITUC).

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



		<p><b>2008 AR:</b> Observations by COTU-KENYA. Observations by the ITUC.</p> <p><b>2007 AR:</b> Observations by COTU-KENYA. Observations by the International Confederation of Free Trade Unions (ICFTU).</p> <p><b>2006 AR:</b> Observations by the ICFTU.</p> <p><b>2005 AR:</b> Observations by COTU-KENYA.</p> <p><b>2002 AR:</b> Observations by the ICFTU.</p> <p><b>2001 AR:</b> Observations by the ICFTU.</p> <p><b>2000 AR:</b> Observations by the ICFTU.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Kenya ratified in 1964 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and the Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>YES, since 2001, for C.87.</b></p> <p><b>2015 AR:</b> According to the Government: The Government is keen to move ahead with the ratification of C.87 as the new Constitution provides for the right to organize and the right to strike. Therefore, the Government wishes ILO assistance to organize a national tripartite workshop on the Declaration and the Fundamental Principles and Rights at Work, with a special focus on C.87. The Members of the the Parliamentary Committee on Labour and Social Affairs should also participate in this activity.</p> <p>The FKE specified that while there have not been any changes in its position since the previous AR, it indicated that the Government might proceed with the ratification of the Convention without further consulting the social partners.</p> <p>COTU-KENYA stated that its last year’s opinion remains valid and confirmed that the present Constitution of Kenya provides adequate provisions, including the right to strike.</p> <p><b>2014 AR:</b> According to the Government: Progress in the ratification process of C.87 is conditional upon reaching common ground between the tripartite partners.</p> <p>The FKE expressed that while it had no objections to the ratification of C.87, a joint national position towards the ratification was yet to be adopted.</p>



			<p>COTU-KENYA indicated that alignment of the labour legislation with the Constitution of 2010 may further delay the ratification of C. 87.</p> <p><b>2013 AR:</b> According to the Government: There is still on-going tripartite consultations and negotiation with social partners. As stated under the 2012 AR, ILO's assistance is requested in the ratification process for C.87.</p> <p>The FKE reiterated that it was still willing to take the necessary steps in order to identify a way forward concerning the ratification of C.87.</p> <p>According to COTU-KENYA: The country fully complies with to the PR as the Constitution of Kenya provides for the right to freedom of association.</p> <p><b>2012 AR:</b> The Government indicated that it had still the intention to ratify C.87 and was currently discussing with the social partners so as to reach an agreement with them. It further mentioned that ILO's assistance and advice would be needed in this process.</p> <p>The FKE stated that no clear position could be given at this stage. Ratification of C.87 would need to be discussed through social dialogue so that all parties could adopt a joint national position.</p> <p>According to COTU-KENYA: Ratification is currently being discussed at the National Labour Board (NLB).</p> <p><b>2011 AR:</b> According to the Government: The ratification of C.87 is currently an item under</p>
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			<p>consideration before the National Labour Board (NLB).</p> <p><b>2010 AR:</b> According to the Government: Although Kenya has not yet ratified C.87, all the provisions of the Convention have been incorporated in the new labour legislation that came into effect in 2007 and 2008. Pursuant to the new labour legislation, a NLB has been set up in April 2009. The NLB is a tripartite body set to deliberate on non ratified Conventions, and ratification of C.87, which is considered by the Government as the highest priority for Kenya.</p> <p>COTU-KENYA indicated that the change of legislation had taken into account the fundamental principles and rights at work (FPRW) and the provisions of C.87.</p> <p>The UKCS expressed its full support for the ratification of C.87, and pointed out that despite the adoption of new labour laws, the principle and right (PR) is only applied partially in Kenya given that workers' organizations could not recruit their own staff.</p> <p><b>2009 AR:</b> According to the Government: Freedom of association is recognized in the national Constitution. However, a consensus is needed with the social partners for the ratification of C.87.</p> <p>According to COTU-KENYA: A new set of labour laws was proposed to facilitate ratification of this instrument.</p> <p><b>2008 AR:</b> According to the Government: The labour law bills are currently before Parliament. Once they are adopted, the process of ratification will be finalized in cooperation with the social partners.</p> <p>The FKE expressed its support for the ratification of C.87 by Kenya.</p> <p>COTU-KENYA also expressed its support for the ratification of C.87 by Kenya and stated that it was actively participating in the consultation process.</p> <p><b>2007 AR:</b> The Government indicated that the ratification of C.87 would be considered after the enactment of the revised labour laws.</p> <p>The FKE and COTU-KENYA indicated that they were still participating in the ratification process for C.87.</p> <p><b>2006 AR:</b> According to the Government: Ratification of C.87 will depend on the outcome of the revision of the Constitutional and Labour Law.</p> <p>The FKE and COTU- KENYA indicated that there are actively participating in the consultation process on the ratification of C.87 by Kenya.</p> <p><b>2005 AR:</b> According to the Government: C.87 has not yet been ratified because labour legislations in Kenya are obsolete. However, the new labour laws will pave the way for ratification of this instrument.</p> <p><b>2001 AR:</b> According to the Government: While considering the ratification of C.87 in consultation with the social partners, the Government reported that it will soon embark on a review of all labour laws, especially with regards to the provisions of the Trade Unions Act (Cap. 233) that are not in conformity with various articles of the Convention. It further mentioned that ILO technical assistance would certainly strengthen ratification prospects for this Convention.</p>
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<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p><b>2012 AR:</b> According to COTU-KENYA: article 41 of the new Constitution provides for “the liberty to strike”.</p> <p><b>2011 AR:</b> According to the Government: articles 36, 37 and 41 of the recently promulgated Constitution of Kenya, 2010, gives further strength to the recently enacted labour laws.</p> <p>According to COTU-KENYA: C.87 has been domesticated in the New National Constitution and the Bill of Rights.</p> <p><b>2008 AR:</b> According to COTU-KENYA: The draft of the Constitutional Bill has been rejected by referendum but article 80 of the current Constitution respects the provisions of C.87.</p> <p><b>2007 AR:</b> The Constitution (article 80) provides for freedom of assembly and association. Moreover, a draft Constitutional Bill is under consideration by the Parliament.</p>
	<p><b>Policy/legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p><b>2015 AR:</b> COTU-KENYA stated that there have not been any new changes in legislation; however, Kenya is more ahead than the requirements of C.87.</p> <p><b>2014 AR:</b> COTU-KENYA indicated that the labour legislation was in the process of being aligned with the Constitution (2010).</p> <p><b>2011 AR:</b> According to the Government: the Labour Relations Act 2007 endorses the right to join trade unions and employers’ organizations.</p> <p>According to COTU-KENYA: C.87 has been domesticated in the new national labour laws.</p> <p><b>2008 AR:</b> According to COTU-KENYA, the Labour Relations Bill regrouping the Trade Disputes Act and the Trade Unions Act is currently being debated before Parliament to be enacted into law. This Bill covers most of the principles entrusted in C.87.</p> <p><b>2007 AR:</b> According to the FKE: The labour law revision is still being carried out, in cooperation with the social partners and the ILO in order to take better consideration of freedom of association.</p> <p><b>2006 AR:</b> According to the Government: The Draft Labour Law is being reviewed by the Attorney General.</p> <p><b>2004-2005 ARs:</b> Thanks to ILO funding, the Task Force to review national labour laws completed its process and handed over the proposed Bills to the Attorney General for onward transmission to Parliament.</p> <p><b>2003 AR:</b> According to the Government: A Task Force to review labour laws and harmonize them with the provisions of ratified Conventions and ILO fundamental Conventions was established in May 2001 with the support of the ILO/SLAREA (Strengthening Labour Administration and Labour Relations in East Africa) Declaration Programme.</p> <p><b>2002 AR:</b> According to the Government: National labour laws need to be reviewed to incorporate the provisions of ratified Conventions and those of the fundamental principles and rights at work.</p>
	<p><b>Basic legal provisions</b></p>	<p>(i) The Constitution (articles 36; 37; 41; 80); (ii) The Trade Unions Act (Cap. 233); (iii) The Trade Disputes Act (Cap. 234); (iv) The Industrial Relations Charter (Revised) 1984; and (v) The Labour Relations Act 2007.</p>

		<p><b>Judicial decisions</b></p>	<p><b>AR 2015:</b> In April 2014, the Industrial Court of Kenya ruled that the police forces have the right to organize in line with Art.41 of the new Kenya Constitution, but subject to the Attorney General of Kenya bringing amendment of the Police Standing Orders and Police Act CAPs 84 and 85 that do not allow unionization of police forces. Since the Attorney General appealed such decision, the matter is currently pending before the Court of Appeal of Kenya.</p>
<p><b>Exercise of the principle and right</b></p>	<p><b>At national level (enterprise, sector/ industry, national)</b></p>	<p><b>For Employers</b></p>	<p><b>2002-2005 ARs:</b> All categories of employers can set up their organizations. Prior government authorization is necessary to operate employers’ organizations, namely through compulsory registration by the Registrar of Trade Unions (Trade Unions Act (Cap. 233), section 9(1)).</p>
		<p><b>For Workers</b></p>	<p><b>2002-2005 ARs:</b> According to the Government: Prior government authorization is necessary to operate workers’ organizations, namely through compulsory registration by the Registrar of Trade Unions (Trade Unions Act (Cap. 233), section 9(1)). FOA can be exercised by medical professionals, teachers, agricultural workers, workers engaged in domestic work, workers in export processing zones (EPZs) or enterprises/industries with EPZ status, migrant workers, workers of all ages and workers in the informal economy.</p> <p>However, it cannot be exercised by workers engaged in the administration of State, workers in uniformed services (armed forces, prison forces and their services or reserved forces) and workers in the National Youth Service. Furthermore, the Industrial Relations Charter (Revised) 1984 provides for the categories of employees in an organization who are excluded from belonging to any workers’ organizations. These include managerial, secretarial and security staff and their assistants or understudies.</p>
		<p><b>Special attention to particular situations</b></p>	<p><b>2014 AR:</b> According to the Government: Special attention is given to promoting the FPRW, including freedom of association, for rural workers.</p> <p><b>2012 AR:</b> According to the Government: Special attention is envisaged for the rural sector workers through a special freedom of association programme.</p> <p><b>2011 AR:</b> According to the Government: A special attention is given to domestic workers at the country and regional level. The recent notice of the 30<sup>th</sup> October 2009, making it mandatory for employers’ including those with one to four employers to remit contributions to the national social security fund (NSSF); it aimed at protecting all workers including domestic workers.</p> <p><b>2003-2005 ARs:</b> According to the Government: A special attention is envisaged for religious minorities, women workers, child workers, disabled workers, migrant workers and refugees.</p> <p><b>2000 AR:</b> According to the Government: Agricultural workers, domestic workers, workers in EPZs, workers in the informal economy and migrant workers are given special attention with respect to the PR.</p>

			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> COTU-KENYA stated that over the last two years more than 20 new unions have been registered.</p> <p><b>2014 AR:</b> COTU-KENYA indicated that it had 37 affiliated unions, together organizing 1.5 million workers.</p> <p><b>2013 AR:</b> COTU-KENYA indicated that it had 45 affiliated unions (except teachers, civil servants who are excluded by Decree 1966).</p> <p><b>2012 AR:</b> COTU-KENYA indicated that it had 36 affiliated unions (except teachers, civil servants who are excluded by Decree 1966).</p> <p>According to the Government: There is a lack of information and data.</p>
		<p><b>At international level</b></p>	<p>According to the Government: There are no particular restrictions for the international affiliation of employers' and workers' organizations.</p>	
	<p><b>Monitoring, enforcement and/or sanction mechanisms</b></p>	<p><b>2000-2005 ARs:</b> According to the Government: The Registrar of Trade Unions can require financial information and inspect books of accounts of trade unions (Trade Unions Act (Cap. 233), section 48). S/he can also cancel or suspend the registration of a trade union under certain conditions (Trade Unions Act (Cap. 233), section 17 (1)). Inspection/monitoring mechanisms are envisaged to ensure the implementation of the PR, and there is a need for further ILO cooperation in terms of capacity building and reporting.</p> <p>The PR is enforced through law, collective agreements, free dispute settlement procedures and tripartite consultations at all levels.</p> <p>In instances where the PR has not been respected, the Minister of Labour has the power to order any employer or person to respect workers' rights, namely by recognizing a union for the purpose of collective bargaining (CB) in accordance with legal prescriptions (Trade Union Disputes Act (Cap. 234), section 5). Furthermore, the Government reports that the issue of penal, civil and administrative sanctions for the violation of the PR is addressed by Task Force to draft the new labour laws and under the ongoing reform of the public service.</p>		



	<p><b>Involvement of the social partners</b></p>	<p><b>2014–2015 ARs:</b> According to the Government: The Government continuously engages in social dialogue to promote tripartite consensus on the ratification of C.87.</p> <p>The FKE indicated its participation in social dialogue.</p> <p>COTU-KENYA indicated its participation in social dialogue and stated that the NLB was serving as a fruitful tripartite mechanism in promoting the FPRW.</p> <p><b>2013 AR:</b> According to the FKE: Social dialogue is exercised through the NLB and wage councils, but also through both formal and informal tripartite meetings. Social dialogue does however need to be strengthened and it is essential to create dialogue around C.87.</p> <p><b>2012-2013 ARs:</b> According to the Government: Since the inception of the review of the labour law in 2001, the Government has consistently dialogued with the social partners to determine the way forward for ratification of C.87. This has been deliberated at the NLB, the highest advisory body.</p> <p><b>2010 AR:</b> According to the Government: The NLB is a tripartite body and legislated labour institution to advise the Government on ratification and labour issues and participates in the strengthening of national labour institutions. It is funded by the Government in cooperation with DANIDA.</p> <p><b>2006 AR:</b> The FKE and COTU-KENYA stated that they participated actively in the national labour law revision process.</p> <p><b>2002-2003 ARs:</b> According to the Government: Employers’ and workers’ organizations have been involved in: (i) the elaboration of the Industrial Relations Charter (Revised) 1984; (ii) the National Advisory Board; (iii) the conclusion of collective agreements; (iv) the Industrial Courts; and (v) the Task Force to review national labour laws and harmonize them with the provisions of ratified Conventions and ILO fundamental Conventions. Moreover, a panel appointed by the Government and consisting of trade union representatives, government officials and independent members has been deliberating on the disputes concerning the Kenya National Union of Teachers since 2002.</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: A Senior Official of the Ministry of Labour participated actively in the May-June 2014 TURIN Course on International Labour Standards where the PR and C.87 were presented and discussed in particular.</p> <p>FKE and COTU-KENYA indicated that they participated in tripartite consultations and awareness creation workshops on PR. COTU-KENYA further stated that it promoted workers’ issues through speeches delivered at the annual event during labour day and through participation in the labour committee.</p> <p><b>2014 AR:</b> According to the Government: Activities to promote the PR have been carried out, including tripartite sensitization workshops and capacity building exercises.</p> <p>The FKE reported that it had participated in tripartite awareness raising activities on the PR.</p> <p>COTU-KENYA stated that it had organized sensitization workshops and participated in tripartite discussions to promote the ratification of C.87.</p> <p><b>2013 AR:</b> According to the Government: There have been consultations with the social partners on the PR including awareness raising and training activities through the SLAREA Programme.</p> <p>The COTU-KENYA indicated that it had organized sensitization workshops for its 45 affiliated unions and cross-border activities to educate its members on the PR.</p> <p><b>2012 AR:</b> According to the Government: Since the inception of the review of the labour law in 2001, the Government has consistently dialogued with the social partners as to the way forward for ratification of C.87. This has been deliberated at the</p>

	<p>NLB, the highest advisory body.</p> <p><b>2011 AR:</b> According to the Government: There have been various training initiatives carried out by the Government on the new labour law including freedom of association in public universities and private sectors. In addition, similar training courses have been organized for labour officers and inspectors by the DANIDA project and a new labour tool has been developed and piloted across the country to promote the PR. In addition, the Kenya Union of Domestic Hotels, Educational Institutions, Hospitals and Allied Workers' Union (KUDHEIHA) has launched campaigns to better promote terms and working conditions for domestic workers including the FPRW.</p> <p>According to COTU-KENYA: Sensitization workshops on the need to ratify C.87 have been carried out under the ILO SLAREA programme. Training activities on C.87 have also been organized in cooperation with the ILO.</p> <p><b>2010 AR:</b> According to the Government: A national symposium was held to celebrate the 90<sup>th</sup> anniversary of the ILO where FPRW were discussed. Moreover, training of trainers' courses to promote new labour laws were organized.</p> <p>According to the FKE: A member of the FKE participated in the ILO/Turin Course on ILS during which issues concerning the Declaration and its Follow-up have been addressed, including those relating to C.87. At national level, DANIDA has been assisting since 2008 the FKE in understanding and promoting the new labour laws among its members.</p> <p>COTU-KENYA indicated that they had organised a door-to-door campaign to sensitize and educate its members on the PR. In addition, COTU-KENYA helped the Government and labour inspectors to identify cases of non-enforcement of the PR in local enterprises.</p> <p><b>2009 AR:</b> The Government stated that it had organized various workshops on international labour standards, including freedom of association issues, with ILO's support.</p> <p>COTU-KENYA stated it had set up a training centre for workers with the support of the Government and the Canadian Labour Organisation.</p> <p><b>2008 AR:</b> According to the Government: A tripartite workshop on International Labour Standards (ILS) and national laws was held from 17<sup>th</sup> to 21<sup>st</sup> July 2006 in order to sensitize officers on ILS. Moreover, two industrial Court Judges will be attending the ILS course for judges, lawyers and legal educators in September 2007 in Turin. Finally, the Government indicated that tripartite discussions are held in the Labour Advisory Board on how to respect, promote and realize the PR.</p> <p>The FKE organized several workshops in February and regularly carries out training programmes under its Management Consulting Group (MCG).</p> <p>According to COTU-KENYA: several unions have been established namely in the teaching, transport, security sectors.</p> <p><b>2007 AR:</b> The FKE and COTU-KENYA indicated that they had actively participated in the SLAREA programme and the labour law review process. Following the development of the SLAREA Programme, tripartite institutions and social dialogue had been considerably strengthened in Kenya and has strengthen collaboration between the Government, employers and workers organizations.</p> <p><b>2002 AR:</b> According to the Government: Training of government officials and social partners in the labour field has been carried out.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2014 AR:</b> According to the Government: A project to promote the FPRW in rural areas and raise the awareness of rural workers is currently being implemented in collaboration with the ILO.</p> <p><b>2011 AR:</b> According to the Government: A national study of the gaps in laws and practice of the PR, with the assistance of the ILO, has been launched in the rural sector in Kenya. This study will have an impact on the workforce in rural areas helping them to better understand and implement the PR.</p> <p><b>2008 AR:</b> According to the Government: The issue of lack of resources and staffing has been improved which will undoubtedly strengthen the Government's capacity.</p> <p><b>2006 AR:</b> According to the Government: As a successful/special initiative, continuous consultations are being held with the social partners concerning the PR and the new constitutional and legislative provisions.</p> <p>According to the FKE: As a successful/special initiative, the training of managers was carried out on general management, including the FPRW.</p> <p><b>2005 AR:</b> According to the Government: Successful example(s): the union elections held in 2002, which involved all registered trade unions and COTU-KENYA.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014–2015 ARs:</b> According to the FKE: The main challenges encountered in realizing the PR in Kenya are: (i) lack of awareness on the PR; (ii) lack of consensus between the tripartite partners on the ratification of C.87; and (iii) lack of knowledge on the implications of C.87, such as potential emergence of splinter unions at sectoral or company level. Difficulties have been identified related to sectoral unions, where one single employer needs to negotiate with a large number of trade unions.</p> <p><b>2013 AR:</b> The FKE indicated that lack of awareness on the content of C.87 among the social partners is seriously hampering the ratification process. The FKE also underlined that even though C.87 is not yet ratified by Kenya, freedom of association is already present in the country. Three major independent unions are operating, although COTU-Kenya is the one being accredited at international level.</p> <p><b>2008 AR:</b> The FKE indicated the following challenges: (i) lack of financial resources and oversubscription for training programmes and (ii) lack of capacity of employers and workers in terms of training and consciousness.</p> <p><b>2006-2007 ARs:</b> According to the FKE: the following challenges are as follows: (i) lack of capacity of labour officers in terms of staffing and training in conflict resolution.</p>



		<b>Workers' organizations</b>	<p><b>2015 AR:</b> COTU-KENYA indicated that currently there are no challenges related to C.87 as the system is operating smoothly and nobody is complaining. However, it stated that the Employment and Labour Relations Court is constrained by insufficiency of judges, lack of capacity to reach out more areas and counties, lack of appellate jurisdiction as well as absence digitization of proceedings, library and research mechanism. Also, due to financial constraints of the Government, the Court has not been receiving the necessary support for improvement and the requisite attention by the Judiciary. As a result, COTU-KENYA is working on alternative dispute settlement solutions to get the Court on its feet.</p> <p><b>2014 AR:</b> According to COTU-KENYA: The main difficulties encountered in realizing the PR in Kenya are related to: (i) the need for the labour legislation to be aligned with the Constitution. This is likely to delay the ratification of C.87; (ii) the prevailing employment practices and widespread informal employment; (iii) the increased presence of splinter unions, challenging the position of trade unions in relation to employers; and (iv) the employers' lack of recognition of workers' right to organize.</p> <p><b>2013 AR:</b> According to COTU-KENYA: The main difficulties encountered in realizing the PR in Kenya are: (i) lack of capacity of tripartite partners; (ii) lack of awareness-raising campaigns; (iii) corruption; and (iv) socio-economic conditions (such as precarious work). Furthermore, COTU-KENYA is having an internal debate on how to have an increased collaboration with the civil</p>
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			<p>society so as to mobilize workers and sensitize them on their rights.</p> <p><b>2012 AR:</b> Same as 2010 AR: COTU-KENYA indicated that the main challenge that had been encountered in Kenya in realizing the PR was the threat of interference of political parties in trade union activities; which may entail decline in the trade unions' bargaining power.</p> <p><b>2011 AR:</b> According to COTU-KENYA: One of the major challenges is that trade unions are registered on the basis of industry rather than craft. The other challenge is the weakening of trade unions through the formation of splinter unions.</p> <p><b>2010 AR:</b> COTU-KENYA indicated that the main challenge that had been encountered in Kenya in realizing the PR, was the threat of interference of political parties in trade union activities; which may entail decline in the trade unions' bargaining power.</p> <p>According to the UKCS: The realization of the PR would be so far as national trade unions' fear that implementing C.87 would make them split. Furthermore, the Government needs to better understand that implementing the PR and C.87 would not entail socio-political instability.</p> <p><b>2009 AR:</b> According to COTU-KENYA: The post-election crisis has drawn back the progress made in the labour area, in particular with reference to women's participation in trade union activities.</p> <p>The ITUC reiterated some of the challenges it had raised under the previous AR (2008) concerning Kenya, in particular with respect to: (i) restrictions on the right to strike as the law authorizes this right but the criteria for a protected strike (or lock-out) are stringent with formal conciliation procedures but also practical obstructions; and (ii) there are delays on finalizing labour law review.</p> <p><b>2008 AR:</b> According to COTU-KENYA, the main challenge is the lack of sensitization of workers on their right to freedom of association. It also reiterates the same challenges mentioned in the 2007 AR that are: (i) lack of capacity of labour officers in terms of staffing and (ii) training on dispute settlement. Moreover, trade unions are not receiving sufficient assistance from the Ministry of Labour. Finally, it indicated that only 10-15 per cent of the workers are unionized.</p> <p>The ITUC indicated the following challenges: (i) workers in the armed forces, in prison services, in the National Youth Service as well as those under the Teachers' Service Commission are neither allowed to bargain collectively nor to go on strike; (ii) the right to strike is subject to major restrictions and obstructions; (iii) workers from EPZs can now enjoy effective freedom of association but is strongly restricted.</p> <p><b>2007 AR:</b> According to COTU-KENYA, the main difficulties encountered in realizing the PR in Kenya are: (i) lack of capacity of labour officers in terms of staffing and (ii) training on dispute settlement.</p> <p>The ICFTU raised the following challenges: (i) workers' complaints about the delays on finalizing the labour law review to incorporate ILO core labour standards; (ii) obstruction on the right to strike; and (iii) workers from EPZs cannot enjoy effective freedom of association.</p> <p><b>2000, 2001, 2002 and 2006 ARs:</b> According to the ICFTU: the challenges are as follows: (i) excessive power of the Registrar of Trade Unions in refusing registration of trade unions or deregistering them; (ii) denial of trade union rights to civil servants, university academic staff, doctors and dentists; (iii) infrequent respect for FOA, especially in small-sized companies and EPZs; (iii) restrictions on the right to strike (21 to 28 day notice (in essential services) prior to strike, no strikes are permitted during the arbitration and dispute settlement procedure; and (iv) discretionary power of the Minister of Labour to decide whether a strike is legal or not.</p>
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	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> According to the Government: There is a lack of sensitization of the new Judges of Industrial Courts on Industrial Relations principles and practices as well as on the principle and right (PR) in the conduct of their judicial functions. Therefore, ILO technical assistance is needed on these issues, in particular through workshops, study tours and sharing of experiences as a way of inducting them into the Industrial Relations international and regional jurisprudence.</p> <p><b>2014 AR:</b> According to the Government: There is a lack of agreement between the social partners concerning ratification of C.87, partly due to the concern that C.87 will lead to an increase in splinter unions. Furthermore, the Ministry of Labour has experienced difficulties in maintaining one clear line in favour of ratification of C.87.</p> <p><b>2012-2013 ARs:</b> According to the Government: Creating an effective discussion and reaching an agreement with the social partners on ratification of C.87 is a big ongoing challenge for the Government of Kenya. There is a need for ILO support in this regard.</p> <p><b>2011 AR:</b> According to the Government: Outsourcing and the declining union membership affects collective bargaining. In addition, fragmentation of trade unions into small sector trade unions (15 trade unions are currently requesting for registration from the NLB) also affects the realization of the PR in the country.</p> <p><b>2010 AR:</b> According to the Government: The main challenges encountered in realizing the PR in Kenya are as follows: (i) lack of resources to support promotional activities for the realization of the PR; (ii) lack of appropriate dissemination of the provision of the new labour laws among social partners; and (iii) difficulties in implementing the new legislation as all related regulations have not yet been enacted and some provisions of this legislation are already being challenged in court.</p> <p><b>2008 AR:</b> The Government supported COTU-KENYA's observations concerning labour instruction in Kenya. It indicated furthermore that the tripartite partners have agreed on the need to undertake a comprehensive research on the implication of the ratification of C.87 but there are still financial constraints. It added that institutional capacity among social partners for better appreciation of the principles should be strengthen.</p> <p><b>2007 AR:</b> The Government indicated its support to the FKE's views regarding the lack of staff and capacity building on freedom of association.</p> <p><b>2001-2005 ARs:</b> According to the Government: The main difficulties encountered in realizing the PR in Kenya are as follows (i) lack of public awareness and/or legal support; (ii) lack of information and data; (iii) social and economic circumstances; (iv) political situation; (v) legal provisions and non-conformity of the Trade Unions Act (Cap. 233) with the provisions of C.87; (vi) prevailing employment practices; (vii) lack of capacity of responsible government institutions; (viii) lack of employers' organizations; (ix) lack of capacity of workers' organizations; and (x) lack of social dialogue on the PR.</p> <p>In response to the ICFTU's observations, the Government made the following comments: If a prospective trade union does not meet the conditions for registration set out under the Trade Unions Act (Cap. 233), the Registrar of Trade Unions has no choice but to deny registration to that particular union. However, this decision is subject to appeal to the High Court of Kenya, as this right has been exercised in the past. The ban on the Civil Servants Union, imposed in 1980 due to security reasons, was lifted by the Head of State in November 2001. This allowed public employees to organize themselves. In this regard, two unions represent teachers: the Kenya National Union of Teachers (KNUT) and the Kenya Union of Post Primary Teachers (KUPPET). The law fully protects the enjoyment of trade union activities in all workplaces, irrespective of the size of the enterprise and including the EPZs. If it is established that an employee has been sacked or victimized because of his/her trade union activities, the law grants a compensation of a maximum of 12 months' salary. As regards the right to strike, the Ministry of Labour has no discretionary power to declare a strike illegal, given that s/he can declare a strike unlawful only if the machinery put in place has not been complied with, and there is room for appeal against such ministerial orders (sections 26 and 30 of the Trade Dispute Act).</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> The Government strongly requested ILO assistance with respect to training and sensitization activities on FPRW and C.87 as well as on education and sensitization of the Industrial Court Judges. The Government further hopes that ILO would gain provide technical assistance in respect of the Declaration on the FPRW and C.87 in particular, so as take advantage of the current improvement of social dialogue in Kenya.</p> <p>FKE and COTU-KENYA indicated that technical requests made on the 2014 AR remain valid. COTOU-KENYA further requested as a matter of urgency ILO technical assistance for revamping the Employment and Labour Relations Court. In this regard, technical assistance is sought for: a) training of judges in issues of employment; b) establishment of an appellate jurisdiction for the Court; c) structurally improving the Court through bench-marking with other best performing courts in the world; d) acquiring information and communication technology (ICT) to enable the digitalization of the Court’s proceedings; and e) support for expanding the Court to enable it reach out more areas and counties.</p> <p><b>2014 AR:</b> According to the Government: ILO technical cooperation is needed to: (i) build the capacity of the tripartite partners; (ii) undertake a study to assess the implications of ratifying C.87; and (ii) evaluate the existing labour legislation and ensure its compatibility with C.87.</p> <p>The FKE requested ILO support in raising public awareness on the PR and sensitize the tripartite partners on the content and requirements of C.87.</p> <p>According to COTU-KENYA: ILO technical cooperation is needed to create social dialogue around C.87 and support the tripartite partners to reach an informed decision on potential steps forward in the ratification process. Furthermore, financial assistance is needed to support the process of aligning the labour legislation with the Constitution and international labour standards.</p> <p><b>2013 AR:</b> According to the Government: ILO’s technical assistance is needed to: (i) provide a detailed interpretation of the provisions of C.87 to enable the Government and the social partners to reach an informed decision in terms of the ratification, (ii) increase capacity building of tripartite partners; (iii) combat corruption; (iv) improve social dialogue, and; (iv) organize awareness-raising campaigns.</p> <p>The FKE reiterated the need for ILO support in creating a tripartite dialogue around C.87, and added that the need for sensitization of both employers’ and workers’ representatives on freedom of association remains. It underlined its willingness to move ahead with the ratification process but indicated that it will not be possible without support from the ILO was requested and planned to take place since 2011.</p>
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	<p><b>2012 AR:</b> According to the Government: Considering that COTU-KENYA has indicated its willingness to continue dialoguing with the Government, the FKE and the ILO on ratification of C.87, the Government wishes to take this opportunity to request ILO support in this process. Kenya needs ILO technical cooperation on C.87 to create a meaningful discussion that makes Kenya move ahead. A preparatory ILO mission should be carried out to consult with the Government, the social partners and the National Labour Board so as to make the best out this dialoguing process as urgently as possible. There is a need for an in-depth analysis, interpretation, article by article, understanding and implication of ratification of C.87 to the Government and employers and workers to diminish the fears.</p> <p>The FKE emphasized the need for support in creating a tripartite dialogue to allow for serious consideration of ratification of C.87. It also expressed the need for sensitization of both employers' and workers' representatives on freedom of association, so that an adequate decision could be made on this issue.</p> <p>COTU-KENYA indicated that there was a need for ILO assistance for workshops in awareness raising.</p> <p><b>2011 AR:</b> According to COTU-KENYA: Technical needs relates to application of C.87.</p> <p><b>2010 AR:</b> According to the Government: ILO technical cooperation is requested to: (i) strengthen the capacity building of the social partners on ILS; (ii) complete the labour law review exercise by supporting the enactment of regulations; and (iii) fund a research programme on the implications of ratification of C.87 in Kenya, as has been recommended by the NLB.</p> <p>The FKE requested the provision of ILO's technical assistance in the following areas: (i) train and support the Ministry of Labour in better understanding and implementing the new labour laws; and (ii) enhance FKE's capacity to promote and realize the FPRW.</p> <p>According to COTU-KENYA: ILO's technical support is needed to: (i) strengthen social dialogue in the country; and (ii) to organize awareness raising campaign on the FPRW.</p> <p>According to the UKCS: ILO's technical assistance is needed to: (i) to promote a better understanding of the PR among tripartite partners; and (ii) make them understand that ratification of C.87 would not entail automatically union splitting and socio-political instability.</p> <p><b>2009 AR:</b> According to the Government: ILO's cooperation is needed in: (i) disseminating and monitoring the implementation of the new Labour Law; and (ii) strengthening the national labour institutions.</p> <p>COTU-KENYA would appreciate the ILO's support in: (i) articulating a plan of action on social dialogue that will spell out the role of all social partners; and (ii) developing the curriculum of COTU-KENYA's new training centre.</p> <p><b>2008 AR:</b> According to the Government: technical cooperation should be provided to strengthen the capacity of tripartite partners on ILS as only few officers have undertaken the training. ILO technical assistance is also needed to organize awareness-raising programmes in order to train more labour officers and other social partners on democratic principles and social dialogue. It should furthermore consider funding research on the effects of ratification of C.87 on the industrial relations system in the country. Lastly, Kenya volunteered for a case study and workshops on the FPRW and on Declaration follow-up in the country.</p> <p>According to the FKE and COTU-KENYA, ILO technical assistance is needed for capacity building mainly.</p>
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		<p><b>2007 AR:</b> The Government, the FKE and COTU-KENYA indicated their regret that the ILO/SLAREA (Strengthening Labour Administration and Relations in East Africa) Declaration Programme was not extended and added that ILO technical cooperation was still needed on awareness raising and capacity building in the areas of freedom of association and social dialogue, but also in respect of research and data collection on the PR. The Government also volunteered for the preparation of a case study followed by a national tripartite workshop on ratification of C.87, with the participation of members of Parliament.</p> <p><b>2006 AR:</b> According to the Government: ILO technical cooperation should be provided to Kenya with a view to sensitizing the social partners and stakeholders on the draft Constitution and laws and strengthening the institutional capacity of the Government and the social partners for the realization the PR. In this respect, the ILO/SLAREA Programme should be extended.</p> <p>According to the FKE: There is a need for ILO technical and material support to train managers in the promotion of productivity through collective bargaining process.</p> <p>The FKE and COTU-KENYA wished the extension of the ILO/SLAREA Declaration Programme, in particular for the implementation process of the new labour laws at regional level, so as to strengthen the realization of the 1998 ILO Declaration in Kenya.</p> <p><b>2005 AR:</b> According to the Government: Needs for technical cooperation project to facilitate the realization of the PR in Kenya exists in the following areas, in order of priority: (1) strengthening data collection and capacity for statistical analysis; (2) strengthening social dialogue; (3) sharing of experiences across countries/regions; (4) capacity building of responsible government institutions; (5) strengthening capacity of employers' organizations; (6) strengthening capacity of workers' organizations; (7) awareness-raising, legal literacy and advocacy; and (8) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR.</p> <p>The Government hoped that the ILO/SLAREA Declaration Programme would be extended so as to sustain the capacity building of labour administration and employers' and workers' organizations in promoting the PR as well as other FPRW in Kenya, especially in the area of collective bargaining and social dialogue. This request is supported by the FKE, which hoped that the ILO would be in a position to offer further technical assistance in order to allow the Government to finalize the ratification of C.87.</p>
	<p><b>Offer</b></p>	<p><b>2000-2010 ARs:</b> ILO advisory services, ILO SLAREA Declaration Programme and DANIDA.</p>



<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) encouraged Kenya (and few other governments) to complete its legal review process to remove the obstacles to ratification of C.87. They also acknowledged the high number of promotional activities concerning the realization of the PR in Kenya (and some other countries), and encouraged the Office to maintain its support to these activities. However, the IDEAs noted that restrictions on the right to organize of certain categories of workers in Kenya (and some other countries), such as workers in the export processing zones (EPZs) and workers in the public service, were not compatible with the realization of this principle and right (cf. paragraphs 32, 35 and 38 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs observed that with a view to giving full effect to this principle and right, the Government should be able to offer to all workers the opportunity to exercise their rights, and not have restrictions on the right to organize for workers in the export processing zones (cf. paragraph 37 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The IDEAs listed Kenya among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (cf. paragraph 13 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2003 AR:</b> The IDEAs were encouraged to see the Government of Kenya pointing out the needs in this country to strengthen the capacity building of workers’ and employers’ organizations and that it turned to the ILO for help. In light of requests by Kenya for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field (cf. paragraphs 73 and 74 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>2</sup>: KOREA, REPUBLIC OF**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2003 Annual Review (AR).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Korea Employers' Federation (KEF), the Federation of Korean Trade Union (FKTU), the Korean Confederation of Trade Unions (KCTU) and the Korean Federation of Public Services and Transportation Workers' Union (KPTU) through communication of Government's report.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the KEF. <b>2013 AR:</b> Observations by the KEF. <b>2012 AR:</b> Observations by the KEF. <b>2009 AR:</b> Observations by the KEF. <b>2002 AR:</b> Observations by the KEF. <b>2001 AR:</b> Observations by the KEF. <b>2000 AR:</b> Observations by the KEF.

<sup>2</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations by the KCTU.  <b>2014 AR:</b> Observations by the KCTU.  Observations by the KPTU.  <b>2013 AR:</b> Observations by the KCTU.  <b>2012 AR:</b> Observations by the KCTU.  <b>2010 AR:</b> Observations by the FK TU.  Observations by the KCTU.  <b>2009 AR:</b> Observations by the International Trade Union Confederation (ITUC).  <b>2008 AR:</b> Observations by the ITUC.  <b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).  <b>2006 AR:</b> Observations by the ICFTU.  <b>2005 AR:</b> Observations by the ICFTU.  <b>2004 AR:</b> Observations by the KCTU.  Observations by the KFTU.</p> <p><b>2002 AR:</b> Observations by the ICFTU.  Observations by the KCTU.  <b>2001 AR:</b> Observations by the ICFTU.  <b>2001 AR:</b> Observations by the KFTU.</p>	
<p><b>EFFORTS AND PROGRESS  MADE IN REALIZING  THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Korea has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b></p>

		<p><b>Ratification intention</b></p>	<p><b>Unable to ratify both C.87 and C.98, since 2012</b></p> <p><b>2015 AR:</b> According to the Government: It remains difficult to ratify C.87 and C.98 as the current law is not in full conformity with the Conventions.</p> <p>According to the KCTU: The Government did not intend to ratify C.87 &amp; C.98 and no progress has been made in the ratification process.</p> <p><b>2014 AR:</b> According to the Government: It remains difficult to ratify C.87 and C.98 as certain provisions of the current labour law are not in full conformity with the provisions of the Conventions.</p> <p>The KEF reiterated its support for the ratification of C.87 and C.98, also indicating that the ratification is not likely to take place in a near future.</p> <p>According to the KCTU and the KPTU: The KCTU and the KPTU fully support the ratification of C.87 and C.98. No progress has been made in the ratification process over the last year. The Government has stated that it has no intention to ratify the two instruments.</p> <p><b>2013 AR:</b> According to the Government: At the present time it remains difficult to ratify C.87 and C.98 as the Government and the ILO have different views on whether the current labour law is in full conformity with the provisions of the Conventions.</p> <p>The KEF reiterated its support for the ratification of C.87 and C.98, also indicating that no progress had been made in the ratification process over the last year.</p> <p>The KCTU reiterated its full support for the ratification of C.87 and C.98, and reported that no progress had been made in the ratification processes and in the realization of the PR.</p> <p><b>2012 AR:</b> According to the Government: No change.</p> <p>The KEF reiterated its support for the ratification of C.87 and C.98.</p> <p>The KCTU expressed its full support for the ratification of C.87 and C.98, and emphasized that ratification of C.87 and C.98 was urgent as there were many violations of freedom of association in Korea.</p>
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		<p><b>2011 AR:</b> According to the Government: The Republic of Korea has removed a lot of barriers to ratification of C.87 and C.98 by allowing the establishment of multiple trade unions at enterprise level and introducing the paid time-off system with the revision of the Trade Union and Labour Relations Adjustment Act in January 1, 2010. Nevertheless, the ratification of these Conventions remains difficult as some provisions of the labour laws are incompatible with the PR.</p> <p><b>2010 AR:</b> According to the Government: It is difficult for the country to ratify C.87 and C.98 because some provisions of domestic labour laws are not in conformity with ILS. Moreover, ratification prospects for these instruments seem restricted as there have been continuous controversies over union pluralism at the enterprise level and wage payment to full-time union officials is banned.</p> <p>The FKTU and KCTU expressed their full support for the ratification C.87 and C.98 but deplored Government's unwillingness to ratify these two Conventions.</p> <p><b>2009 AR:</b> The Government indicated that it was continuing its study on C.87 and C.98. The KEF stated that it was supporting the ratification of C.87 and C.98.</p> <p><b>2008 AR:</b> The Government indicated that ratification of C.87 and C.98 is still under study.</p> <p><b>2007 AR:</b> The Government indicated that it would continue to review the possibility to ratify C.87 and C.98 in considering the existing national laws and institutions as well as any other developments in the future. It has made continuous efforts towards ratification. For instance, it has conducted in 2003 <i>A Study of Policy Tasks to Ratify ILO Conventions on Freedom of Association</i>.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b> The 1948 Constitution (article 33, paragraph 1) provides that workers shall have the right to independent associations, collective bargaining and collective action.</p>
		<p><b>Policy/Legislation and/or Regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Legislation:</b> The Trade Union and Labour Relations Adjustment Act (TURLAA), 1997, the Bill on the Establishment, Operation, etc. of Public Officials' Union, 2004 to come into force in January 2006, the State Public Official Act and the Local Public Official Act relate to the principle and right (PR).</li> </ul> <p><b>2013 AR:</b> According to the KCTU: The amendments to the TURLAA, made in January 2010, were enforced in July 2012. These revisions provide permission for multiple trade unions to be created at enterprise level. The law provides for trade union pluralism, and introduced a new system for collective bargaining in a multiple union system. These new provisions allow for employers to create yellow unions and use the pretext of having a unified collective bargaining between the real union and the yellow union. Cases where employers have created yellow unions to take control over situations of strike have already been reported. The KCTU has prepared a Bill to amend labour laws to ensure compliance with C.87 and C.98, and specifically to ensure that all precarious workers are covered by the FPRW.</p> <p><b>2012 AR:</b> According to the Government: The TULRAA was revised on January 1, 2010. According to the KCTU: At the initiative of workers and opposition parties amendments of the Trade Union Act was presented to Parliament in June 2011.</p>



			<p><b>2008 AR:</b> According to the Government: Based on the tripartite agreement of September 2006 regarding numerous legal and institutional reform measures including the compulsory arbitration system, the reform measures were made into law with the adoption of the revised TURLAA by the National Assembly on 22<sup>nd</sup> December 2006. The main features of the revision bills are as follows: (i) the notification requirement for third-party assistance was repealed as of 1<sup>st</sup> July 2007; (ii) compulsory arbitration for essential public services is to be abolished as of 1<sup>st</sup> January 2008. Instead, a minimum service system will be introduced and the use of a replacement workforce during strikes will be allowed. With regards to the implementation of enterprise-level union pluralism and ban on wage payment to full-time union officials, it is postponed until 2009 through agreement between labour and management.</p> <p><b>2004-2006 ARs:</b> According to the Government: A new Bill was adopted in 2003 in order to better guarantee public officials' right to organise. The 2004 Bill on the Establishment and Operation, etc. of Public Officials' Trade Unions will enter into force in January 2006.</p> <p><b>2000-2002 ARs:</b> The TURLAA of 1997, adopted the principle of multiple unionism with a reservation that the union pluralism at the enterprise level would be effective from 2002 (section 5, paragraphs 1 and 3, of the TURLAA).</p> <p>The Ministry of Labour is working on improvements to the legal system, in order to secure freedom of association and the effective recognition of the right to collective bargaining.</p>	
		<b>Basic legal provisions</b>	(i) The 1948 Constitution (article 33, paragraph 1); (ii) the TURLAA, 1997; (iii) the Bill on the Establishment, Operation, etc. of Public Officials' Union, 2004, to enter in force in January 2006; (iv) the State Public Officials Act; and (v) the Local Public Officials Act (section 58).	
		<b>Judicial decisions</b>	<p><b>2014 AR:</b> According to the KCTU: A case concerning public sector workers' and migrant workers' right to organize is ongoing in the Supreme Court since 2007.</p> <p><b>2013 AR:</b> According to the KCTU: The Supreme Court has, based on the Act on the Protection, etc., of Dispatched Workers, taken a judicial decision concerning the manufacturing sector. According to this decision, subcontracted workers who have been working for more than two years in the same workplace should be employed as permanent workers. This court ruling and the implementation of its implications has been rejected by employers. As a consequence, the Government and employers have jointly prepared a new Bill to counter the decision by the Supreme Court.</p>	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2004 AR:</b> Government authorization or approval is not required to establish employers' organizations, or to conclude collective agreements. Freedom of association and the right to collective bargaining can be exercised at enterprise, sector/industry and national levels by all categories of employers.

			<p><b>For Workers</b></p>	<p><b>2007 AR:</b> According to the Government: The Act on the Establishment and Operation, etc. of Public Officials' Trade Unions (2004) which allows public officials to establish trade unions and exercise the right to collective bargaining, took effect on 28 January 2006 and since then the protection of basic labour rights of public officials has been significantly enhanced.</p> <p><b>2004 AR:</b> Government authorization or approval is not required to establish workers' organizations, or to conclude collective agreements. Freedom of association and the right to collective bargaining can be exercised at enterprise, sector/industry and national levels by the following categories of persons: medical professionals; teachers; agricultural workers; workers engaged in domestic work; workers in export processing zones (EPZs) or enterprises/industries with EPZ status; migrant workers; workers of all ages; and workers in informal economy. However, freedom of association and the right to collective bargaining cannot be exercised by workers in the public service, except those engaged in manual labour in postal services, railways business, etc. In addition, only freedom of association can be exercised at international level.</p>
			<p><b>Special attention to particular situations</b></p>	<p><b>2014 AR:</b> According to the KCTU: Special attention is directed to realize the PR in the public sector.</p> <p><b>2004 AR:</b> According to the Government: The new Law on the Establishment and Operation, etc. of Public Officials Trade Unions, 2004 guarantees public services trade unions' right to strike and at the same time protects public interests.</p>
			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2009 AR:</b> According to the Government: As of March 2008, 179 complaints about unfair labour practice were filed with the Regional Labour Offices and 221 applications for remedy were processed by the Regional Labour Relations Commissions.</p> <p><b>2000-2005 ARs:</b> According to the Government: Data exist on trade unions' density.</p>
		<p><b>At international level</b></p>	<p>According to the Government: The Republic of Korea recognizes the exercise of the PR at international level, only with regard to freedom of association.</p>	

<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2007 AR:</b> According to the Government: The TURLAA considers as an unfair labour practice any impediments on trade unions' establishment or operation by employers. In this respect 195 indictments for unfair labour practices were recorded as of August 2006.</p> <p><b>2005 AR:</b> According to the Government: Compulsory arbitration for essential public services has been introduced to ensure harmony between public interests and the workers' right to act collectively and a minimum level of service during negotiations.</p> <p>In addition, the labour rights of workers in the public sector have been gradually expanded, following an agreement at the Tripartite Commission.</p> <p><b>2004 AR:</b> According to the Government: The following measures have been implemented to realize the PR: (i) inspection/monitoring mechanisms; (ii) penal sanctions; (iii) civil or administrative sanctions; (iv) capacity building of responsible government officials; (v) training of other government officials.</p> <p><b>2000-2005 ARs:</b> According to the Government: In instances where the PR has not been respected, employers who infringe the rights of trade unions to organize or bargain collectively will be subject to legal sanctions under charges of unfair practices, in accordance with sections 81 and 90 of the TURLAA, 1997.</p>
<p><b>Involvement of the social partners</b></p>	<p><b>2014 AR:</b> The KEF indicated its participation in social dialogue.</p> <p>According to the KCTU: The situation concerning social dialogue has remained the same over the last year, the KCTU being still excluded from most social dialogue fora. However, efforts have been made to work with the legislators and develop adequate legal instruments to support the ratification of C.87 and C.98.</p> <p><b>2013 AR:</b> According to the Government: The Tripartite Commission for Economic and Social Development is an organization for social dialogue between labour, management and the Government. The Commission is currently operating, and while the KCTU has internally discussed several times whether to participate in the Commission, it has refused to do so. The Korean Government welcomes and looks forwards to the participation of the KCTU in the Commission.</p> <p>According to the KEF: Social dialogue is exercised in the country.</p> <p>According to the KCTU: A strategy adopted by the Government aims at dividing the trade union movement by only recognizing the FK TU as a tripartite participant, excluding the KCTU from most social dialogue practices. A tripartite body that is an exception is the Minimum Wage and Deliberation Commission, where the FK TU and the KCTU jointly represents the interest of the workers. The Government has also ended a tripartite process which used to take place for the designation of representatives to public interest groups. However, contrary to the past, this designation was made alone by the Government in 2012, without inclusion of the social partners.</p> <p><b>2012 AR:</b> According to the Government: Tripartite consultations regarding labour law reform have been continuously undertaken.</p> <p>According to the KCTU: Social dialogue is not exercised in the country. A tripartite committee was previously established, but is currently not operating. The KCTU was excluded from this committee.</p> <p><b>2011 AR:</b> According to the Government: Tripartite consultations have been implemented in relation with this PR.</p> <p><b>2009 AR:</b> According to the Government: Tripartite consultations have been continuously implemented regarding industrial relations reform.</p> <p><b>2004 AR:</b> According to the Government: Tripartite consultations have been implemented in relation to this PR.</p>



		<p><b>2000–2001 ARs:</b> The Government stated that it had devoted efforts to stimulating dialogue on the promotion of the PR within the Tripartite Commission.</p>
	<p><b>Promotional activities</b></p>	<p><b>2014 AR:</b> The KEF indicated that it had participated in a number of promotional activities.</p> <p>According to the KCTU: The KCTU and its affiliates are continuously undertaking activities to promote the ratification of C.87 and C.98. An awareness raising campaign on the FPRW, with emphasis on the PR, has been conducted in collaboration with the Korean Teachers' and Education Workers' Union (KTU), the Korean Government Employees' Union (KGEU) and the Korean Federation of Public Services and Transportation Workers' Union (KPTU). The campaign included leaflets with information on the situation of workers' rights in the country, and requested labour law amendments to align the national legislation with international labour standards. The leaflet was designed as a letter directed towards the President of the Republic of Korea, urging the President to ratify C.87 and C.98 without delay. A part of the campaign especially focused on realizing the PR for public sector workers. The aim of these activities is to increase the pressure on the Government to ratify the remaining ILO core Conventions and to amend the labour laws to meet international labour standards. Further promotional activities include a rally among public sector workers calling for the ratification of ILO core Conventions which gathered approximately 10 000 workers on 1 June 2013 and an ongoing protest campaign in front of the National Assembly.</p> <p><b>2013 AR:</b> The KCTU indicated that it had prepared and promoted a Bill to amend labour laws to ensure compliance in with C.87 and C.98 and to ensure that also precarious workers are covered by the FPRW. It further mentioned that it had campaigned for this Bill to be passed in the national Parliament in 2011, and this campaign would continue with a view to sensitizing the new Parliamentarians to be elected in 2012.</p> <p><b>2012 AR:</b> According to the KCTU: The KCTU has been campaigning for ratification of C.87 and C.98, and is currently campaigning for revision of the Trade Union Act to amend it in line with international standards.</p> <p><b>2011 AR:</b> According to the Government: Tripartite consultations have been continuously implemented in the framework of the labour law reform.</p> <p><b>2010 AR:</b> The Government reiterated that tripartite consultations were in process with a view to reforming industrial relations.</p> <p>The FKTU mentioned that its members had participated in a tripartite workshop on the PR organised by the Government.</p> <p>The KCTU stated that it had organised workshops and meetings to raise awareness and promote the PR among its members.</p> <p><b>2009 AR:</b> According to the Government: Tripartite consultations are being implemented regarding the reform of industrial relations.</p> <p><b>2004 and 2007 ARs:</b> According to the Government: The following measures have been implemented to realize the PR: (i) training of other government officials; (ii) capacity building for employers' and workers' organizations; (iii) awareness-raising/advocacy.</p>



	<p><b>Special initiatives/Progress</b></p>	<p><b>2007 AR:</b> According to the Government: Several special initiatives were taken following the recommendations of international organizations: A “Committee for the Advancement of Industrial Relations Laws and Systems” was established in March 2006. It has made suggestions on how to: (i) establish multiple unions at enterprise level; (ii) repeal the third-party support notification requirement; (iii) abolish the compulsory arbitration system; etc. Moreover, a “Tripartite Representatives Committee” was set up in March 2006 to pursue social dialogue aiming to improve labour-related legislation. This Committee has also held negotiations more than 40 times during the last six months and finally reached a tripartite agreement to abolish the compulsory arbitration system for essential public services and the third-party support notification requirement. On the other hand, through the Government’s efforts, the compulsory arbitration system and the third-party support notification system will be repealed. In addition, public officials’ rights to organize and to bargain collectively will be protected. It is considered that these reforms should pave the way for Korea to have laws and systems better in line with international labour standards.</p> <p><b>2004-2005 ARs:</b> According to the Government: A special initiative was taken following an agreement at the Tripartite Commission of the Bill of 23 June 2003 guaranteeing the labour rights of public officials, now under legislative process.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2014 AR:</b> According to the KEF: While the Government of Korea has undertaken efforts to move forward in the ratification process of C.87 and C.98, the economic crisis and high levels of youth unemployment hampers the ratification of the two instruments.</p> <p><b>2013 AR:</b> The KEF indicated that the obstacles in the ratification of C.87 and C.98 relate to the restrictions to collective bargaining practices in essential services.</p> <p><b>2001 AR:</b> According to the KEF: There are restrictions on collective action in essential services.</p> <p><b>2000 AR:</b> According to the KEF: The TURLAA provisions banning the payment to full-time union officials should be maintained to secure independence of trade unions.</p>

		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> KCTU reiterated that the main challenge is how to realize the principle and right in the public sector. It further noted that self-employed workers, workers in precarious employment and in small and medium enterprises as well as those under subcontracting arrangements do not enjoy the right to freedom of association.</p> <p><b>2014 AR:</b> According to the KCTU: Challenges are related to: (i) Realizing the PR in the public sector. The Government regards the organization of public service workers as a threat, and regularly refuse the registration of public service unions. Teachers are being threatened with the cancellation of the registration of their trade unions and public officials have been refused trade union registration for the last four year. Cases where workers in the public sector have been dismissed in retaliation for involvement in trade union activities have been reported. Collective bargaining agreements are being ignored or unilaterally terminated in public institutions; (ii) Prevailing employment practices. Precarious employment is widespread and many precarious workers are employed by employment agencies and therefore considered as self-employed. As they are considered to be self-employed, regulations forbid them to form unions and to bargain collectively. Trade unions attempting to organize these self-employed workers risk having their trade union registration withdrawn. Among the KPTU members, truck drivers are especially subjected to this violation of their freedom of association and right to collective bargaining. For workers in precarious employment in the public sector, collective bargaining is non-existing. Furthermore, the Government has been expanding its schemes for temporary and part-time employment in the public sector. This is of great concern as it will create more part-time and temporary positions in a sector where up to 70 per cent of the employees are already on part-time contracts. This further obstructs the realization of the PR; (iii) Legal obstacles, including the prohibition to grant trade union membership to dismissed workers, restrictions on collective bargaining, and the regulations on trade union recognition and registration, which allows the Government to deny recognition of a trade union on arbitrary grounds. The Government has shown no sign of initiating the necessary legal amendments. Following the legal amendments of the TURLAA, enforced in July 2012, the situation concerning the PR has deteriorated. The legal amendments opened up for the creation of yellow unions and gave the employers the right to choose to only bargain with one union at company level. The Government has, along with employers, formed yellow unions which in many cases have become the exclusive counterparts to the employers in collective bargaining. Through the yellow unions, the employers also pressure members of the legitimate trade unions to leave their memberships. Consultant agencies have been established with the sole mission to provide employers with guidance on how to utilise the legislation so as to evade the realization of the PR; (iv) Lack of political will. The Government tend to have an anti-trade union approach and it has stated that it has no intention to ratify C.87 or C.98; and (v) Limited social dialogue. The exclusion of the KCTU in social dialogue practices is hampering progress in the ratification process and realization of the PR.</p> <p><b>2013 AR:</b> According to the KCTU: More than 50 per cent of the workforce in the Republic of Korea is in precarious forms of work. This creates great challenges in terms of realizing freedom of association and the right to collective bargaining. Many precarious workers are defined as “specially employed workers”, such as health care professionals and domestic workers, which are</p>

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often employed by employment agencies and therefore considered as self-employed. As they are considered to be self-employed, regulations forbid them to form unions and to bargain collectively. Trade unions attempting to organize these self-employed workers risk having their trade union registration withdrawn. Another category among the precarious workers are the dispatched workers, in particular in the automotive industry where workers are hired by a subcontractor but working for an auto company. This category is referred to as “in-house subcontracted workers”, and work alongside with the permanent workers but are being paid half of the salary for the same amount of work. These in-house subcontracted workers stand without any protection to ensure their freedom of association, and in cases where they have tried to organize the employer has answered with dismissals. Ensuring the right to collective bargaining is equally challenging as the company hiring subcontracted workers in general refuse collective bargaining practices with the subcontracted workers arguing that they do not have a direct employment relationship. Through these forms of employment, freedom of association and the right to collective bargaining are being violated. Therefore, the challenge mentioned under the 2012 AR concerning the right to strike in relation to the Criminal Court, section 314, remains. Furthermore, a strategy adopted by the Government aiming at dividing the trade union movement is further hampering the realization of the principle and right (PR). This strategy only recognizes the FKTU as a tripartite participant, and excludes the KCTU from social dialogue.

**2012 AR:** According to the KCTU: The challenges are: (i) lack of political will by the Government, which needs to reform domestic laws; the Government argues that the ILO Conventions are not in line with the national legislation, and is not open for amendments of the domestic legislation. (ii) Difficulty in striking because of Criminal Court, section 314 – obstruction of business – even if the Trade Union Act provides for the right to strike. For workers who are guaranteed the right to strike, it is difficult to exercise the right, as workers who participate in a strike are charged a fee by the employer for their engagement in the strike, they risk disciplinary actions to be taken by the company, and/or repression or imprisonment. (iii) Definition of essential services in Korea is broader than ILO essential services (for example railway is considered essential in Korea); certain categories of public servants are denied freedom of association and recognition of collective bargaining (personnel management, teachers, etc.). (iv) Payment of fulltime union officials is prohibited according to Korean law. Concerning C.98, collective bargaining is guaranteed for the formal work force, but legislation also gives employers the right to unilaterally cancel the collective bargaining agreement, limiting the effective recognition of collective bargaining in the Republic of Korea. Another problem concerns the self-employed workers, who according to national legislation are regarded as employers. These workers are not covered by any workers’ rights as they according to the legislation are defined as employers.

**2010 AR:** The FKTU and the KCTU expressed their fears that the forthcoming new labour law would restrain unions’ pluralism and therefore override the PR to some extent.

**2009 AR:** The ITUC reiterated the same challenges it mentioned below under the previous AR (2008).

**2008 AR:** The ITUC noted the following challenges: (i) under the Law on Assembly and



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<p>Demonstration, any gathering is banned within a hundred metres of foreign diplomatic missions. As a result many large companies, such as Samsung, have invited embassies to rent offices in their buildings. This tactic effectively prevents workers from demonstrating in front of the company's headquarters; (ii) third party intervention in collective bargaining and industrial disputes is still hindered; (iii) the law on Special Economic Zones (SEZs) contains preferential provisions in relation to foreign companies investing in the SEZs, which exempts them from many national regulations on the protection of the environment and labour standards. It is feared that this will result in further violations of workers' rights, since this law also makes it easier to hire "irregular" workers, who will have little or no protection; (iv) the Act on Employment of Foreign Workers and the Employment Permit System (EPS) allow employers to violate migrant workers' trade union rights with impunity. They are permitted only three years contracts and are strictly forbidden from changing employers during their stay in the country; (v) on May 2006, a riot police invaded a lawful demonstration in front of the Rural Development Administration. As a result, several trade unionists were severely beaten and arbitrarily arrested; (vi) a campaign of intimidation was launched by Woojin Industry, a subcontract firm created and controlled by Lafarge Halla Cement after finding out that two-third of the workers had joined the Korean Chemical and Textile Workers' Federation (KCTF); (vii) intimidation and violence was carried out by the Sejong Hospital towards the Korean Health and Medical Workers Union (KHMWU) that exercised its right to strike in January 2006; and (viii) systematic anti-union campaign was engaged towards workers belonging to the Koryung Electronics Workers' Union Local, such as termination of contracts, mass dismissals without reinstatement, or imprisonment of the union's president.</p> <p><b>2007 AR:</b> According to the ICFTU: (i) Persecution by the Government of the public servants' unions; (ii) the Law on the Establishment and Operation of Public Officials' Trade Unions of 31 December 2004 excludes many categories of workers (such as managers, human resources personnel, personnel dealing with trade unions or industrial relations) in the private sector, and special public servants such as military, police, fire-fighters, politically-appointed officials, and high level public officials from the right to organize; (iii) the right to collective bargaining is recognized but limited to some subjects of negotiation; (iv) no sanctions against unfair labour practices; (v) strong restrictions concerning the right to strike in the public sector; (vi) interference of the Government in the trade unions' affairs; (vii) foreign companies are exempted by the Law on Special Economic Zones (SEZs) of July 2003 from the obligation to respect the labour legislation; (viii) severe limitations on the right to strike and to create unions in the private sector since where an employer creates a union, it is legally forbidden to organise alternative unions.</p> <p><b>2006 AR:</b> The ICFTU observed the following: (i) civil servants will be allowed to organize within administrative predefined units by the Bill on the Establishment and Operation, etc of Public Officials Trade Unions, 2004, with the exception of managers, human resources personnel dealing with trade unions or industrial relations, and specific public servants such as military, police, fire fighters, politically appointed officials, and high level public officials. In addition, a union member can work full-time for the union, but only with the authority of the employer; (ii) civil servants will have the right to collective bargaining, but the subjects of negotiations are limited to</p>
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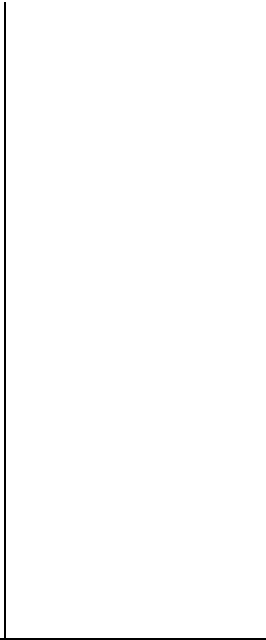
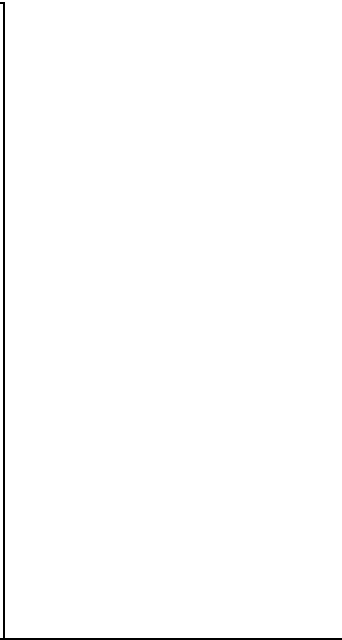
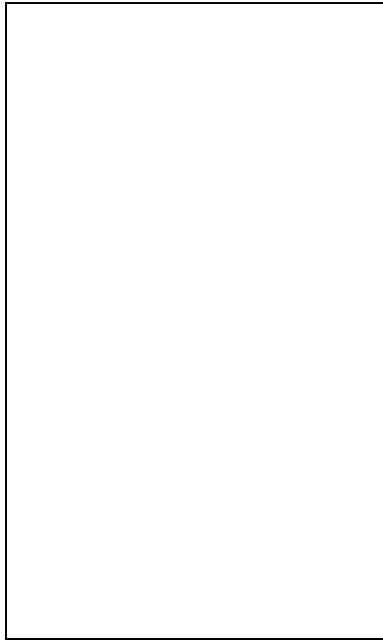
matters concerning trade unions members' pay and welfare and other working conditions, and laws and budgets prevail over collective bargaining agreements; (iii) the Bill, however, maintains the strike ban; as does the TURLAA for central government and local government workers and the 1999 Law on the Establishment and Operation, etc. of Trade Unions for Teachers- striking workers and union leaders can be prosecuted and sentenced under section 314 of the Penal Code, which prohibits "obstruction to business"; (iv) the TURLAA provides for compulsory arbitration for disputes in "essential public services" if the parties cannot come to an agreement on their own; (v) The right to demonstrate is limited, as under the Law on Assembly and demonstration, any gathering is banned within a hundred meters of foreign diplomatic missions (as a result large companies have invited embassies to rent offices in their building); (vi) under the TURLAA, 1997, employers are banned from remunerating trade union leaders until 2006; and union pluralism at company level is banned until December 2006; (vii) as a result, many employers have resorted to creating management-controlled unions, known as "paper unions"; (viii) There is a ban for dismissed workers to remain members of a union, and non-union members are not eligible for trade union office; (ix) the Third party intervention in collective agreements or industrial disputes is hindered by the compulsory arbitration.

**2005 AR:** According to the ICFTU: The trade unions observed that the new law makes it easy to hire "irregular" workers, who will have little or no protection.

**2004 AR:** The FKTU made the following observations: (i) the TURLAA provides for the right to organize and collective bargaining; (ii) government authorization or approval is required for workers in public services as regard collective agreements; (iii) the right to organize and bargain collectively is recognized by the Constitution (article 33); (iv) employer's organizations should not be exempted from the responsibility of realizing the PR.

The KCTU made the following observations: (i) it does not agree with the definition of "the effective recognition of the right to collective bargaining" provided by the Government; (ii) there is no effective sanction mechanisms in case of violation of collective agreement by employers; (iii) there is no governmental internal mechanism for the implementation of collective agreement; (iv) freedom of association is provided for teachers under the "Act on the Establishment and Collective Bargaining of Teachers Organizations", not under the "Trade Union and Labour Relations Adjustment Act", which led to various restrictions on collective bargaining; (v) migrant workers do not have the right to exercise freedom of association; most workers in the informal economy are denied the right to organize or join a union; (vi) workers in "essential services" are governed by a "compulsory arbitration" mechanism, which restricts the right to collective bargaining; (vii) there are restrictions on freedom of association at enterprise level as multiple unions are prohibited under the Trade Union and Labour Relations Adjustment Act (Addenda, section 5, paragraph 1); (viii) there is neither effective recognition of the right to collective bargaining at the supra-enterprise levels and nor collective bargaining mechanisms at the supra-enterprise level; (ix) the current system of "giving notice" on the formation of a union under the provision of the Trade Union and Labour Relations Adjustment Act works as an authoritative measure.

**2004 AR:** The KFTU called for negotiations at the industrial level. It also observed that the PR



was not recognized in the country, contrary to the Government's statement.

**2002 AR:** According to the KFTU: The Tripartite Commission in Korea is a presidential advisory body only, but not a social dialogue mechanism like in other countries.

The ICFTU raised the following challenges: (i) there are obstacles to the right to strike (complaint cases); (ii) broad categories of civil servants remain deprived of the right to belong to professional associations.

**2000 AR:** According to the KFTU: (i) the provisions of the TURLAA banning payment to full-time union officials should be repealed; (ii) the TURLAA should be revised in order to allow the unemployed to join the trade unions; (iii) the system of compulsory arbitration should not be imposed in case of labour disputes in the essential public services when there is no possibility of mediation.

The ICFTU observed the following: (i) the authorities had refused to register the Korea Confederation of Trade Unions (KCTU) for four years; (ii) dismissed workers cannot be members of trade unions, and union officials have to be elected amongst union members; (iii) public service workers cannot bargain collectively or strike; (iv) teachers cannot go on strike.

**According to the Government**

**2015 AR:** The special provision of labour law concerning public officials’ right to organize may serve as a barrier to the ratification of the Conventions. In response to KCTU’s comments under the 2014 AR, the Government indicated the following: (i) As for public officials and teachers, freedom of association is guaranteed according to the Act on the Establishment, Operation, etc. of Public Officials’ Trade Unions and the Act on the Establishment, Operation, etc. of Trade Unions for Teachers. Under the laws, trade unions for public officials and teachers have been carrying out union activities freely. Only a few organizations violating the acts are not recognized as trade unions under the laws; (ii) TURLAA prohibits the act of firing workers or giving them unfair treatment because of their legitimate trade union activities. In principle, the termination of a collective bargaining agreement at an individual workplace should be resolved autonomously by labor and management and the TURLAA recognizes the rights fairly to both sides; (iii) Workers’ legal status is not the same but varied and determined based on court rulings. Moreover, even if they are recognized as self-employed, they can form organizations which represent their interests to protect their rights in accordance with the principles of freedom of association under the Constitution; (iv) Part-time workers in the public sector are not discriminated against, and enjoy the same rights as those of full-time workers, including the freedom of association; (v) The revised TURLAA, introducing multiple unions and unification of bargaining channel system, made workers set up multiple trade unions freely. Also, the law imposes the duty of fair representation on bargaining representative unions, thereby prohibiting them from discriminating against minority unions. The bargaining channel unification has nothing to do with yellow unions; (vi) The Government respects fundamental labour rights; and (vii) The Ministry of Employment and Labour has continuously asked the KCTU to join social dialogue to address current employment and labor issues. The Government welcomes the KCTU as a tripartite participant.

**2014 AR:** According to the Government: Specific provisions of the labour law governing public officials’ right to organize and the union membership of unemployed workers constitute barriers to the ratification of C.87 and C.98. Furthermore, in response to the KCTU’s observations under the 2013 AR, the Government emphasized the following: (i) With regard to the sentence “As they are considered to be self-employed, regulations forbid them to bargain collectively”, in cases of workers engaged in domestic work or special types of employment their legal status are not the same but varied and determined based on court rulings; (ii) Moreover, even if they are recognized as self-employed, they can form organizations which represent their interests and negotiate with their employers to protect their rights. Aforementioned organizations are not trade unions as defined by the TURLAA; (iii) Under the current legislation basic rights are granted equally to in-house subcontracted workers and permanent workers. In-house subcontracted workers are, equally to permanent workers, allowed to exercise the right to organize a trade union and conduct collective bargaining; and (iv) In June 2013, the Ministry of Employment and Labor invited the KCTU to join social dialogue to address current employment and labour issues. The Government welcomes the KCTU as a tripartite participant.

**2013 AR:** According to the Government: As reported under the 2012 AR, specific provisions of the labour law governing public officials’ right to organize and the union membership of unemployed workers may constitute barriers to the ratification of C.87 and C.98. Furthermore, in response to the KCTU’s observations, the Government emphasized the following: (i) workers are never punished for legitimate strikes, and even in the case of unprotected strikes, as per the recent changes to the Supreme Court’s ruling, peaceful and passive refusal to work is not penalized for obstruction of business; (ii) The Constitutional Court of Korea unanimously ruled the scope of the essential services constitutional (29 December 2011); (iii) As for teachers, freedom of association and recognition of collective bargaining are guaranteed according to the Act on the Establishment, Operation, etc. of Trade Unions for Teachers; (iv) While employers are in principle prohibited from paying wages to full-time union officials, union officials can get paid up to a certain amount for activities that are in the mutual interest of the labour and the management i.e. collective bargaining, occupational safety activities, grievance handling; (v) The date of expiration of a collective agreement is respected. Neither an employer nor a trade union can unilaterally terminate a collective agreement while it is in effect. When a collective agreement expires, either the employer or the trade union may notify the other of its intention to terminate the collective agreement, and the termination takes effect six months after notification. Notwithstanding the termination of the collective agreement, the working conditions in the collective bargaining remain in effect; (vi) With regard to the sentence: “Another problem concerns the self-employed workers, who according to national legislation are regarded as employers”, the Korean Government is in the position to respect the decisions made by the Court with regards to whether they are employees or not; (vii) The Tripartite Commission for Economic and Social Development is an organization for social dialogue between labour, management and the Government. This Commission is

		<p><b>2009 AR:</b> According to the Government: The TURLAA considers as an unfair labour practice any impediments on trade union establishment or operations by employers. In this respect, 179 complaints about unfair labour practice were filed with the Regional Labour Offices and 221 applications for remedy were processed by the Regional Labour Relations Commissions as of March 2008.</p> <p>In response to the ITUC's observations, the Government further indicated the following: (i) the Act on the Employment etc. of Foreign Workers (AEFW) prohibits employers from giving unfair and discriminatory treatment to foreign workers on the grounds that they are foreigners. The AFWE and the Employment Permit System (EPS) guarantee that foreign workers can enjoy all the labour rights granted under labour laws; (ii) the ITUC's claim that collective action often becomes illegal because of the complicated legal procedures for organizing a strike is unfounded because in the case of such action, it is required to undergo mediation by the Labour Relations Commissions and this is a minimum requirement imposed to support autonomous dispute settlement between labour and management; (iii) the Government protects peaceful demonstrations and strikes. However, in case of violent demonstrations and strikes, the Government uses the police force to protect the public interest. However, the police exercises such power only in inevitable cases and to a minimum necessary extent; (iv) according to the Criminal Procedure Act, a judge is responsible for issuing an arrest warrant in order to promptly deal with illegality and investigate, even in the case illegal violent strikes and rallies the leaders and masterminds of which often refuse police's request to show up or go underground. All trials are conducted openly with strict evidence required and the defendant's right to defend sufficiently guaranteed pursuant to the Criminal Procedure Act, and punishment is determined in accordance with the court's punishment standards; and (v) the union members referred to by the ITUC were detained in isolation not to block their collective action, but to prevent any distortion that might happen during the investigation and trial, the length of each visit is limited to 12 minutes in case of general visits by family members and relatives and to 30 minutes in case of visits by lawyers.</p> <p><b>2008 AR:</b> In response to the ITUC's observations, the Government made the following comments: according to decision of October 2003 by the Constitutional Court, the law prohibits the holding of a rally less than 100 meters away from any foreign diplomatic mission is not an extreme regulation. Furthermore, the provision of third party intervention was abolished in December 2006, as well as related penal provisions, in order to strengthen labour-management autonomy. With regards to the Act on SEZs, it stipulates only two exceptions applicable to free economic zones. One is the partial exemption from holiday rules prescribed by the Labour Standard Act, and the other is the expansion of the scope of jobs permitted for temporary agency workers and the extension of the scope of their employment period, though this is limited to professional jobs determined after deliberation and resolution at the Deliberation Committee for Free Economic Zones. In addition, foreign workers can enjoy all the existing labour rights, including freedom of association. Regarding the change of workplace under the Employment Permit System (EPS), a change of workplace is allowed up to four times when continuance of normal employment is difficult due to suspension or closing of business or causes attributable to the employer. In practice, 27,353 persons (24 per cent) of EPS workers applied to change their work places and almost all cases were accepted by the job centres from August 2004 to March 2007. With respect to several events, the Government made the following observations: (i) over 200 KGEU members forcefully occupied the corridor in front of the Rural Development Administration's office and tried to forcefully enter a nearby police station and clashed with the police. As a result, four of them were arrested and indicted. Their trial is currently pending; (ii) in first instance, the Regional Labour Relations Commission judged that Lafarge Halla Cement should reinstate Woojin Industry's workers, and rejected the union's claim regarding unfair labour practice. However, the National Labour Relations Commission judged that the case constituted neither unfair dismissal nor unfair labour practices because firstly, the two companies were in contract relations with each other and Lafarge could not therefore be seen as the employer of the dismissed workers and secondly, the business closure was not considered to have been prompted by union activities. The workers filed no appeal so the judgement was confirmed;</p>
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		<p>(iii) the parties concerned in the Sejong Hospital incident resumed their talks in March 2007 and reached an agreement in July; and (iv) in August 2005, the strike at Kiryung Electronics caused some damages, and the company brought a civil suit against the Union President. The company experienced another dispute as the union launched a strike in October 2005 and failed to reach an agreement. With regard to the dismissal of the union president, the National Labour Relations Commission concluded that the dismissal was legitimate.</p> <p><b>2007 AR:</b> According to the Government: Neither employers nor workers are prepared to enforce the legal provisions on multiple unions at enterprise level and the ban on wage payment to full-time union officials, because of a sharp conflict of opinions among them. Therefore, based on the agreement among tripartite parties, the enforcement of these provisions will be postponed for three years in the spirit of stabilizing the industrial relations. During this grace period, the tripartite committee will intensively discuss detailed standards and methods of enforcement.</p> <p>In response to the ICFTU's observations, the Government made the following comments: (i) following the Act on the Establishment and Operation of Public Officials' Trade Unions enacted on January 2006, public officials are guaranteed the right to organize, including the right to establish a trade union and engage in union activities, and the right to conclude collective agreements through negotiation; (ii) as for the right to collective bargaining, only matters concerning policy decisions and appointment that are not directly related to working conditions are excluded from the subjects of negotiation; (iii) there is a system under which in the event of unfair labour practices by employers, public officials and their trade unions can seek remedy by filing their case with a labour relations commission, a neutral organization; (iii) the right to strike for public officials is restricted to maintain minimum service; (iv) it is stipulated in the Constitution that public officials are servants to the nation as a whole, so their status and political neutrality must be guaranteed by laws which is why public officials are not entitled to conduct political activities when they are engaged in union activities; (v) according to the Grand Tripartite Agreement, the recognition of multiple unions at the enterprise level and the ban on wage payment to full-time union officers will be put off for another three years; (vi) a tripartite commission agreed to remove the provisions related to the third-party notification requirement and has already submitted a related revision bill to the National Assembly; (vii) the purpose of the Act on the Designation and Operation of Free Economic Zones is to promote foreign investment, and pursue stronger national competitiveness and balanced development between different regions by improving business environments for foreign companies investing in free economic zones and living conditions for foreigners. The Act has two provisions on exemption from labour standards. The first provision is about granting unpaid holidays instead of paid ones under the Labour Standards Act, granting unpaid instead of paid menstruation leave, and excluding workomic zones from monthly paid leave, etc. However, with the introduction of the 40-hour working week, for all workplaces with five workers or more as well as those in free economic zones, paid menstruation leave was replaced with unpaid and monthly paid leave was abolished. Therefore, the only area where free economic zones are excluded from the application of the Labour Standards Act pursuant to the Act is holidays. One unpaid holiday is granted per week instead of paid a one in free economic zones. The second provision is about excluding workplaces in free economic zones from the provisions restricting occupations for which temporary agency workers can be employed and dispatch periods in the Act on the Protection, etc. of Dispatched Workers. Before applying this provision, those workplaces must undergo deliberation and decision by a separate committee. In spite of the provision, there is no company excluded from the restriction as of November 2006.</p>
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	<p><b>2005 AR:</b> In response to the ICFTU’s observations, the Government made the following comments: (i) Compulsory arbitration is a system introduced to ensure harmony between public interests and the rights of workers to organise and bargain collectively; (ii) there are autonomous dispute settlement between employers and workers when a public interest is not threatened; (iii) the Research Committee for Industrial Relations System Advancement, which has been established by the Government suggested that compulsory arbitration be abolished and minimum level of service during strike be made mandatory in public services in general; (iv) the Government will implement some legislative measures to ensure more rights to trade unions in dispute settlement and to protect public interests.</p> <p><b>2004-2005 ARs:</b> According to the Government: The main difficulties encountered in realizing the PR in Republic of Korea are the following: (i) lack of public awareness and/or support; (ii) social values, cultural traditions; and (iii) social and economic circumstances.</p> <p><b>2004 AR:</b> In response to the KCTU, the Government made the following comments: (i) The current TURLAA does not imply any restriction on the right to collective bargaining for trade unions and federation of trade unions at industrial level; (ii) sanctions are provided to employers who violate the right to collective bargaining under the TURLAA; (iii) the “Public Sector Special Committee” has been established through the Tripartite Commission for in order to implementation collective agreements; (iv) there is restriction on the right to collective bargaining for teachers; (v) migrant workers have the right to join trade unions under certain conditions; (vi) multiple unions at the enterprise level are banned until the end of 2006; (vii) the notification for establishing union should not be considered as an authoritative measure; (viii) a Bill has been prepared by the Government and was submitted to the National Assembly in order to promote the rights of workers in public service, including the freedom of association and the right to organize; (ix) sanctions are provided in case of unfair labour practices such as violation of the right to organize and collective bargaining; (x) the Tripartite Commission should not be considered as a governmental organization simply because some specific workers’ organizations are not part of it; (xi) The 1999 Act on Trade Unions for Teachers specifies the right to organize and collective bargaining for teachers; (xii) the KCTU has not sent its comments of the annual report.</p> <p>In response to the FKTU, the Government observed the following: (i) Trade unions cannot bargain collectively due to the fact there are no employers’ organizations at higher levels; (ii) Workers in essential services are not allowed the right to collective bargaining; (iii) The TURLAA provides minimum requirements (non-participation of an employer or ban on financial assistance from an employer for the establishment of a trade union) for the establishment of trade unions; (iv) the right to organize is authorized for manual workers and for certain categories of workers of public service under the TURLAA (section 66.1 of the Public Servants’ Act and section 5); and for teachers under The 1998 Act on the establishment and operation, etc. of trade unions for teachers (section 7.1); (v) the right to bargain collectively is not guaranteed to trade unions and the federations of trade unions as industrial level because some of them are at odds with eight employers on bargaining methods and levels; (vi) migrant workers employed in domestic service have the right to join a trade union of his/her choice, except foreign industrial trainers registered under the Immigration Control Act; (vii) the right to organize for workers in the informal economy is authorized in consideration of the dual nature of their labour characterized by subordination and independence; (ix) multiple unions at enterprise level have been delayed until the end of 2006, following a Tripartite Agreement on 9 February 2001; (x) reported cases related to unfair labour practices have been successfully investigated by the Government and appropriate measures have been taken correspondingly.</p> <p>In response to the ICFTU’s comments, the Government observed the following: (i) there are restrictions on the right to strike for workers in essential services including hospitals, water service and services of public interest.</p>
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		<p><b>2002 AR:</b> In response to the ICFTU, the Government observed the following: (i) the ILO Declaration on Fundamental Principles and Rights at Work should be used only as a promotional framework, not as a double supervisory mechanism; (ii) efforts have been made in order to meet internationally accepted standards and to enhance cooperation with international organizations such as the ILO and the OECD; (iii) the labour laws have been revised in March 1997 in order to recognize the political activities of trade unions and multiple umbrella unions; and to repeal the provision banning third party intervention; (iv) trade unions have been established following the launch of the Tripartite Commission in 1998; (v) workers in the public service, workers in the private sector and workers in State enterprise have the right to collective bargaining and the right to strike; (vi) there are restrictions on the right to strike only for workers in certain essential services (military industry, electricity, water supply); (vii) workers in the EPZs enjoy the same rights as workers in other areas.</p> <p>In response to the KCTU, the Government observed the following: (i) the PR is recognized in Korea; (ii) the KCTU's observations are not compatible with the basic principle of the Declaration on Fundamental Principles and Rights at Work and its Follow-up, which should.</p> <p><b>2000 AR:</b> In response to the ICFTU, the Government made the following observations: (i) ILO should reconsider its intention to reflect the ICFTU's comments in the compilation of the annual report; (ii) the Korean Confederation of Trade Unions (KCTU) is legally recognized by the Government.; (ii) the KCTU's observations are not compatible with the basic principle of the Declaration on Fundamental Principles and Rights at Work and its Follow-up, which should be strictly of promotional nature.</p>
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<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> The Government indicated that ILO support may be requested when preparing for the ratification of the Conventions, for example in interpreting whether domestic legislation is in conformity with the Conventions. The Government will request support from the ILO if the need occurs. The KCTU requested ILO technical cooperation mainly in terms of tripartite workshops and organizing awareness-raising campaigns.</p> <p><b>2014 AR:</b> The Government reiterated the request it had made under the 2012-2013 ARs; the Government may need the ILO's support when preparing for the ratification of the Conventions, for example in interpreting whether domestic legislation is in conformity with the Conventions. The Government will request support from the ILO should this need arise. The KEF indicated that ILO technical cooperation may be needed in interpreting whether domestic legislation is in conformity with the Conventions, and in supporting initiatives to address high unemployment levels. The KCTU reiterated the request it made for ILO technical cooperation under the 2012-2013 ARs; (i) technical support on tripartite workshops; (ii) public awareness raising on the core Conventions; (iii) capacity building for trade union leaders; and (iv) interpretation to the Government and the employers' representatives of C.87 and C.98. It added that international exposure on the situation of workers' rights in the Republic of Korea along with pressure from the ILO and international trade unions on the Government is needed to ensure that violations of workers' rights stop and that the remaining ILO core Conventions are ratified.</p> <p><b>2013 AR:</b> The Government reiterated the request it had made under the 2012 AR; the Government may need the ILO's support when preparing for the ratification of the Conventions, for example in interpreting whether domestic legislation is in conformity with the Conventions. The Government will request support from the ILO should this need arise. The KCTU reiterated the request it made for ILO technical cooperation under the 2012 AR: (i) technical support on tripartite workshops; (ii) public awareness raising on the core Conventions; (iii) capacity building for trade union leaders, and; (iv) interpretation to the Government and the employers' representatives of C.87 and C.98 so as to sensitize them on the content and implications of these Conventions.</p> <p><b>2012 AR:</b> According to the Government: The Korean Government may need the ILO's support when preparing for the ratification of the Conventions, for example in interpreting whether domestic legislation is in conformity with the Conventions. The Government will request support from the ILO should this need arise. The KEF requested ILO technical assistance for capacity building on the PR. The KCTU requested ILO technical support on Tripartite workshops, awareness raising on the core conventions and capacity building for trade union leaders. The KCTU further requested the ILO to provide the Government and the employers' representatives with interpretation of C.87 and C.98 so as to sensitize them on the content and implications of the conventions. The KCTU also expressed a need for public awareness raising on freedom of association and the effective recognition of collective bargaining, as inaccurate information about the content of the conventions have been spread by the Government due to misinterpretation.</p> <p><b>2010-2011 ARs:</b> The Government reiterated the request it had made under the 2008 AR. The KCTU requested ILO's technical cooperation to strengthen the capacity of workers' organizations in the country.</p> <p><b>2008 AR:</b> According to the Government: In the process of considering the ratification of the Conventions, the Republic of Korea needs advice/consultation from the ILO. When required, Korea plans to ask for advisory assistance from ILO.</p>
	<b>Offer</b>	ILO; Organisation for Economic Co-operation and Development (OECD).





<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed the Republic of Korea among the countries that has expressed for the past few years its intention to ratify Conventions Nos. 87 and/or 98 without materializing it. It therefore encouraged it to take the appropriate steps to do so. The IDEAs also noted that restrictions on the right to organise of certain categories of workers in the Republic of Korea (and some other countries), such as workers in the public service, were not compatible with the realization of this principle and right (cf. paragraphs 32 and 38 of the 2008 AR Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The DEAs listed the Republic of Korea among the countries that have been indicating their intention to ratify C.87 and C.98 for several years, with no indication that progress has been made. Furthermore, the IDEAs observed that with a view to giving full effect to this principle and right, the Government should be able to offer to all workers the opportunity to exercise their rights, and not have restrictions on the right to organize for workers in the public service (cf. paragraphs 33 and 37 of the 2007 AR Introduction – ILO: GB.298/3).</p> <p><b>2006 AR:</b> The IDEAs observed the following: “A number of countries have provided information on new legislation, and we welcome among them the fact that the Republic of Korea has adopted special laws to allow public service trade unions to exercise the right to organize and collective bargaining” (cf. paragraph 37 of the 2005 AR Introduction – ILO: GB.295/5).</p> <p><b>2005 AR:</b> The IDEAs listed the Republic of Korea among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification. They further indicated that the Office is following up on freedom on association and collective bargaining issues in the Republic of Korea. In this respect, the IDEAs noted with interest the information provided by the Republic of Korea and their countries in the Declaration follow-up (cf. paragraph 13 of the 2005 AR Introduction – ILO: GB.292/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>3</sup>: LAO PEOPLE'S DEMOCRATIC REPUBLIC**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2002, 2005 and 2011 Annual Reviews (ARs).
	<b>Involvement of Employers' and Workers' organization in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Lao National Chamber of Commerce and Industry (LNCCI) and the Lao Federation of Trade Unions (LFTU) through consultations.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2015 AR:</b> Observations of the LNCCI.</p> <p><b>2014 AR:</b> Observations of the LNCCI.</p> <p><b>2013 AR:</b> Observations of the LNCCI comprised of 28 affiliates.</p> <p><b>2012 AR:</b> Observations of the LNCCI comprised of 28 affiliates.</p> <p><b>2008 AR:</b> Observations of the LNCCI comprised of 23 affiliates.</p> <p><b>2007 AR:</b> Observations of the LNCCI.</p> <p><b>2006 AR:</b> Observations of the LNCCI.</p>

<sup>3</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations of the LFTU  <b>2014 AR:</b> Observations of the LFTU.  <b>2013 AR:</b> Observations of the LFTU.  <b>2012 AR:</b> Observations of the LFTU.  <b>2010 AR:</b> Observations by the LFTU.  <b>2009 AR:</b> Observations by the International Trade Union Confederation (ITUC).  <b>2008 AR:</b> Observations by the LFTU.          Observations by the ITUC.  <b>2007 AR:</b> Observations by the LFTU.          Observations by the ICFTU  <b>2006 AR:</b> Observations by the LFTU.  <b>2005 AR:</b> Observations by the ICFTU.</p>	
		<p><b>2003 AR:</b> Observations by the LFTU.  <b>2002 AR:</b> Observations by the LFTU.  <b>2001 AR:</b> Observations by the ICFTU.</p>	
<p><b>EFFORTS AND PROGRESS          MADE IN REALIZING          THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification</b></p>	<p><b>The Lao People's Democratic Republic has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b></p>

		<p><b>Ratification intention</b></p>	<p><b>YES, since 2002, for C.87 and C.98.</b></p> <p><b>2015 AR:</b> According to the Government: There is a need to assess the implications and requirements of C.87 before any further steps can be taken in the ratification process. Principles of C. 98 are already included into proposed legislative changes.</p> <p>The LNCCI indicated that an assessment of the implications of the ratification of C.87 and C.98 would allow for an informed decision concerning the instruments.</p> <p>The LFTU reaffirmed its support for the ratification of C.87 and C.98 and indicated that more awareness-raising is needed for its members to understand these Conventions.</p> <p><b>2014 AR:</b> According to the Government: There is a need to assess the implications and requirements of C.87 and C.98 before any further steps can be taken in the ratification process.</p> <p>The LNCCI indicated that an assessment of the implications of the ratification of C.87 and C.98 would allow for an informed decision concerning the instruments.</p> <p>The LFTU reaffirmed its support for the ratification of C.87 and C.98 by Lao PDR and indicated that a tripartite committee had been established to assess the implications of C.87 and C.98 to facilitate the ratification process.</p> <p><b>2013 AR:</b> According to the Government: Tripartite consultations are being held on the draft of a new labour protection law including amendments on collective bargaining. The draft should be submitted to the National Assembly by the end of 2012, for discussion and adoption. The Government's priority is to meet the Millennium Development Goals. It therefore requests ILO's technical assistance to ratify all unratified core Conventions including C.87 and C.98.</p> <p>The LNCCI expressed its support for the ratification of C.87 and C.98 and indicated that a tripartite committee to draft the new labour law had been set up to assess local situation and promote the full realization of the PR in the country.</p> <p>The LFTU expressed their strong support for the ratification of C.87 and C.98 by Lao PDR, and indicated that the ratifications were pending before the Tripartite Committee for Labour Relations.</p> <p><b>2012 AR:</b> The Government stated that ratification of C.87 and C.98 should be submitted for discussion to the Tripartite Committee for Labour Relations by July 2011.</p> <p>The LNCCI indicated that they would refer to the results of the forthcoming tripartite discussion.</p> <p>The LFTU expressed their support for the ratification of C.87 and C.98 by Lao PDR.</p> <p><b>2010 AR:</b> The Government reiterated that ratification of C.87 and C.98 was being processed.</p> <p>The LFTU expressed their support for the ratification of C.87 and C.98, but indicated that, due to the absence of trade union pluralism in the country, ratification of these instruments would be difficult.</p> <p><b>2009 AR:</b> The Government indicated that it was planning to adopt new laws in support of the ratification of C.87 and C.98.</p>
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			<p><b>2008 AR:</b> The Government confirmed its intention to ratify C.87 and C.98.</p> <p>The LNCCI and the LFTU expressed their support for the ratification of C.87 and C.98 and indicated that a tripartite consultation would accelerate the process.</p> <p><b>2007 AR:</b> According to the Government: the possibility of ratification of C.87 and 98 is currently under examination.</p> <p>The LNCCI and the LFTU expressed their support for the ratification of C.87 et de la C.98 by Lao PDR.</p> <p><b>2006 AR:</b> The Government confirmed its intention to ratify C.98 and C.98 in a near future.</p> <p>The LNCCI and the LFTU supported the ratification of all the fundamental conventions by Lao PDR, particularly C.87 and C.98.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): the Government intends to ratify C.87 and C.98.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>2006 AR:</b> According to the Government: The principle and right (PR) are recognized by the 1991 Constitution and national labour laws that guarantee freedom of association and the right to collective bargaining.</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p>Section 3 of the 1994 Labour Code guarantees the right and freedom of association (or affiliation to any group or social organization legally constituted) to workers and employers.</p> <p><b>2015 AR:</b> According to the Government: amendments of the Labour Law, which contain provisions relevant to C. 98, have been passed through the Parliament, and the new Labour Law has been signed off by the President and is now being implemented.</p> <p><b>2014 AR:</b> According to the Government, the LNCCI and the LFTU: A new labour protection law is being developed in collaboration with the ILO. Legal studies have been undertaken to ensure compliance between the Bill, on the one hand, and C.87 and C.98, on the other. The Bill should be submitted to the Cabinet and subsequently to the National Assembly for adoption by the end of 2013.</p> <p><b>2013 AR:</b> According to the Government: A new labour protection law is being developed and will include amendments on collective bargaining regulations. The Bill should be submitted to the National Assembly by the end of 2012, for discussion and adoption.</p> <p><b>2012 AR:</b> According to the Government and the LFTU: A Trade Union Law was adopted in 2008. This Law promotes voluntary collective bargaining.</p> <p><b>2008 AR:</b> A new Labour Code was adopted in 2006 with specific provisions on freedom of association for employers' and workers' organizations.</p> <p><b>2007 AR:</b> The Government indicated that national labour norms were currently under review (including the fundamental norms of the ILO) in collaboration with the ILO, the LNCCI and the LFTU.</p>

		<b>Basic legal provisions</b>	(i) 1991 Constitution; (ii) 1994 Labour Code (section 3); (iii) Trade Union Law, 2008; and (iv) Decree on the Role and Functions of the Lao National Chamber of Commerce and Industry, November 2009.		
		<b>Judicial decisions</b>	NIL.		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<b>2002-2005 ARs:</b> According to the Government: Prior government authorization is necessary to operate employers' organizations and conclude collective agreements. Any category of employer can organize.	
			<b>For Workers</b>	<b>2002-2005 ARs:</b> According to the Government: Prior government authorization is necessary to operate workers' organizations and conclude collective agreements. Any category of worker can organize.	
			<b>Special attention to particular situations</b>	<b>2002-2005 ARs:</b> According to the Government: women.	
			<b>Information/ Data collection and dissemination</b>	<b>2002-2005 ARs:</b> According to the Government: there is a lack of information and statistical data on the PR.	
	<b>At international level</b>	NIL.			
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2015 AR:</b> According to the Government: a tripartite committee can act upon complaints and examine them by appointing inspectors.</p> <p><b>2002-2005 ARs:</b> According to the Government: The PR is realized through: (i) inspection and monitoring; (ii) special institutional mechanisms; and (iii) penal, civil and administrative sanctions.</p>			
	<b>Involvement of the social partners</b>	<p><b>2015 AR:</b> According to the Government, LNCCI and LFTU: regular tripartite committee meetings take place every 2-3 months.</p> <p><b>2014 AR:</b> According to the Government: The Government regularly organises tripartite meetings and keeps the social partners informed about labour related issues.</p> <p>The LNCCI indicated its participation in tripartite consultations.</p> <p>The LFTU indicated that a tripartite committee had been established to assess the implications of C.87 and C.98 and facilitate the ratification process.</p> <p><b>2013 AR:</b> The LNCCI and the LFTU indicated that social dialogue was practiced through quarterly national tripartite meetings.</p> <p><b>2009 AR:</b> According to the Government: Awareness-raising campaigns were organized together with trade unions to promote the ratification of C.87 and C.98.</p> <p><b>2007 AR:</b> The LNCCI and the LFTU indicated their participation in the upcoming national labour law review.</p>			



	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: There is intention to continue with workshops and campaigns but they have been stopped because of budgetary challenges.</p> <p>According to the LFTU: The LFTU has signed an agreement with 400 factories on working conditions, social benefits, women’s rights, etc.</p> <p><b>2014 AR:</b> According to the Government: The Government has held workshops and organized tripartite meetings on the PR. Awareness raising campaigns have been channelized through TV and radio. A tripartite workshop on collective bargaining practices was held in collaboration with the ILO in July 2013.</p> <p>The LNCCI indicated that it had participated in tripartite workshops held at the national and regional levels.</p> <p>According to the LFTU: The LFTU has organized workshops and participated in tripartite consultations. In July 2013, the LFTU participated in a workshop for workers’ organizations organized in collaboration with the ILO.</p> <p><b>2010 AR:</b> According to the Government: A Senior Officer of the Ministry participated in the May 2009 ILO/Turin Course on International Labour Standards during which issues concerning the Declaration and its follow-up had been addressed, including those relating to C.87 and C.98.</p> <p>According to the LFTU: Trade union leaders have participated in a training session in Malaysia concerning C.87 and C.98. In addition, public and enterprise level awareness raising campaign were organized on national Trade Union Law and C.87 and C.98.</p> <p><b>2009 AR:</b> According to the Government: Awareness-raising campaigns were organized together with trade unions to promote the ratification of C.87 and C.98.</p> <p><b>2008 AR:</b> The LNCCI indicated that regular meetings are organized with workers and bipartite consultations are also provided in cases of dispute. Moreover, several workshops have been organized by the LNCCI in collaboration with the ILO in Bangkok, the Government and workers’ unions regarding the national labour law review in Lao PDR.</p> <p><b>2006 AR:</b> The LNCCI stated that it had initiated its activities in 2003 with the support of the ILO and the Australian Chamber of Commerce.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2012-2013 ARs:</b> According to the Government and the LFTU: As a result of the adoption of the Trade Union Law (2008), 50 collective bargaining agreements have been signed between employers’ and workers’ representatives.</p> <p>According to the LNCCI: A Decree on the Role and Functions of the LNCCI was issued in 2009 with a view to promoting cooperation and adoption of common stand points among employers. Moreover, the right to strike has been recognized by more employers, and many union’s meetings are organized inside companies’ work premises.</p> <p><b>2006 AR:</b> According to the Government: a special initiative was initiated through several seminars on C.87, C.98 and the other fundamental conventions in collaboration with the ILO.</p> <p>According to the LNCCI: sensitization activities on the national legislation and international labour standards were undertaken for the members of the LNCCI.</p>





<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2014-2015 ARs:</b> The LNCCI indicated that the lack of understanding of the ILO core Conventions continued to hamper the realization of the PR.</p> <p><b>2013 AR:</b> The LNCCI indicated that the absence of social dialogue and the lack of understanding of the ILO core Conventions were challenging the realization of the PR.</p> <p><b>2008 AR:</b> The LNCCI indicated that the right to strike was still not recognized, that dispute settlements were not always straightforward and that employers' organizations were still very small and weak compared with workers' organizations.</p>
		<b>Workers' organizations</b>	<p><b>2014-2015 ARs:</b> According to the LFTU: The major challenges in the implementation and realization of the PR in the country are: (i) lack of public and tripartite understanding of the PR, and (ii) lack of financial resources hampering the LFTU's efforts to ensure the FPRW.</p> <p><b>2013 AR:</b> According to the LFTU: The major challenges in the implementation and realization of the PR in the country are: (i) lack of social dialogue; (ii) lack of tripartite consultations; (iii) lack of law enforcement; (iv) obstruction by some employers to allow unions in factories despite legal provisions; (v) lack of public and tripartite understanding of the PR by the workers, and; (vi) pressure by international multinational companies on the Government to delay the implementation of the PR in the country.</p> <p><b>2012 AR:</b> According to the LFTU: In some cases, employers in the private sector do not recognize trade union legitimacy for the purpose of bargaining collectively or do not wish to sign a collective agreement covering the workers of their factory.</p> <p><b>2010 AR:</b> The LFTU mentioned that the absence of trade union pluralism in the country was a challenge in realizing the PR.</p> <p><b>2009 AR:</b> The ITUC reiterated the challenges it had raised under the previous AR (2008) concerning Lao PDR, in particular as regards: (i) strict legal limitations concerning the right to strike or to call for a strike in a wide number of situations; (ii) broad restrictions exist on the removal of union leaders under section 31 of the 2007 Trade Union Law (prior consent of the leaders at the higher level of the union); (iii) under section 20 of the same Law, only Lao citizens aged from 18 are allowed to join unions; (iv) the LFTU operates as labour front for the ruling party (the Lao People's Revolutionary Party-LPRP); (v) no effective collective bargaining exists as under the 2006 Labour Law and the 2007 Trade Union Law, there is legal authority for unions to bargain, but there is no requirement to compel employers to negotiate; and (vi) there is lack of law enforcement in the country.</p>

			<p><b>2008 AR:</b> The LFTU indicated the lack of education on the PR amongst the workers.</p> <p>According to the ITUC: (i) under the 1994 Labour Law, workers and employers have the right to organize but any labour union must be affiliated with the government sanctioned LFTU, which is controlled by the single political party (LPRP); (ii) civil servants are excluded from the 1994 Labour Law; (iii) severe limitations on bargaining and strikes (restriction within the Penal Code); (iv) lack of law enforcement.</p> <p><b>2007 AR:</b> The LFTU pointed out the following challenges: (i) some observers (NGOs and diplomatic personnel) mentioned that the law was not respected; (ii) conflict resolution mechanisms are not efficient.</p> <p><b>2002-2005 ARs:</b> According to the LFTU: the main challenges are the following: (i) the exclusive union is controlled by the only political party legally authorized; (ii) all the unions must be affiliated to the LFTU; (iii) the workers' organizations are not able to apply their own internal regulations; (iv) the right to strike is restricted through dissuasive sanctions; (v) labour inspection services and labour courts are not able to put in force national labour laws; (vi) the legal obligation of employers to bargain is lacking and (vii) freedom of association for civil servants is being prejudiced.</p>
	<p><b>According to the Government</b></p>		<p><b>2015 AR:</b> As C. 98 is already implemented in practice; the challenge is now to understand the benefits and implications of C. 87.</p> <p><b>2014 AR:</b> According to the Government: The following challenges have been identified in the realization of the PR: (i) lack of technical expertise on the ILO core Conventions, and (ii) financial constraints in the implementation of the Decent Work Country Programme (DWCP).</p> <p><b>2013 AR:</b> According to the Government: The main difficulties in the Lao PDR are: (i) lack of capacity of tripartite partners; (ii) lack of awareness raising campaigns on the PR, and; (iii) legal obstacles.</p> <p><b>2010 AR:</b> The Government mentioned the following challenges to the realization of the PR in the country: (i) lack of social dialogue between the tripartite partners; (ii) lack of capacity of Government's institutions and employers' and workers' organizations; and (iii) lack of compliance of national labour laws to the PR.</p> <p><b>2009 AR:</b> The Government indicated that the earlier challenges remained valid.</p> <p><b>2002-2005 ARs:</b> According to the Government: the main difficulties in the Lao PDR are: (i) the practice in place regarding employment issues; (ii) the lack of capacity of government, employers' and workers' institutions, and; (iii) the absence of social dialogue.</p>



<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: ILO should strengthen the capacity of employers’ and workers’ organisations on the content and implications of C. 87 and 98.</p> <p>LNCCI requested ILO technical assistance on experience sharing across countries/regions.</p> <p>LFTU requested ILO technical assistance in organising consultations and workshops on C.87 and C.98.</p> <p><b>2014 AR:</b> According to the Government: There is a need for ILO technical expertise to support an assessment of the implications of ratification of C.87 and C.98 by the Lao PDR. Further technical and financial support is also sought for the implementation of the DWCP.</p> <p>The LNCCI reiterated the requests for ILO technical cooperation made under the 2013 AR: (i) awareness-raising campaigns; (ii) capacity building for tripartite partners on the PR and international labour standards (ILS); and (iii) sharing of experiences across countries/regions.</p> <p>The LFTU requested ILO technical cooperation to sensitize the tripartite partners on C.87 and C.98 and to financially support the LFTU’s efforts to realize the PR.</p> <p><b>2013 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in the following areas: (i) capacity building of the tripartite partners, in particular on C.87 and C.98; (ii) increase awareness raising campaigns on the PR, and; (iv) legal reform.</p> <p>According to the LNCCI: There is a need for technical cooperation to facilitate the realization of the FPRW in the following areas: (i) awareness-raising campaigns; (ii) capacity building for tripartite partners on the PR and international labour standards (ILS), and; (iii) sharing of experiences across countries/regions.</p> <p>The LFTU requested ILO’s support in the following areas: (i) training activities for workers on the FPRW, particularly C.87 and C.98; (ii) public awareness raising on the FPRW; (iii) sensitizing government officials on the PR, and; (iii) strengthening social dialogue on the PR.</p> <p><b>2012 AR:</b> The Government, the LNCCI and the LFTU requested ILO’s support in organizing a National tripartite workshop on the Declaration and its follow-up so as to sensitize tripartite bodies on the fundamental principles and rights at work (FPRW), with a focus on non ratified fundamental Conventions (freedom of association, the effective recognition of the right to collective bargaining, and abolition of forced labour). This tripartite activity should be preceded by separate workshops for labour administration, employers’ associations and trade unions.</p>
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		<p><b>2010 AR:</b> The Government would welcome any ILO technical support in policy advice, capacity building to tripartite partners and dissemination of the fundamental principles and rights at work (FPRW). In particular, Labour Inspection capacity should be strengthened with a view to ensuring a better realization of the FPRW at national level.</p> <p>The LFTU requested ILO's technical assistance is needed to strengthen the capacity of workers' organizations, including the training of trade union leaders on C.87 and C.98.</p> <p><b>2009 AR:</b> According to the Government: Financial support from donor agencies was needed. The ILO's cooperation would be needed after the ratification of C.87 and C.98.</p> <p><b>2008 AR:</b> According to the Government: ILO technical assistance is needed for conducting a country assessment and seminars on the PR and the Declaration follow-up.</p> <p>The LNCCI requested ILO technical assistance for the capacity building of employers' organizations and supported the Government's view on the necessity of a country assessment.</p> <p>The LFTU requested ILO technical assistance for the capacity building of workers' organizations.</p> <p><b>2007 AR:</b> The Government requested ILO technical assistance for the training of civil servants at the Ministry of Labour. It also required ILO technical cooperation on the labour law reform.</p> <p>The LNCCI requested ILO technical assistance for training on the fundamental conventions, particularly with respect to collective bargaining techniques.</p> <p>The LFTU requested ILO technical assistance for the training and capacity building of workers' organizations on the ILO fundamental Conventions.</p> <p><b>2006 AR:</b> The Government called for ILO technical assistance for the realization of the PR and ILO fundamental conventions in Lao PDR.</p> <p>The LNCCI requested ILO support for the strengthening of sensitization activities on the national legislation and international labour standards.</p> <p>The LFTU requested ILO technical cooperation for the realization of the PR among the workers.</p>
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	<b>Offer</b>	ILO; Australian Chamber of Commerce.
<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed the Lao PDR among the countries that has expressed for the past few years its intention to ratify C.87 and 98 without materializing it. Therefore, they encouraged the Government to take the appropriate steps to do so. They also welcomed efforts made by Lao PDR (New Labour Code) in implementing the principle and right. The IDEAs further acknowledged the high number of promotional activities concerning the realization of the PR in the Lao PDR (and some other countries), and encouraged the Office to maintain its support to these activities. However, they listed the Lao PDR among the countries where only one official trade union was allowed in practice and where unions are subject to government’s interference or influence. In this regard, they recalled the following: “the right to official recognition is an essential aspect of the right to organize as it allows employers’ and workers’ organizations to be in a position to play their roles efficiently. Furthermore, any government intervention in employers’ and workers’ organizations’ internal affairs (right to establish and join organizations of their own choosing, without distinction whatsoever and without previous authorization, right to draw up internal constitutions and rules, right to elect their representatives in full freedom, etc.) constitutes interference in the functioning of these organizations, which is a denial of the principle and right” (cf. paragraphs 31, 34, 35 and 36 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs listed the Lao PDR among the countries that had been indicating their intention to ratify C.87 and C.98 for several years, with no indication that progress had been made (cf. paragraph 33 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2004 AR:</b> The IDEAS noted that Lao PDR was reporting on a irregular basis and recommended that the Office strengthen its assistance to countries, like the Lao PDR, that were not able to comply on a regular basis with their reporting obligations under the ILO Declaration Annual review (cf. paragraph 30 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2003 AR:</b> The IDEAS noted that the Lao PDR had a chequered record in reporting under the ILO Declaration Annual Review (cf. paragraph 14 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p> <p><b>2001 AR:</b> The IDEAS recommended that the Office initiate a dialogue with the Lao PDR and other countries that had never reported under the Declaration Annual Review cf. paragraph 30 of the 2001 Annual Review Introduction – ILO: GB.280/3/1).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: LEBANON**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Reviews (AR) in 2000.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the most representative employers' organizations (Association of Lebanese Industrialists/Association des Industriels Libanais (ALI), Federation of Chamber of Commerce, Industry and Agriculture of Lebanon (FCCIAL)) and workers' organizations (General Confederation of Trade Unions for Lebanon (CGTL) through consultations and communication of government reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by ALI. <b>2014 AR:</b> Observations by ALI. <b>2013 AR:</b> Observations by ALI. <b>2012 AR:</b> Observations by ALI. <b>2010 AR:</b> Observations by the FCCIAL. <b>2003 AR:</b> Observations by the FCCIAL.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<p><b>Workers' organizations</b></p>		<p><b>2015 AR:</b> Observations by the CGTL.  <b>2014 AR:</b> Observations by the CGTL.  <b>2013 AR:</b> Observations by the CGTL.  <b>2012 AR:</b> Observations by the CGTL.  <b>2010 AR:</b> Observations by the CGTL.  <b>2009 AR:</b> Observations by the CGTL.          Observations by the International Trade Union Confederation (ITUC).  <b>2008 AR:</b> Observations by the ITUC.  <b>2007 AR:</b> Observations by the CGTL.          Observations by the International Confederation of Free Trade Unions (ICFTU).  <b>2006 AR:</b> Observations by the ICFTU.  <b>2005 AR:</b> Observations by the ICFTU.  <b>2004 AR:</b> Observations by the ICFTU.  <b>2003 AR:</b> Observations by the ICFTU.  <b>2002 AR:</b> Observations by the ICFTU.  <b>2001 AR:</b> Observations by the ICFTU.  <b>2000 AR:</b> Observations by the ICFTU.</p>
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Lebanon ratified in 1977 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</b></p>





		<p><b>Ratification intention</b></p>	<p><b>YES, since 2002, for C.87.</b></p> <p><b>2015 AR:</b> The Government stated the Labour Code is in the approval process. ALI reiterated its support for the ratification of C.87. CGTL reiterated its support for the ratification of C.87 and stated that the new Labour Law is before the Parliament. The political situation is causing some delay but amendments are expected to be made this year.</p> <p><b>2014 AR:</b> According to the Government: The draft Labour Code to facilitate ratification of C.87 has been submitted to Parliament for approval. ALI reiterated its support for the ratification of C.87, and stated that the ratification enjoys tripartite support. The CGTL reiterated its support for the ratification of C.87 and expressed its expectation that the ratification process should be finalised before the end of 2013. According to the CGTL, no obstacles remained in the ratification process.</p> <p><b>2013 AR:</b> According to the Government: The draft Labour Code to facilitate ratification of C.87 has been approved by the Parliament's Foreign Affairs Committee and will be submitted to the plenary session of the Parliament as soon as possible. ALI reiterated its support for the ratification of C.87, adding that no progress in the ratification</p>
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			<p>process had been made over the last year due to the current social and economic situation in the country.</p> <p>The CGTL reiterated its support for the ratification of C.87, and mentioned that this Convention was already being applied in Lebanon.</p> <p><b>2012 AR:</b> According to the Government: No change.</p> <p>ALI and CGTL expressed their support to ratification of C.87.</p> <p><b>2011 AR:</b> According to the Government: The Government supports the ratification of C.87. The Ministry of Labour is in the process of reviewing current legislation to protect equally and uphold the rights of workers and employers to organise and create unions by strengthening their capacity.</p> <p><b>2010 AR:</b> According to the FCCIAL: There is no need to ratify C.87, as it is already applied in Lebanon except in some public sectors.</p> <p>The CGTL reiterated the same statement as last year and pointed out that a tripartite committee had been set up to study how the PR can be implemented in the public sector.</p> <p><b>2009 AR:</b> According to the Government: The Government supports the ratification of C.87. While the work on adoption of the Labour Code is in progress, the Ministry of Labour that some of the considerations hindering the way to ratification will be dispelled. It also notes that C.87 was already applied in practice in the country.</p> <p>The CGTL stated that its support for the ratification of C.87, and supported the Government’s indication that this Convention was being already being applied in Lebanon, but with the exception of the public sector.</p> <p><b>2008 AR:</b> The Government indicated that it is currently preparing draft amendments to the staff regulations and to the Labour Code, which will include the promotion of the right to freedom of association (FA) in the public and private sectors. The ratification of Convention No. 87 relies therefore directly on the developments of those draft laws.</p> <p><b>2007 AR:</b> According to the Government: There are still some discrepancies between the provisions of the draft amendments to the Labour Code and C.87. However, the Government is waiting for ILO comments on these amendments.</p> <p><b>2006 AR:</b> In response to the ICFTU’s observations, the Government indicated that it is interested in ratifying C.87 and has requested ILO technical assistance to review the draft Labour Code in the light of the provisions of this Convention.</p> <p><b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.87.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>The 1926 Constitution guarantees trade union freedom and the right to establish legal associations. Its article 13 provides that “the freedom to express one’s opinion verbally or in writing, the freedom of the press, freedom of assembly and the freedom of association are guaranteed within the limits established by law”.</p>

		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b>  <b>2005-2009 ARs:</b> According to the Government: The draft amendment to the Lebanese Labour Code, prepared by a tripartite committee and some legal advisers, was not transmitted to the Civil Service Council but was rather referred to the Council of Ministers to follow its legal course. It is worth noting that the Ministry of Labour retrieved the draft amendment in order to re-examine it and incorporate the modifications to further harmonize its provisions with international labour Conventions ratified by Lebanon. The reviewed draft version was communicated to the ILO for information and comments. In response to a recent letter sent by the Ministry of Labour to the Civil Service Council, in order to inform us of any latest developments concerning the amendment of the staff regulations, the Civil Service Council indicated that no change has occurred, and that the work is still in progress to update the staff regulations.</li> </ul>
			<ul style="list-style-type: none"> <li>• <b>Legislation:</b>  <b>2014 AR:</b> According to the Government: The draft Labour Code, referred to Parliament for approval, aims to facilitate ratification of C.87.  <b>2013 AR:</b> According to ALI: The revised Labour Code is still in the process of being drafted.  <b>2011 AR:</b> According to the Government: The draft amendment of the Labour Code grants the Minister of Labour a grace period of three months to accept or refuse a request to establish an employers' or workers' organization. The refusal must be justified and is subject to appeal before the competent courts.  <b>2008 AR:</b> According to the Government: The draft amendment to the Labour Code has been referred to the Council of Ministers to follow its legal process. The Ministry of Labour has subsequently retrieved the draft in order to reconsider it and to incorporate some modifications so that its provisions are compatible with international labour standards. These modifications were sent to the ILO for comments.  <b>2007 AR:</b> According to the Government: A tripartite committee that was constituted of representatives of Ministry of Labour, Employers and Workers' organisations and some legal advisers prepared the draft amendments to the Labour Code. As for the Civil Service Council, it has prepared amendments to the staff regulations that contain recognition of the right to establish trade unions for employees in the public sector. These amendments then have been referred to the Prime Ministry to follow its legal course. The amended Labour Code deals with the principle and right (PR).  <b>2003 AR:</b> The Draft Labour Code Amendment would allow public administration employees to enjoy freedom of association (FOA). It also includes a provision which would authorize certain categories of persons to enjoy the right to organize, while according to laws and regulations in force, such persons do not have that right.</li> <li>• <b>Regulations:</b>            Decree No. 17386 of 2 September 1964 and Legislative Decree No. 112 of 12 July 1959 relate to the PR.</li> </ul>



		<b>Basic legal provisions</b>	(i) The Constitution; (ii) the Labour Code (section 83 of the Labour Law of 23 September 1946 and section 2 of the Laws of 3 August 1909); (iii) the Code of Obligations and Contract; (iv) the Collective Agreement, Conciliation and Arbitration Act, which was enforced by Decree No. 17386 of 2 September 1964 (sections 2 and 6); and (v) Legislative Decree No. 112 of 12 July 1959.	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<p><b>2012 AR:</b> According to ALI: The right to strike is respected in Lebanon, and workers are paid days of strike.</p> <p><b>2009 AR:</b> The Government confirmed that the Ministry of Labour examined the ILO's comments and that consultations on freedom of association were in progress between the parties concerned, especially employers' and workers' organizations.</p> <p><b>2007 AR:</b> Concerning the requirement of prior authorisation to establish employers' organizations, the Government indicated that it was waiting for ILO comments on the draft amendments to the Labour Code.</p> <p><b>2006 AR:</b> The Government indicated that the requirement of prior authorization to establish employers' or workers' organizations would be discussed with the ILO.</p> <p><b>2000 AR:</b> All categories of employers can set up their organizations, but prior Government authorization is necessary to operate these organizations (section 86 of the Labour Code).</p>
		<b>Judicial decisions</b>	<b>NIL.</b>	



			<p><b>For Workers</b></p>	<p><b>2009 AR:</b> The ITUC reiterated most of the challenges concerning Lebanon it mentioned under the previous AR, in particular as concerns: (i) categories of workers that are excluded from the scope of the Labour Code; (ii) Government's interference in trade unions' creation and activities, including the legal possibility for administrative dissolution of trade unions; (iii) restrictions on the right to strike; and (iv) the denial of the right to join trade unions for Palestinians.</p> <p><b>2007 AR:</b> Concerning the requirement of prior authorisation to establish workers' organizations, the Government indicated that it was waiting for ILO comments on the draft amendments to the Labour Code.</p> <p><b>2006 AR:</b> According to the Government: the issue of the requirement of prior authorization to establish workers' organizations will be discussed with the ILO.</p> <p><b>2003-2006 ARs:</b> Prior Government authorization is required to establish workers' organizations. Freedom of association can be exercised at enterprise, sector/industry/commercial, national and international levels by the following categories of workers: medical professionals; teachers; agricultural workers; workers engaged in domestic work; workers in export processing zones (EPZs) or enterprises/industries with EPZ status; migrant workers, who can join an occupational trade union under the general conditions laid down in the Labour Code; and workers in the informal economy. FOA and the right to collective bargaining can be exercised by workers in the public service with the exception of workers in public administrations, the judiciary and the military and security forces. It is necessary to be 18 years of age to join an occupational trade union.</p> <p>The Draft Labour Code contains provisions allowing civil servants in public administration, except judges and the military and security forces, to establish and join unions. The issue will be discussed within the framework of ILO technical assistance.</p>
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			<p><b>Special attention to particular situations</b></p>	<p><b>2012 AR:</b> According to CGTL pension and social security are the main issues for them.</p> <p><b>2011 AR:</b> According to the Government: Freedom of association is evolving in the public sector as now employees and civil servants are starting to organize in the form of associations.</p> <p><b>2010 AR:</b> According to the Government: The National Management Committee which has been set up to deal with the situation of women migrant domestic workers, has prepared a draft law on regulation of the work of domestic workers to be submitted to Parliament. Furthermore, a working group has been set up to investigate any complaint filed by domestic workers against recruitment offices and help to settle disputes.</p> <p><b>2008 AR:</b> According to the Government: a National Management Committee was created in May 2007 to deal with the situation of women migrant domestic workers. Its task is to prepare and implement projects aimed at protecting these workers in coordination with the relevant international organizations and the civil society committees. The following projects have been elaborated: (i) a handbook on rights and obligations; (ii) a consolidated labour contract; and (iii) a special law on women migrant domestic workers.</p> <p><b>2005-2007 ARs:</b> According to the Government: Based on the provisions of the Labour Code, women have the same rights and obligations related to the right to organize, and that there is no discrimination between men and women in this matter.</p> <p><b>2003-2005 ARs:</b> According to the Government: the Labour Code (section 50) grants immunity to members of the executive councils against any arbitrary dismissal.</p>
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		<p><b>At international level</b></p>	<p>According to the Government: No particular restrictions on the international affiliation of employers' and workers' organizations.</p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2010 AR:</b> According to the Government: Some 45 labour inspectors have participated in a training programme on the principle and right organized by ILO regional office and 26 new labour inspectors have been recruited in November 2008.</p> <p><b>2008 AR:</b> According to the ITUC: The Ministry of Labour issued a Decree establishing a high-level national steering committee to amend the labour law with a view to reinforcing the rights of domestic workers. That committee will also draw up a standard contract for such workers and prepare a two-year action programme.</p> <p><b>2004-2005 ARs:</b> According to the Government: There are inspection/monitoring mechanisms and capacity building of responsible Government officials. Legal reform and special institutional machinery are envisaged. In instances where the PR has not been respected, grievances can be submitted to the competent administrative unit at the Labour Ministry and to competent courts if no solution is found.</p>	



	<p><b>Involvement of the social partners</b></p>	<p><b>2014-2015 ARs:</b> According to the Government: Following Decision No. 64/2012 social dialogue will be strengthened and institutionalised through the establishment of a permanent tripartite commission on social dialogue. ALI indicated that it had promoted ratification of C.87 in tripartite consultations.</p> <p>According to the CGTL: Social dialogue is continuously exercised and discussions have included the ratification of C.87. Furthermore, a request put forward by the CGTL regarding public sector workers' right to organize, has been adhered to by the Government and incorporated into legal amendments.</p> <p><b>2012 AR:</b> The CGTL mentioned that the new draft Labour Code was still under tripartite discussion.</p> <p><b>2009 AR:</b> According to the Government: A tripartite committee has been set up to study the issue of ratification of C.87 and prepare the draft amendment to the Labour Code.</p> <p><b>2007 AR:</b> According to the Government: The Ministry of Labour encourages tripartite social dialogue. In this respect, the results obtained were positive.</p> <p><b>2002-2006 ARs:</b> Employers' and workers' organizations have participated in a tripartite committee to lay down a draft amendment to the Labour Code. In addition, they are members of numerous economic and social, as well as arbitration, bodies. Moreover, employers' and workers' organizations participate in tripartite seminars on various labour issues, arranged by the Ministry of Labour in cooperation with the ILO and the Arab Labour Organization.</p> <p>A tripartite commission was established by the Ministry of Labour in order to propose amendments to the Labour Code.</p>
	<p><b>Promotional activities</b></p>	<p><b>2014 AR:</b> According to the CGTL: Great progress has been made in aligning the national legislation with the provisions of C.87, and requests made by the CGTL have been incorporated in the legal amendments. In parallel with the promotional activities to ensure adequate legal amendments, Members of Parliament and committees have been sensitized on the content of C.87 and the legal amendments to facilitate the ratification process and ensure its finalisation.</p> <p><b>2013 AR:</b> The CGTL indicated that it had organized a number of workshops and awareness raising campaigns on the PR.</p> <p><b>2012 AR:</b> According to the Government: Freedom of association is exercised in Lebanon. As an example, the CGTL made a call for a general strike for salary increase. However, this call for strike was cancelled following negotiations with the Ministry of Labour. The Committee for the Evaluation of the Cost of Living is currently meeting to discuss wage increases.</p> <p>The CGTL indicated that trade union diversity was being implemented in the private sector.</p> <p><b>2010 AR:</b> The Government indicated that several tripartite seminars and trainings had been organized in collaboration with ILO, in particular Regional Seminar on the ILO Declaration and International Labour Standards and its impact on labour administration and labour inspections in Beirut. In November 2008, two Senior Officers of the Ministry of Labour participated</p>



		<p>in the ILO/Turin Course on International Labour Standards during which issues concerning the Declaration and its follow-up had been addressed, including those relating to C.87.</p> <p>According to the FCCIAL: Awareness raising campaign is regularly organized among its members all over the country.</p> <p>The CGTL indicated that it had organized a number of workshops and awareness raising campaign on Freedom of Association.</p> <p><b>2009 AR:</b> According to the Government: The Ministry of Labour will soon organize two training courses ratified International Labour Conventions. Moreover, the Government encourages trade union activities, including publish studies that promote C.87.</p> <p><b>2008 AR:</b> The Government indicated that the National Institute for Administration of the Ministry of Labour is preparing a training course for the staff of the Labour Inspection, Prevention and Safety Unit on all the ratified international labour Conventions. Other training courses will also be provided to the government commissioners in the Labour Arbitration Councils, through the Justice Institute of the Ministry of Justice.</p> <p><b>2007 AR:</b> The Government indicated that the prevalent political conditions had not allowed the organization of the planned workshop on International Labour Standards, with special focus on freedom of association, in cooperation with the International Training Centre of the ILO-Turin. Therefore, this activity was postponed.</p> <p><b>2005 AR:</b> According to the Government: Capacity building and awareness-raising activities have been implemented.</p>
	<p><b>Special initiatives</b></p>	<p><b>2014-2015 ARs:</b> According to the Government: A Permanent Tripartite Commission on Social Dialogue has been established by Decision No. 64/2012 with a view to strengthen and institutionalise social dialogue. The Commission is responsible for creating a climate of understanding and cooperation between the social partners and to allow for proposals and solutions covering a broad range of policy areas to enjoy tripartite support. The Commission will be chaired by the Minister of Labour, and will include representatives of various ministries and employers' and workers' organizations.</p> <p><b>2009 AR:</b> According to the Government: The national steering committee is about to set a system for the migrant female domestic workers. This committee made much headway with establishing a standard work contract for the incoming male/female domestic workers and a directive guide for foreign female domestic workers in Lebanon.</p> <p><b>2008 AR:</b> According to the ITUC: the Ministry of Labour issued a decree establishing a high-level national steering committee to amend the local labour law to take better account the rights of domestic workers. That committee will also draw up a standard contract for such workers and prepare a two-year action programme.</p> <p><b>2007 AR:</b> According to the Government: The large number of workers' federations and unions in the country should be attributed to the following elements: (i) the well-known experience of a free trade union movement in Lebanon; (ii) the government's non-interference in trade unions' establishment and activities; and (iii) the legal protection of trade unions.</p> <p><b>2006 AR:</b> The Government indicated that the Ministry of Labour had revived more than 60 trade unions the activities of which were interrupted.</p> <p><b>2004-2005 ARs:</b> According to the Government: Successful examples in relation to FOA:</p> <ul style="list-style-type: none"> <li>• All types of trade unions, at all levels, play a very important role in submitting and proposing social and economic laws, participating effectively in determining the economic policy in the country, and conducting negotiations and dialogue with employers on working conditions and terms and prevention of labour disputes.</li> <li>• Trade unions enjoy freedom of movement to defend their interests.</li> <li>• Workers' and employers' organizations participate in the committees established by the Ministry of Labour to prepare projects of a social nature. Many activities have been undertaken in this regard.</li> </ul>



<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014-2015 ARs:</b> According to ALI: The main challenges are related to: (i) political instability (ii) lack of capacity in government institutions; (iii) the Parliament's lack of capacity; (iv) the economic and social situation; and (v) legal obstacles.</p> <p><b>2013 AR:</b> According to ALI: The social and economic situation in the country is hampering the ratification process from moving forward. Political instability yet remains a major challenge to ratification of C.87 by Lebanon.</p> <p><b>2012 AR:</b> ALI indicated that the main challenge for ratification of C.87 was political instability.</p> <p><b>2010 AR:</b> According to FCCIAL: The only challenge for Lebanon to realize the PR is the time needed to make the necessary institutional grounding and improve capacity building of the tripartite partners.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2014 AR:</b> According to the CGTL: All difficulties related to the ratification of C.87, including legal obstacles, have been overcome.</p> <p><b>2009 AR:</b> According to the CGTL: C.87 is not applied in the public sector. Moreover, the multi-religion and multi-ethnic composition of Lebanese society is a challenge in the way to promote C.87.</p> <p>The ITUC reiterated its observations under the 2007–08 ARs concerning: (i) the broad government interference in trade union affairs; (ii) restrictions on freedom of association and the right to strike; and (iii) denial of freedom of association to Palestinian refugees.</p> <p><b>2007 and 2008 ARs:</b> According to the ICFTU then ITUC: (i) the Government continues to interfere in trade unions' affairs; (ii) restriction of freedom of association for many categories of workers (Government employees, some categories of agricultural workers, domestic workers, day workers and temporary workers); limitation on strike rights; (iii) no protection against anti-union discrimination; (iv) migrant workers are not allowed to form trade unions; (v) Palestinians are denied many rights; and (vi) the right to organize demonstrations is limited by the obligation to establish the number of participants in advance and the requirement that five per cent of the union's members be assigned to maintain order.</p> <p><b>2006 AR:</b> The ICFTU raised the following challenges: (i) there are restrictions on the right to organize for trade unions; (ii) the law does not adequately protect workers against anti-union discrimination although the draft Labour Code would resolve this issue; (iii) the Government has often interfered in trade union affairs; (iv) Palestinian refugees (11 per cent of the population) are not allowed to form trade unions.</p> <p><b>2000-2006 ARs:</b> ICFTU's observations: (i) Lebanon's Labour Code bans around 150,000 government employees from forming or joining trade unions; (ii) the Minister of Labour has wide powers under the law and must give prior authorization before a union can be formed; (iii) he must approve the results of all trade union elections; (iv) the law permits the administrative dissolution of trade unions and forbids them to engage in any political activity; (v) strike rights are legally restricted.</p>



	<p><b>According to the Government</b></p>	<p><b>2011 AR:</b> According to the Government: The major challenges in the realization of freedom of association in Lebanon are as follows: (i) the misuse of some freedoms under the PR and their use for misguided purposes, such as the call for strike by the General Workers' Union in May 2008 which involved the establishment of stone roadblocks and the burning of tyres; and (ii) the occasional wars in the Southern Lebanon which are a threat to public security and the exercise of the PR in an environment where factories, bridges and roads and infrastructures are destroyed.</p> <p><b>2010 AR:</b> According to the Government: Discrepancies between provisions of C.87 and Lebanese legislation are a challenge for Lebanon. In response to ITUC's observations under the 2009 AR, the Government indicates that the Labour Code does exclude in fact some categories of workers of its scope (foreign workers are free to join trade unions) but the Lebanese Government has considered the promulgation of separate legislation, by virtue of decrees to be promulgated by the Council of Ministers. Furthermore, the Government indicates that the national steering committee has prepared a draft law on the regulation of work of domestic workers' to be submitted to Parliament. The Government wishes to point out that the draft amendment to the Labour Code provides that "the administrative dissolution of a trade union shall be the prerogative of the General Assembly of the trade union concerned, by an absolute majority of its members" and that the Government cannot operate administrative dissolution of trade unions. The Government added that the right to strike is respected in Lebanon; however draft amendment to the Labour Code provides that labour dispute shall be settled by mediation, and any work stoppage by workers or employers arising out of a collective dispute, before or during the period of mediation or arbitration, shall be considered illegal.</p>
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	<p><b>2008 AR:</b> In response to ITUC’s observations, the Government indicated the following: (i) the authorization for the establishment of trade unions has never been an obstacle to their creation, which is proved by the existence of 568 associations of employers and workers and 60 trade unions and trade union federations. The Labour Code left it to each trade union to define the fields of its work by its Standing Orders set upon the agreement of two thirds of its legislative body; (ii) the role of the Ministry of Labour in the “context of trade union elections” is simply to supervise the election operations organized by a trade union, without the intervention of the Ministry neither in fixing the date of the election nor in appointing the candidates. It only takes note, and its supervision is to make sure that the election runs according to the Standing Orders of the trade union and in the presence of a polling committee including representatives of the trade union and the candidates as well as delegates from the Ministry of Labour. The Ministry has no role in the distribution of the posts, which is carried out by the elected board through a secret ballot not attended by the Ministry. Its ratification of this distribution is considered as a procedure to get informed of the names of the members and the tasks that they will assume according to this distribution; (iii) the Labour Code gives the Government the right to dissolve the executive board of a trade union in case this board does not respect the obligations it has according to the trade union’s Standing Orders set originally by the general assembly and voted by a majority of two thirds of its members, or in case it carries out an action which does not fall under its terms of reference, provided that the election of a new board takes place in the three months following the date of the dissolution. Thus, the Government’s role is limited to the dissolution of the board in specific cases determined exclusively in the Labour Code (section 105); moreover, the draft amendment to the Labour Code gives the general assembly of a trade union the right to dissolve the trade union upon a decision taken by a majority of two-thirds of its members; it also gives the competent courts the right to dissolve a trade union in case it does not respect the public order (section 155); consequently, the Government has no longer any role to play in the dissolution of trade unions; and (iv) the Lebanese Labour Code limits the purpose of trade unions to the issues that would protect, promote and scale-up occupations while defending their interests and promoting all their economic, industrial and commercial aspects. Thus, when the law forbids trade unions to engage in political activities or to participate in meetings and demonstrations of political nature, it intends to protect the interests of trade unions’ members regardless of their political preferences and affiliations, and logically to preserve their trade-unionist unity. Finally, the draft amendment to the Labour Code aims to clarify that trade unions do not have any political capacity, and to forbid them from engaging in any political activity that would affect the national unity.</p> <p><b>2007 AR:</b> According to the Government: Domestic workers are excluded from all provisions of the Labour Code.</p> <p><b>2006 AR:</b> In response to the ILO Declaration Expert-Advisers’ observations, the Government indicated that it was interested in ratifying C.87 and had sent the draft Labour Code to the ILO for review in the light of the provisions of C.87.</p> <p>Government’s response on the ICFTU’s observations: (i) The relations between the Ministry of Labour’s competent units and labour organizations are based on cooperation and coordination and not on containment, pressure or force; (ii) the Lebanese Constitution upholds individual freedoms and places them under its protection, as does the Labour Code (sections 83, 89, 90, 92, 93, 94, 97, 99 and 106); (iii) section 86 of the Labour Code provides that no employers’ or workers’ union may be established without prior authorization (license) from the Labour Ministry - this is meant to publicise the wish of the parties to establish a union; (iv) the administrative procedures set out for the creation of a union or federation are <i>per se</i> an element of legal protection to defend a union from the control of any authority, and provide adequate legal protection to workers; (v) the existence of more than 700 trade unions with several confederations in a country with a population of barely four million inhabitants is a clear evidence that freedom of association and the right to organize are allowed in the country and protected by law; (vi) the right to demonstrate and express one’s opinion and the right to strike are freely allowed, while State authorities have protected demonstrators and such actions occur frequently in public in Lebanon; (vii) most trade unions take part in political activities; (viii) in order to ensure the human rights of Palestinians in Lebanon, the Minister of Labour has passed Decree No. 67 on 7/6/2005, which especially allows Palestinians to exercise on an equal footing all professions and activities authorized to Lebanese citizens.</p>
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		<p><b>2000-2005 ARs:</b> Government's response on the ICFTU's observations: (i) in the public sector, there is an association for graduates of the National Institute for Administration and there are teachers' associations at all levels of education (primary, secondary and tertiary). They conduct negotiations with administrations in order to safeguard their rights and protect the rights of their members; (ii) the mandate of the Ministry of Labour with respect to union activities is restricted to maintaining public order, protecting the public interest and assuring the sound and appropriate application of rules and regulations governing union activities; (iii) the Labour Code gives the Government the right to dissolve a union committee only if the union committee is in breach of the responsibilities assigned to it or acts outside the scope of its competence; (iv) the basic objective of a trade union is to defend the professional interests of its members and ensure progress in the economic, industrial and commercial spheres and in fact, members of a trade union, like all other citizens, do exercise their right to participate in political activity and to vote in all elections. A trade union, as a legal entity, is not entitled to engage in political activity in its capacity, given that political practice is an individual right.; (v) the right to strike is accorded to trade unions in all sectors; (vi) the draft amendment to the Labour Code provides for the right to establish and to join trade unions for servants and employees of public administrations, except for judges, the military and security forces; (vii) Prior authorization to establish a union is required because of the confused situation of unions due to the political, religious and economic situation. The issue of authorization will be discussed within the framework of ILO technical assistance. However, the issue of authorization has not been a barrier before the establishment of trade unions: in fact, there are in Lebanon 381 trade unions, 167 employers' organizations and 66 trade union federations.</p>
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<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2014-2015 ARs:</b> ALI reiterated the request for ILO technical cooperation made under the 2013 AR; ILO sensitization activities on the provisions of C.87 and the implications of its ratification should be carried out in Lebanon as soon as possible.</p> <p>The CGTL requested ILO technical cooperation to strengthen social dialogue in the country and to ensure the finalisation of ratification of C.87.</p> <p><b>2013 AR:</b> According to ALI: ILO sensitization activities on the provisions of C.87 and the implications of its ratification should be carried out in Lebanon as soon as possible.</p> <p>The CGTL indicated that ILO's assistance is requested to promote and realize the PR in the public sector.</p> <p><b>2012 AR:</b> The CGTL requested ILO's technical assistance to strengthen social dialogue in Lebanon.</p> <p><b>2010-2011 ARs:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Lebanon exists in the following areas: (i) awareness raising campaign and tripartite capacity building on the PR, with particular focus on the dissemination of the different aspects of C.87.</p> <p>The CGTL requested ILO's technical assistance to strengthen the social dialogue in Lebanon. It further indicated that ILO's assistance is also requested to promote, realise and implement the PR in the public sector.</p> <p><b>2009 AR:</b> According to the Government: The ILO's technical cooperation is needed in support of the PR in the country, with financial, material and educational means.</p> <p>The CGTL shared this view.</p> <p><b>2007 AR:</b> According to the Government: ILO technical cooperation would be needed to finance the project of automation (mechanization) of trade unions and setting a geographical (localization) data basis in order to improve the continuous follow-up of trade union activity.</p> <p>According to the CGTL: There is a need for technical cooperation on workers' education.</p> <p><b>2006 AR:</b> According to the Government: The requests for technical assistance are considered as one of the priorities of the Ministry of Labour but are to be discussed with the ILO.</p> <p><b>2005 AR:</b> According to the Government: A need for technical cooperation to facilitate the realization of the PR in Lebanon exists in the following areas, in order of priority: (1) legal reform (labour law and other relevant legislation); (2) capacity building of responsible Government institutions; and (3) strengthening tripartite social dialogue. The Government hopes that these areas, which were defined in cooperation with the ILO, will be among the technical cooperation priorities that the ILO will help to implement.</p>
	<b>Offer</b>	ILO and UNDP TOKTEN Project through Lebanese expatriates.



<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) encouraged Lebanon to complete its legal review process to remove the obstacles to the ratification of C.87. They acknowledged the high number of promotional activities concerning the realization of the PR in Lebanon (and some other countries), and encouraged the Office to maintain its support to these activities. However, the IDEAs listed Lebanon among the countries where some unions are subject to government's interference or influence, and recalled in this regard the following: (...) the right to official recognition is an essential aspect of the right to organize as it allows employers' and workers' organizations to be in a position to play their roles efficiently. Furthermore, any government intervention in employers' and workers' organizations' internal affairs (right to establish and join organizations of their own choosing, without distinction whatsoever and without previous authorization, right to draw up internal constitutions and rules, right to elect their representatives in full freedom, etc.) constitutes interference in the functioning of these organizations, which is a denial of the principle and right". Finally, the IDEAs noted that restrictions on the right to organise of certain categories of workers in Lebanon (and some other countries), such as migrant workers, domestic workers and workers in the public service, were not compatible with the realization of this principle and right (cf. paragraphs 32, 35, 36 and 38 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs observed that with a view to giving full effect to this principle and right, the Government should be able to offer to all workers the opportunity to exercise their rights, and not have restrictions on the right to organize for migrant workers and domestic workers and workers in the public service (cf. paragraph 37 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2006 AR:</b> The IDEAs listed Lebanon among the countries where government authorization was required to establish employers' or workers' organizations and indicated that such restrictions would clearly deny the full potential of the principle of freedom of association (cf. paragraph 36 of the 2006 Annual Review Introduction – ILO: GB.295/5).</p> <p><b>2005 AR:</b> The IDEAs listed Lebanon among the countries where some efforts were being made in terms of research, advocacy activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and /or ratification. However, they also mentioned that Lebanon was among the countries where important initiatives were started and where progress had slowed down (cf. paragraphs 13 and 147 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2003 AR:</b> The IDEAs were encouraged to see the Government of Lebanon pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help (cf. paragraph 73 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>





**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: MALAYSIA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000 but no change reports for the 2007 and 2008 ARs.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Malaysian Employers Federation (MEF), the Malaysian Trades Union Congress (MTUC), the National Union of Bank Employees (NUBE) and the Congress of Unions Employees in the Public and Civil Services (CUEPCS) through communication of government reports and tripartite meetings on reporting issues.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the MEF. <b>2014 AR:</b> Observations by the MEF. <b>2013 AR:</b> Observations by the MEF. <b>2012 AR:</b> Observations by the MEF. <b>2009 AR:</b> Observations by the MEF. <b>2007 AR:</b> Observations by the MEF.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations by the MTUC. Observations by the NUBE.</p> <p><b>2014 AR:</b> Observations by the MTUC. Observations by the NUBE.</p> <p><b>2013 AR:</b> Observations by the MTUC. Observations by the NUBE.</p> <p><b>2012 AR:</b> Observations by the NUBE. Observations by the MTUC.</p> <p><b>2010 AR:</b> Observations by the CUEPCS. Observations by the MTUC.</p> <p><b>2009 AR:</b> Observations by the International Trade Union Confederation (ITUC).</p> <p><b>2008 AR:</b> Observations by the MTUC. Observations by the ITUC.</p> <p><b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).</p> <p><b>2006 AR:</b> Observations by the ICFTU.</p> <p><b>2005 AR:</b> Observations by the ICFTU.</p> <p><b>2002 AR:</b> Observations by the ICFTU.</p> <p><b>2000 AR:</b> Observations by the ICFTU.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Malaysia ratified in 1961 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>NO, in the near future.</b></p> <p><b>2015 AR:</b> According to the Government: Malaysia still doesn't intend to ratify C.87. According to the MEF: Considering legal incompatibilities between C.87 and national laws, MEF is against ratification of this instrument, which may put industrial harmony at risk. However, the ratification is under discussion within the context Transpacific Partnership Agreement. MTUC indicated that it has set up a Freedom of Association Committee to mobilize and campaign for the Government to ratify C.87. MTUC further indicated that terms of reference have been adopted for a 2 years ratification process on C.87 including nationwide campaign, awareness raising activities and social media use. A Forum is planned to be set up by August 2015 as well.</p> <p><b>2014 AR:</b> According to the Government: The Government of Malaysia does not intend to ratify C.87 in the near future. However, Malaysia strives to adopt the principles embodied in the instrument. According to the MEF: Considering legal incompatibilities between C.87 and national laws, it is very unlikely that C.87 will be ratified by Malaysia. MEF is against ratification of this instrument,</p>

			<p>as it poses risks to the industrial harmony and encourages fragmentation of the trade union movement. MEF favours the current well-functioning national labour relations with strong social partners.</p> <p>The MTUC expressed its support for the ratification of C.87 and indicated that it had continuously urged the Government to undertake the necessary legal amendments and move forward with the ratification of the instrument.</p> <p>The NUBE indicated its support for the ratification of C.87 provided that the instrument does not weaken the trade unions' bargaining power in relation to the employers.</p> <p><b>2013 AR:</b> According to the Government: While Malaysia is yet to ratify C.87, the country does strive to implement the principles embodied in C.87.</p> <p>According to the MEF: The MEF is still against ratification of C.87. The Ministry of International Trade and Industry has adopted a favourable approach towards the ratification of C.87, in order for Malaysia to be in line with the provisions of a Free Trade Agreement which had been signed between several Asian countries. With a view to attract more foreign investors, the Ministry of International Trade and Industry has adopted the opposite position of the Ministry of Human Resources, which is still against the ratification of C.87, this Free Trade Agreement has led to more pressure being put on the Government to change its position toward the ratification of C.87. However, the Government's position remains the same and there is no immediate prospect to ratifying C.87.</p> <p><b>2012 AR:</b> According to the Government: There is no immediate prospect of ratifying C.87 in the near future. However, the country does try to implement the principles embodied in C.87.</p> <p>According to the MEF: It is very unlikely that C.87 will be ratified. MEF is against ratification this instrument, and there is no need for it as there is a practiced constitutional right to form unions in Malaysia. Current national labour relations laws are not in line with the provisions of C.87, and the current national laws are making unions stronger than what they would be in accordance with C.87.</p> <p>The NUBE/MTUC expressed its support for the ratification of C.87 by Malaysia, and urged the Government to take action in this regard.</p> <p><b>2011 AR:</b> According to the Government: There is no prospect for the ratification of C.87 in a near future. However, the country strives to implement the principles and rights embodied in the Convention.</p> <p><b>2010 AR:</b> The Government indicated that the ratification of C.87 was not considered as a priority by Malaysia for the time being as this instrument is not relevant to national situation and historical background.</p> <p>The MTUC and the CUEPCS and the indicated their support for the ratification of C.87 by Malaysia even though the PR is fully applied at national level and that every single organization can register itself in the country despite the non-ratification of C.87.</p> <p><b>2009 AR:</b> The MEF stated it was not against the ratification of C.87.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>The Constitution (article 10(1)(c)) provides for freedom of assembly and association.</p> <p><b>2014 AR:</b> According to the Government: Article 10(1)(c) of the Federal Constitution provides all citizens with the right to form associations. Clauses (2)(c) and (3) of the Article clarifies that the right of citizens to form associations may be restricted by the Parliament: (2)(c) “Parliament may by law impose on the right conferred by paragraph (c) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, public order or morality”; and (3) “Restrictions on the right to form associations conferred by paragraph (c) of Clause (1) may also be imposed by any law relating to labour or education.” Even though the right to form associations is restricted by the Federal Constitution for Malaysian citizens only, labour laws do not prohibit non-citizens to join, participate in or organize associations.</p>
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		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p><b>2015 AR:</b> According to the Government: Although ratification is not intended, further minor relevant legislative amendments might be taken. According to MEF: The current national regulation has well-defined rules for trade union registration for the three regions in Malaysia (Peninsula, Sabah, Sarawak) and allows unions to be formed according to four categories: managerial, secretarial, confidential and security sectors.</p> <p><b>2014 AR:</b> According to the Government: Amendments to the Industrial Relations Act, 1967, were made with the intention to expedite the process of trade union recognition, and have been effective since February 2008. According to the MTUC: In the labour legislation amendment process, concerns have been raised by the MTUC as the current draft amendments have emphasized flexibility over workers’ protection and stands in favour of employers’ interests. While there is some uncertainty about the content of the proposed legal amendments, the MTUC finds it crucial that it is ensured that the amendments are in line with International Labour Standards (ILS).</p> <p><b>2013 AR:</b> According to the Government: The laws and practices in Malaysia related to freedom of association have not been significantly changed throughout the year. According to MEF: In 2011, the Government adopted, through tripartite consultations, the National Wages Consultative Council Act (Act 732, 2011), which introduces a national minimum wage. Furthermore, changes related to regulations for labour contractors have been made to the Employment Act, 1955, and are effective as of 1 April 2012. While the changes are meant to protect workers as it obliges contractors to register with the Department of Labour, trade unions have criticized the legal amendments arguing that they will lead to more outsourcing, less control and more threat to working conditions.</p> <p><b>2012 AR:</b> According to the Government: The laws and practices in Malaysia related to freedom of association have essentially remained the same. According to MEF: Legal changes have been made to address and improve some of the conditions that have been recognized as problems within the labour relations. These amendments cover: the process of recognition of unions; employers’ obligation to recognize a union as counterpart within 6 months from that the reception of the claim for recognition; and the right of foreign workers to join unions and benefit from collective agreements. Additionally, as of May 2009 the Government provided unions with a legal right to create unions on a regional level.</p> <p><b>2000-2006 ARs:</b> The Trade Unions Act, 1959 and the Industrial Relations Act, 1967 recognize the principle and right (PR) but impose some restrictions on joining and forming trade unions and on the right to collective bargaining.</p> <ul style="list-style-type: none"> <li>• <b>Regulations</b></li> </ul> <p>The Trade Unions Notification 1981 deals with the PR.</p>
		<p><b>Basic legal provisions</b></p>	<p>(i) The Trade Unions Act, 1959; (ii) the Industrial Relations Act, 1967; (iii) the Employment Act, 1955; (iv) the Act and Trade Unions Notification 1981, section 27; (v) Labour Ordinance (Sarawak Cap. 76); and (vi) Labour Ordinance (Sabah Cap. 67).</p>



		<p><b>Judicial decisions</b></p>	<p><b>2012 AR:</b> According to the Government: The claim made by the NUBE to have the court decision concerning the registration of the AmBank (M) Berhad Employees Union revised was dismissed by the High Court, the Court of Appeal and the Federal Court.</p> <p><b>2008 AR:</b> In response to the ITUC comments, the Government referred to the High Court decision on the issues raised by the National Union of Bank Employees (NUBE) on the registration of AmBank (M) Bhd. According to the Government this decision is now the subject of further appeal to the Appellate Court, and any comments made would be subjudice.</p>
	<p><b>Exercise of the principle and right</b></p>		<p><b>For Employers</b></p> <p><b>2002-2006 ARs:</b> All categories of employers can set up their organizations, but prior Government authorization is necessary to operate these organizations.</p>
			<p><b>For Workers</b></p> <p><b>2013 AR:</b> According to the Government: The Government has never interfered in the formation of trade unions or in their recruitment processes. Workers in Malaysia are free to join trade unions as long as they fall within the prescribed categories according to national legislation. Legal provisions are in place that provide for the protection of trade union members against discrimination and harassment by their employers.</p> <p>According to MEF: Despite that C.87 is yet to be ratified by Malaysia, freedom of association is a reality in the country. There are more than 500 trade unions at company level and more than 100 national trade unions in Malaysia. The electronic sector previously constituted an exception in terms of regulations for formation of trade unions. While a trade union in the electronic sector still cannot be formed at national level, the Government has introduced regulations for trade unions to be formed at regional level.</p> <p><b>2012 AR:</b> According to the Government: Workers in Malaysia are free to join trade unions as long as they fall within the prescribed categories in accordance with the national legislation. There are also laws that provide for the protection of trade union members against discrimination and harassment by their employers.</p> <p><b>2000-2006 ARs:</b> Freedom of association can be exercised by medical professionals, teachers, agricultural workers, workers engaged in domestic work, workers in export processing zones (EPZs) or enterprises/industries with EPZ status, and migrant workers. However, prior Government authorization is necessary to operate workers' organizations (compulsory registration under the Trade Unions Act 1959 and recognition for collective bargaining under the Industrial Relations Act of 1967 and its subsequent amendments).</p>



				Freedom of association (FOA) cannot be exercised by workers in the informal economy, members of the Royal Malaysian Police; members of any prison service; members of the armed forces; public officers engaged in confidential or security capacity; public officers holding any post in the managerial and professional group; and officers prohibited by any other law from joining a trade union, except those exempted by the Chief Secretary to the Government.
			<b>Special attention to particular situations</b>	<b>NIL.</b>
			<b>Information/ Data collection and dissemination</b>	<p><b>2015 AR:</b> According to the Government: 850 trade unions were registered in 2014.</p> <p><b>2014 AR:</b> According to the Government: Current statistics regarding the number of registered trade unions shows an increase from 690 registered trade unions in 2012 to 703 in 2013. Trade union membership rates also show an increase from 889,718 members in 2012 to 898,821 as at October 2013, amounting to 9,103 additional trade union members. This increase interrupts the downward trend which has been reported since 2009. In the fiscal year 2012, 1,244 activities fostering tripartite dialogue were conducted and 1,914 industrial site visits took place.</p> <p>The NUBE indicated that it had 30,000 members.</p> <p><b>2013 AR:</b> According to the Government: Current statistics regarding the number of registered trade unions show a small increase from 697 registered trade unions in 2011 to 706 in 2012. However, the trade union membership rates continue to show a decrease from 2011 to 2012, with a loss of 1001 trade union members. This starts to outline a trend, as the trade union membership rates have been decreasing each year since 2009.</p> <p>According to MEF: There are more than 500 trade unions at company level and more than 100 national trade unions in Malaysia.</p>





			<p><b>2012 AR:</b> According to the Government: Current statistics regarding the number of registered trade unions and membership rates show a small decrease from 2010 to 2011, with the number of registered trade unions decreasing from 690 to 687 and with a loss of 1138 trade union members. In total, only 7 per cent of the work force is unionized. The private sector has a considerably higher number of trade unions than other sectors, such as for example governmental or local authorities.</p> <p>According to the MTUC/NUBE: Only 10 per cent of the total workforce is unionised.</p> <p><b>2008 AR:</b> According to the ITUC: only 8.5 per cent of the total workforce is unionised.</p> <p><b>2002 AR:</b> The Government provided information and data that show a decrease of registered collective agreements under the 2002 Annual Review regarding number of trade unions and memberships by sectors, number of collective agreements, claims for union recognition, etc.</p>
		<p><b>At international level</b></p>	<p>According to the Government: There are no particular restrictions on the international affiliation of employers' and workers' organizations. However, a trade union must have an approval from the Director General of Trade Unions before it can affiliate internationally.</p>

	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2015 AR:</b> According to MEF: The Industrial Relations Department under the Human Resources Ministry has the mandate to act if freedom of association is allegedly violated, unsolved cases can be referred to the Industrial Court.</p> <p><b>2000-2006 ARs:</b> According to the Government: The registration of a trade union is provided for under the Trade Unions Act, 1959. Every application for registration of any trade unions must be in compliance with this law and shall be made to the Director-General of Trade Unions (DGTU) for registration in the prescribed form, and shall be signed by at least seven members of the union in order to ensure an orderly development of trade unions in this country, under the Trade Unions Act, 1959. The DGTU can also cancel or suspend the registration of a trade union under certain conditions (Trade Unions Act, 1959).</p> <p>Machinery appropriate to national conditions has been established in the public sector for purposes of discussing and to some extent negotiating terms and conditions of employment.</p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2011 AR:</b> According to the Government: Malaysia has never interfered in the formation of trade unions and their recruitment process.</p> <p><b>2000-2006 ARs:</b> The PR is enforced through law, collective agreements, free dispute settlement procedures and tripartite consultations at all levels. The Minister of Labour has the power to order recognition to be granted by the employer if the union claiming recognition is found competent and/or represents the majority of the workmen concerned.</p> <p>According to the Government: In instances where the PR has not been respected in the public sector, discussions and to some extent negotiations are held by the officers of National Joint Councils, the Congress of Unions of Employees in the Public and Civil Service (CUEPACS) and the Public Services Department. These discussions and negotiations are related to terms and conditions of employment, including remuneration and to issues affecting employees in the public service, including the statutory bodies and local authorities. Furthermore, in the private sector, the issue of complaints relating to anti-union practices by employers, including dismissal, is addressed by the Director-General of Industrial Relations (DGIR) or by the Industrial Court when the DGIR fails to resolve the complaint.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2014 AR:</b> According to the Government: In the fiscal year 2012, 1,244 activities fostering tripartite dialogue were conducted. The MTUC indicated its participation in social dialogue.</p> <p><b>2013 AR:</b> According to MEF: Social dialogue is practiced on a regular basis, partly through the National Labour Advisory Council. Furthermore, the National Wages Consultative Council Act (Act 732, 2011), which had been adopted by the Government in 2011, had been drafted through tripartite consultations.</p> <p><b>2012 AR:</b> According to the Government: The Government will continue to engage both employers' and the workers' representatives in consultation processes.</p> <p>According to MEF: The current national system functions well and leads to good industrial harmony, there are only minimal economic losses due to strike. Trade unions and employers are working well together, with a common goal of keeping Malaysia highly competitive on the global market.</p> <p><b>2004 AR:</b> According to the Government: From May to April 2008, the Government explained to the employers' and workers' organizations the new amendments regarding the PR in Malaysia. Tripartite meetings were also held to get suggestions to improve the industrial relations system in the country.</p> <p><b>2000-2006 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in regular consultations in respect of their terms and conditions of employment, including remuneration.</p>



	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: trainings have been provided on the PR.</p> <p><b>2014 AR:</b> According to the Government: Promotional activities include 1,914 industrial site visits that took place in the fiscal year 2012.</p> <p>The MTUC indicated that it had conducted campaigns to promote freedom of association, organized workshops and engaged with the Government to promote the ratification of C.87.</p> <p><b>2012-2013 ARs:</b> According to the Government: The Government of Malaysia has strived to incorporate the principles of C.87 into its laws, rules and regulations. The Government has continuously promoted freedom of association and the establishment of unions, within the perimeters of the national legislation.</p> <p>The MTUC indicated that it had conducted local campaigns to promote freedom of association in the country in 2010 and 2011. It further mentioned that it was consistently pressing the Government to implement C.87, as it is essential to unions' existence.</p> <p><b>2010 AR:</b> According to the MTUC: Workshops on the PR have been organised in cooperation with the members of the Registrar Office.</p> <p><b>2004 AR:</b> According to the Government: From May to April 2008, the Government explained to the employers' and workers' organizations the new amendments regarding the PR in Malaysia. Tripartite meetings were also held to get suggestions to improve the industrial relations system in the country.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2014 AR:</b> According to the Government: In 2013, the Ministry of Human Resources initiated, through the Trade Union Department, the Trade Union Training On Leadership and Raconteur (TUTELAR). By the end of 2013, three programmes involving approximately 600 participants had been conducted. The Ministry of Human Resources invited speakers from various agencies, including the ILO, on the subject of The Role of Trade Unions in Balancing and Improving the Relations between Employers and Employees in the Global Economy.</p> <p>The NUBE indicated that in May 2013 it had created the first Labour Research Institute in Malaysia.</p> <p><b>2012 AR:</b> According to MEF: Legal changes have been made to address and improve some of the conditions that have been recognized as problems within the labour relations. These amendments cover the process of recognition of unions, which previously was a time consuming process. With the legal amendments, employers now have an obligation to recognize a union as counterpart within 6 months from that the reception of the claim for recognition. As of May 2009, the Government provided unions with a legal right to create unions on a regional level. Foreign workers are also allowed to join unions and benefit from collective agreements. These legal amendments are implemented and practiced. Requirements for who can become a union leader have also been removed, making it easier to create new unions and have a leader elected to run it.</p> <p>According to the MTUC: Under national legislation, unions are not allowed in all sectors. Until Autumn 2010, this included the electronics industry, which is one of the most labour intensive industries in the country. This restriction put on unions in the electronics industry, has now been removed, partly due to ILO's involvement. Four unions have since been registered, but restricted to operating on a regional level. As additional progress is that the Government of Malaysia has given its commitment to decent work.</p> <p><b>2004 AR:</b> According to the Government: Successful example: The number of collective agreements voluntarily concluded on an annual basis and for a minimum duration of three years.</p>



<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2015 AR:</b> According to MEF: The Industrial Relations Act and the Trade Unions Act should be amended in order to comply with C. 87, but MEF believes that the current environment works well. There are more than 850 trade unions registered and have company-based trade agreements. Ratification of C. 87 could pose risks to the industrial relations harmony and encourage fragmentation of the trade union movement.</p> <p><b>2014 AR:</b> According to the MEF: Obstacles in the ratification process of C.87 are mainly related to the way in which the instrument has been interpreted.</p> <p><b>2013 AR:</b> According to the MEF: Despite obstacles in the ratification process for C.87, there are no challenges related to realizing freedom of association which is provided for by the Federal Constitution, Article 10.</p> <p><b>2012 AR:</b> According to the MEF: The MEF recognizes the challenges related to the national principle that general unions are not allowed, which is in contradiction to C.87. According to national legislation, unions are only to be organized by sector in the country. MEF is against the ratification of C.87 as it would change the recognition, registration and reporting process for unions which are currently satisfactory in the country.</p> <p><b>2009 AR:</b> The MEF indicated that the security situation in the country had politicized the labour issues.</p> <p><b>2007 AR:</b> According to the MEF: Employers abide by the laws and guidelines issued by the authorities in dealing with recognition claims by unions. It is never the intention of an employer to prolong or delay the process of a recognition claim. Such a procedure may involve referring the issues to the civil court, which may take longer to be decided. Referring the issue to the court for decision is a right, which may be exercised by the unions or the employers, and it should not be seen as anti-union tactics when the employer takes matter to the court. In fact the number of trade unions inclusive of employers' organizations increased by 569 in 2005. The membership in to the trade unions increased from 734,455 to 801,604 between 2001 and 2005.</p>
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			<p><b>2006-2007 ARs:</b> The ICFTU raised the following additional challenges: (i) no measures have been taken to speed up union recognition, despite previous promises, and the Government remained opposed to ratifying C.87; (ii) trade unions whose registration has been denied or withdrawn are considered as illegal associations; (iii) the Trade Unions Act establishes restrictions regarding the scope of a union’s membership, its size and who may qualify as a candidate to become a trade union official; (iv) restrictions on the right to form trade unions in the public sector; (v) the right to strike is not specifically recognised and is restricted; (vi) the Government has threatened to invoke the 1960 Internal Security Act to prevent unions from undertaking protest action; (vii) only about 8.5 per cent of the total workforce is unionised; (viii) lack of independence of trade unions; (ix) slow union recognition by employers; (x) employers impose extra restrictions; (xi) the Government has failed to apply sanctions against employers who have violated directives granting trade union recognition or who have refused to reinstate illegally dismissed workers; (xii) migrants workers are not allowed to join associations; and (xiii) the labour courts are inefficient.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2000-2005 ARs:</b> The ICFTU raised the following challenges: (i) slow and cumbersome recognition process of the trade unions; (ii) denial of union recognition by many employers, including some multinational corporations; (iii) prohibition of general unions or mergers unions to most workers who can only form in-house unions as exemplified in the case of women workers employed by multinational electronics companies who have been denied the right to organize a national union in the electronics industry since the early 1970; (iv) persisting political and legal obstacles to the organizing of trade unions; (v) extensive power of the DGTU (supervision, inspection, approval or withdrawal of registration, etc.); (vi) the serious obstacle to trade union organizing activities resulting in the establishment of often very risky and time consuming in-house unions by workers disqualified from union membership; (vii) hostility and threats of dismissal affecting workers forming in-house unions; (viii) legal and legislative restrictions and regulations on trade unions rights and activities, including the right to strike; (ix) police intimidation; (x) restrictions on joining trade unions for certain categories of workers including migrant workers; (xi) compulsory arbitration for parties involved in a dispute; (xii) weakness of the conciliation machinery; (xiii) inefficiency of the industrial court; (xiv) employees’ demand for higher wages and a guaranteed minimum wage in their companies.</p>



<p><b>According to the Government</b></p>	<p><b>2009 AR:</b> In response to the ITUC's observations, the Government indicated the following: (i) the Government had a series of discussions with both the trade unions and the employers (a list of these meetings was communicated in the Government's report to the ILO) before it tabled the amendments in Parliament, and the cry that MTUC was shocked is unfounded; (ii) the Government's call is to reduce red tape and help speedup process in dealing with its stakeholders. Thus, the delegation of the Director-General of Trade Unions' (DGTU)' power is needed to help speed the process, and only certain powers are vested on local officials. Personal powers of the DGTU are still held by him. Moreover, this provision is to clearly spell out what is in practice; (iii) the law only prohibits employees in managerial and executive positions from joining unions where they are not majority. Therefore, the law allows them to form unions for themselves; (iv) the IRA has no provisions limiting foreign workers from being covered by trade unions (cf. Chong Wah Plastics Sdn. Bhd, &amp; Ors v Idris Ali &amp; Ors. [2001] 1 ILR 598; (v) the right to strike is enshrined in section 43 of the IRA. The restrictions imposed as claimed by the ITUC are only procedural in nature whereby unions will need to follow these procedures if they intend to strike. The Government believes that strike should be the last resort and this gives time to the Industrial Relations Department to play its role in trying to resolve the dispute. These procedures are a necessity. In the event the strike is conducted illegally, that is not following the procedures, then the members who go on an illegal strike may be prosecuted. This is also done in many countries where the procedures are in place and with tougher penalties. However, in Malaysia, two strikes were recorded in 2007 and two others in 2008, without any prosecutions; (vi) the principal amendment to the Industrial Relations Act 1967 was to reduce the time taken for processing a claim for recognition, Under the amendment, if an employer fails to respond within 21 days, the union has 14 days to inform the Industrial Relations Department, which will then proceed to conduct a secret ballot to ascertain membership (simple majority) and at the same time request for the competency check with the DGTU. Once both decisions are available, the Minister will make a decision; and (vii) the amendment has also taken into account the problem of inefficient labour courts by introducing powers of investigation to the Industrial Relations Department. This will help resolve this problem.</p>
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	<p><b>2008 AR:</b> In a late response to the ICFTU’s observations, the Government stated that it has not ratified C.87, but nevertheless continues to strive towards the principles embodied in the Convention, and has assimilated the spirit of this instrument in the national laws, with several modifications to allow the continuous development and growth of the Malaysian economy. The Government further indicated the following: (i) the power of the DGTU on union formation and de-registration are meant to enable him to have a general supervision, discretion and control over relevant matters pertaining to trade unions. The same principle applies to de-registration – these powers are not absolute as the DGTU will only cancel the registration of a trade union if he is satisfied that a particular trade union has contravened the Trade Unions Act 1959 (Act 262), Trade Unions Regulations or the respective trade union’s rules and regulations; (ii) As a matter of fact, It Is not uncommon that the Director General’s decision has often been the Subject of judicial review by the High Court. Thus, the Director General walks the track cautiously; (iii) Contrary to ITUC’s comments, the Director General does not have wide discretion in de-registering trade unions under the Trade Unions Act 1959. It has to confine itself to the limits of powers conferred by the Act; (iv) the Malaysian Government considers it necessary to impose conditions, restrictions and regulations on the birth and growth of trade unions in the country (in order: (a) to ensure that trade unions operate in a healthy, democratic and responsible way and that do not pose any threat to the security of the country; (b) to prevent the existence of multiple trade unions within any particular establishment, trade, occupation and industry which would trigger inter trade union rivalry; and (c) to ensure that in the exercise of trade union’s rights, the interests of the people and the country as a whole are not sacrificed for the benefits of individuals who controls the unions); (iv) with regards to the Minister’s power to suspend a trade union, the power can only be exercised with the concurrence of the Minister of Internal Security (the sale purpose of having this provision in the law is to protect public interest and maintain public order); (v) restrictions on unions officers (A non-citizen of Malaysia can stand for election to become an executive committee of a trade union provided that his trade union has obtained an order of exemption from the application of section 28 of Act 262 from the Minister. However, with regard to the provision of section 28 of Act 262 which limits membership in a trade union executive committee to persons who have worked for at least one year in the establishment, trade, occupation or industry with which the trade union is connected, this particular provision has been repealed in the recent amendment and has been passed by the Parliament. The restriction imposed by Act 262 on assuming trade union leadership are meant to ensure that trade union leaders are responsible people who can protect not only the interest of the members of their respective unions but also the interest of the country and people at large); (vi) Ban from organizing (with the exception of public officers employed by the government or statutory authorities, workmen that come exclusively from either managerial, executive, confidential or security capacities are free to form unions that cater particularly for their own groups. Electronics sector workers were not totally precluded from forming trade unions. As a matter of policy, the government encourages the formation of enterprise or in-house unions for workmen in the electronics industry); (vii) Requirement of unions to receive recognition from employer (recognition is a pre-requisite for trade union to embark on collective bargaining process with the employer. Recognition is essential to ensure that the trade union is a competent union to represent the workers in that particular establishment); (viii) The Public Sector (public sector employees working for defence sector, police force or prisons do not have the right to form or join trade unions in order to ensure that the security and national interest of the country are well protected and preserved); (ix) Restrictions on the right to strike (a trade union is not denied its right to strike as long as stipulated procedures are observed. The requirement of two-third majority and a clear motion on the acts to be carried out during the strike are aimed to obtain majority support from union members concerned before proceeding on industrial actions to be taken against the employer. It aims to ensure democratic prevails in a trade union. It is to be noted that strikes are only</p>
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	<p>prohibited when the dispute leading to the strike has been referred to the Industrial Court and the parties so informed and not anytime earlier in order not to disrupt the court proceedings. The imposition of certain notice requirement before strike is necessary to enable contingency actions to be taken. It does not in any way deny the right to strike. The right to strike under the Trade Union Act 1959 is a serious right and it was for this reason that the right to strike should be mandated by a not less than 2/3 majority from the union’s eligible members. The right to strike should be a means to an end and not the end itself. As such, the Government has a strong position that the posture of strike or strike itself should not over spilled into a lose-lose situation. Conflict resolution mechanism should be allowed an opportunity to address and resolve the dispute, and if possible to create a win-win situation. It was for this reason that the cooling off period of seven days was incorporated into the Trade Unions Act 1959); (x) Restrictions on political activities by trade unions (the prohibition as provided under section 72 of Act 262 only refers to the use of unions fund for political objectives. An officer or individual union members are not prohibited from contributing to any political parties provided that the rules and regulations are observed. In the private sector: Industrial Relations Act 1967 (Act 177) merely states the rights of employers When negotiating collective agreements. These rights are not to exert limitation on collective bargaining. It provides for employers to run their business in the most efficient way and to protect from the abuse of collective bargaining process. These rights are not absolute as the matter can be brought up to the Department of Industrial Relations for conciliation process. In matters pertaining to procedures for promotion, parties are allowed to discuss it on a general character. In the public sector: The public sector employees through their unions have been holding regular discussions and consultations in respect of their terms and conditions of employment including remuneration. The Congress of Union of Employees in the Public and Civil Services (CUEPACS), the officers of the Joint Councils and the Public Services Department meet regularly to discuss issues affecting employees in the public service. Through these discussions, the public sector unions do contribute to the deliberations on remuneration and terms and conditions of employment); (xi) Application of Employment Act limited to Peninsular Malaysia (major amendments have been done in order to have uniformity in the application of the main labour legislation throughout Peninsular Malaysia, Sabah and Sarawak. Through this amendment, many provisions of the Sabah Labour Ordinance and Sarawak Labour Ordinance were repealed and the provisions from the Employment Act 1955 were incorporated into the Ordinances.); (xii) Government interference (the Government does not interfere in the administration of trade unions unless explicitly authorized by law); (xiii) Ban on general confederations (MTUC registration as a society instead of as being a general confederation of trade union is not the choice of the government. If MTUC wants itself to be registered as a federation of trade unions, its original sponsors should have opted for registration under the Trade Unions Act 1959 and comply with all the conditions laid down under the Act); (xiv) Arbitrary refusal of union recognition by Director General of Trade Unions (in a recognition claim under section 9 of the Industrial Relations Act 1967, the DGTU does not arbitrarily decide on the competency question of whether a trade union could represent any workmen or class of workmen. The DGTU has to perform a statutory function and his powers were not absolute or arbitrary. It is often subjected to judicial review by the High Court. In Marulee (M) Sdn Bhd v. Minister of Human Resources &amp; Anor (2007) 5 CLJ 51, the Court of Appeal observed and held that as far as the rule of natural justice in relation to the right to be heard was concerned, this rule had been strictly observed by the DGTU and the Director General of Industrial Relations is arriving at the conclusions that they did; (xv) Employers impose extra restrictions (Limitations on the right of workmen who are employed in managerial, executive, confidential or security capacities to join trade unions of workmen that do not cater exclusively for these groups, are to avoid possible cases of conflict of interest. Any questions arising from the differing interpretation on the above stated capacities could be best addressed by the DGTU or the courts.); (xvi) Inefficient labour courts (the Industrial Court is aware of some delays in the handing down of some of the awards by the court. However, with the implementation of the “electronic Industrial Court” (eIC), a computerized case management system for the whole country, the Industrial Court President has been monitoring closely cases being heard and awards handed down in the Court With the close supervision, it is expected that cases of awards not handed down for more than 12 months can soon be resolved.); (xvii) Migrant workers Intimidated to not join trade unions (existing provisions in the Trade Unions Act 1959 do</p>
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	<p>not expressly qualify that trade unions membership should be confined to citizens of Malaysia. The right to unhindered membership in trade unions is protected under the Employment Act 1955 and the Industrial Relations Act 1967. Any grouses of misdemeanour on the part of employers should be reported directly to the relevant authorities for proper action.); and (xviii) Increasing anti-union activity: (MTUC claims that former officers of the Department of Trade Unions and the Department of Industrial Relations had been involved obtaining information from salving officers, on unions involved recognition claims and collective bargaining and then approaching employers with an offer to remove the union, and advice on how to prolong the settlement process is a general statement. As a matter of department’s policy and ethics, all official information are confidential information and unauthorized people should not have access to such information.).</p> <p><b>2007 AR:</b> In response to the ICFTU’s observations, the Government indicated the following: (i) under the Trade Unions Act 1959 and the Industrial Relations Act 1967, the formation and the activities of trade unions, laws and procedures are to be observed; (ii) to speed up union recognition the Government has taken steps to amend the Industrial Relations Act 1967 and the Trade Unions Act 1959; (iii) the powers conferred on the DGTU are meant to enable him to have the general supervision, direction and control of all matters relating to trade unions, and the DGTU only de-registers a trade union if a trade union has contravened the Trade Unions Act 1959, the Trade Unions Regulations or its own rules and regulations; (iv) the establishment of an industrial trade union by electronic workers is not encouraged. This policy is aimed at protecting the national interest as well as the interests of workers in the electronics industry. Trade unions may refer to the Minister of Human Resources for his decision on matters relating to the definition of employees in managerial, executive, confidential or security capacities and their eligibility to be union members. Disputes relating to the scope of representation of such workers by industrial unions, should they arise, will be dealt with under section 9(1A) of the Industrial Relations Act.</p> <p><b>2006 AR:</b> In response to the ICFTU’s observations, the Government made the following comments: (i) in order to speed up union recognition, the Government has taken steps to amend the Industrial Relations Act, 1967 and the Trade Unions Act, 1959. The cause of delay is mainly due to legal proceedings against the decision of DGTU; (ii) the laws and procedures relating to the formation and activities of trade unions are meant to grant trade unions certain rights, immunities and liabilities as a legal entity and to protect the interests of workers; (iii) it is necessary to impose conditions, restrictions and regulations on the formation and growth of trade unions to prevent the multiplication of trade unions within a particular establishment, trade, occupation or industry so as to avoid unions rivalry; (iv) a trade union is not denied the right to strike as long as the stipulated procedures are observed; (v) the Industrial Relations Act, 1967, deals adequately with disputes relating to illegal dismissals; (vi) essential services have already been identified specifically in the Schedule to the Industrial Relations Act; (vii) the Internal Security Act has been effective and relevant in maintaining national security; (viii) workers are granted the right to form or join a trade union under the Federal Constitution as well as the Employment Act, 1955, the Trade Unions Act, 1959 and the Industrial Relations Act, 1967; (ix) the DGTU decides if a trade union is competent to represent workers or not; if not the workers may join a competent trade union or, in the absence of such a trade union, they may form an establishment-based trade union; (x) trade unions are allowed to form or join federation of trade unions under the Trade Unions Act, 1959; (xi) employees in managerial and executive positions, employees entrusted with confidential matters or employees performing security-related tasks are not to be organized by industrial unions, but are free to form or join a union of their own particular category of workers; (xii) non-compliance of Industrial Court awards by employers is dealt with in accordance with the provisions of the Industrial Relations Act; (xiii) under the Trade Unions Act, 1959, migrant workers may join a trade union as union members, but they are not to be elected as trade union officials; (xiv) section 8 of the Industrial Relations Act allows for complaints relating to anti-union practices by employers, including dismissals, to be lodged with the DGIR.</p> <p><b>2004 AR:</b> The Government identified the main difficulties encountered in Malaysia in realizing the PR as follows: (i) social values; (ii) cultural traditions; and (iii) social and economic circumstances.</p>
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		<p><b>2000-2002 ARs:</b> In response to the ICFTU's observations, the Government made the following comments: (i) the Federal Constitution and the labour laws provide for the right to form or join a trade union; (ii) the Minister has the power to order recognition to be granted by the employer concerned if the union claiming recognition is found competent and/or represents the majority of the workers concerned; (iii) some restrictions on basic trade union rights are necessary in order to preserve national interests; (iv) general trade unions are prohibited so as to avoid competition among trade unions; (v) the power of regulation conferred on the DGTU and the Minister of Human Resources (MHR) is meant to ensure that trade unions operate in compliance with national, peoples' and the workers' interests; (vi) trade unions can affiliate only with lawful and responsible international consultative bodies or similar bodies; (vii) the Government recognizes the important role of trade unionism and has supported its growth in a regularized manner and is concerned for the welfare and interest of workers. Furthermore, the main reason for the backlog was the economic crisis prevailing in Malaysia since late 1997. The Government has taken appropriate measures to address the issue of the backlog of cases.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2014-2015 ARs:</b> According to the Government: Although there are no specific technical cooperation needs to be mentioned at the moment, Malaysia welcomes ILO technical cooperation on the requirements of C.87, should the need arise.</p> <p>The MTUC and the NUBE requested ILO technical cooperation to: (i) support the newly established NUBE Labour Research Institute (NLRB); (ii) increase the international exposure in order to achieve recognition from the international community of were the situation of workers' rights in Malaysia and strengthen the voice of the Malaysian trade unions; (iii) raise public awareness on the FPRW; and (iv) sensitize the tripartite partners on the PR. MTUC believes that ILO could assist in resolving issues involving illegal termination of employment contracts.</p> <p><b>2012-2013 ARs:</b> According to the Government: Although there are no specific technical cooperation needs to be mentioned at the moment, Malaysia welcomes ILO technical cooperation, collaborative efforts and/or extension of the provision of expert advice.</p> <p>The MTUC and the NUBE welcomed the Government's request for expertise on the PR as well as capacity building of national tripartite bodies on the PR. They also requested an assessment of the implementation of C.87 in Malaysia in cooperation with the ILO to be conducted, prompting the Government to take action in the ratification process of C.87 as well as to initiate social dialogue. Additionally, the MTUC and the NUBE requested for continuation of ILO assistance, mainly in the form of sensitization and support in helping the trade union movement to keep track of workers' rights violations. They recognized a need for awareness raising on freedom of association, as local unions and their members do not possess sufficient knowledge nor capacity.</p> <p><b>2011 AR:</b> The Government of Malaysia welcomed any expertise on the PR.</p> <p><b>2010 AR:</b> According to the MTUC and the CUEPCS: ILO technical cooperation is needed to facilitate the realization of the PR in the following areas: (i) training of tripartite partners on the PR and ILS; (ii) strengthening tripartite social dialogue; and (iii) capacity building of trade unions.</p> <p><b>2009 AR:</b> The Government of Malaysia welcomed any expertise on the PR.</p>
	<p><b>Offer</b></p>	<p><b>NIL.</b></p>



<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that Malaysia (and another State) reported that it did not intend to ratify Convention No. 87. They also noted that restrictions on the right to organise of certain categories of workers in Malaysia (and some other countries), such as migrant workers and workers in the informal economy, were not compatible with the realization of this principle and right (cf. paragraphs 30 and 38 of the 2008 AR Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs observed that with a view to giving full effect to this principle and right, the Government should be able to offer to all workers the opportunity to exercise their rights, and not have restrictions on the right to organize for migrant workers (cf. paragraph 37 of the 2007 AR Introduction). Furthermore, the IDEAs noted with concern that several countries had not yet expressed their intention to ratify and urged Malaysia to do so (cf. paragraph 33 of the 2007 AR Introduction – ILO: GB.298/3).</p> <p><b>2006 AR:</b> The IDEAs listed Malaysia among the countries where government authorization was required to establish employers’ or workers’ organizations and indicated that such restrictions would clearly deny the full potential of the principle of freedom of association (cf. paragraph 36 of the 2006 Annual Review Introduction – ILO: GB.295/5).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2009-2015) <sup>1</sup>: MARSHALL ISLANDS**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , for the first time under the 2012 Annual Review (AR), but not under the previous reviews (i.e. 2009-2011 ARs). Marshall Islands Joined the ILO in 2007.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (the Marshall Islands Chamber of Commerce (MICC)) and workers' organizations (Marshall Islands Teachers' Union (MITU)) by means of consultation and communication of a copy of the government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> Observations by MICC.	
	<b>Workers' organizations</b>	<b>2012 AR:</b> Observations by MITU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Marshall Islands has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No.98) (C.98).</b>

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.





<b>THE PRINCIPLE AND RIGHT</b>		<b>Ratification intention</b>	<p><b>Under consideration for both C.87 and C.98.</b></p> <p><b>2015 AR:</b> According to the Government: Ratification of C.87 and C.98 may be considered. However, the Government would need further ILO training for relevant government officials and social partners on the fundamental principles and rights at work (FPRW) and the content of the Conventions.</p> <p><b>2013-2014 ARs:</b> The Government reiterated that ratification of C.87 and C.98 was under consideration.</p> <p><b>2012 AR:</b> The Government indicated that the issue of the ratification of C.87 and C.98 may be discussed with the employers' and workers' organizations after the general elections of November 2011. In parallel, tripartite capacities on ILO issues should be strengthened, including on fundamental principles and rights at work and international labour standards.</p> <p>The MICC stated that time would be needed by the Republic of the Marshall Islands (RMI) concerning ratification of C.87 and C.98. As for the time being there are no trade unions in the private sector.</p> <p>According to MITU: As a matter of human rights and freedom of expression and association guaranteed by the Bill of Rights in the RMI Constitution, the MITU supports the ratification of all ILO fundamental Conventions by RMI, including C.87 and C.98. These ratifications are needed as there are no unions in the national private sector. This will contribute to RMI being recognised as a country respecting human rights at workplaces.</p>	
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>		<b>Constitution</b>	<p><b>YES</b>, the Constitution of the Republic of the Marshall Islands (RMI), 1979, article II (Bill of Rights), section 1, on Freedom of Thought, Speech, Press, Religion, Assembly, Association, and Petition provides that: "(1) Every person has the right to freedom of thought, conscience, and belief; to freedom of speech and of the press; to the free exercise of religion; to freedom of peaceful assembly and association; and to petition the government for a redress of grievances". The same section further mentions in (2) that: "(a) restrictions do not penalize conduct on the basis of disagreement with the ideas the restrictions are necessary to preserve public peace, order, health, or security or the rights or freedoms of others; (b) there exist no less restrictive means of doing so; and (c) the restrictions do not penalize conduct on the basis of disagreement with the ideas or beliefs expressed".</p>
			<b>Policy, legislation and/or regulations</b>	NIL.
			<b>Basic legal provisions</b>	(i) The Constitution, 1979 (article II, section 1); (ii) The Criminal Code; and (iii) Orders.
			<b>Judicial decisions</b>	NIL.

	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2012 AR:</b> Government authorization or approval is required to establish an employers' organization (through the Register of Corporate and Associations in the Ministry of Resource and Development) and/or to conclude collective agreements (no collective agreements have been concluded so far as there are no unions in the RMI private sector). The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry and national levels for all categories of employers.
			<b>For Workers</b>	<b>2012 AR:</b> Government authorization or approval is required to establish a workers' organization (through the Register of Corporate and Associations in the Ministry of Resource and Development) and/or to conclude collective agreements (no collective agreements have been concluded so far as there are no unions in the RMI private sector).  The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry and national levels for the following categories of workers: (i) all workers in the public service, except police officers that are not considered as workers under the Trade Union Act (section 2(b)); (ii) medical professionals; (iii) teachers; (iv) agricultural workers; (v) workers engaged in domestic work; (vi) workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (vii) migrant workers; and (viii) workers as from the age 18 years.
			<b>Special attention to particular situations</b>	NO.
			<b>Information/ Data collection and dissemination</b>	The MICC mentioned that it had about 80 members. The MITU indicated that it had about 15 members.
		<b>At international level</b>	According to the Government: The principle and right (PR) is recognized at international level for employers' and workers' organizations.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2012 AR:</b> According to the Government: The Labor Division is in charge of monitoring, enforcing and providing sanctions in case of infringement to the legal provisions concerning freedom of association and the right to collective bargaining. These cases may also be referred to courts for the same purposes.		
	<b>Involvement of the social partners</b>	<b>2012 AR:</b> The Government indicated that the MICC and the MITU had been involved in the current process of formulation of the Decent Work Country Programme - DWCP (including the fundamental principles and rights at work), in cooperation with ILO.		





	<p><b>Promotional activities</b></p>	<p><b>2012 AR:</b> According to the Government: The Government, the MICC and the MITU participated in the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010 where the fundamental principles and rights have been promoted. Moreover, the labour officers of the Labor Division of the Ministry of Foreign Affairs were trained, among others, on the fundamental principles and rights at work and International Labour Standards during ILO's assistance in reporting issues carried out in October 2011.</p> <p>The MICC and the MITU confirmed their participation in such activities and indicated that they had been sensitized on the same issues during this October 2011 ILO Mission.</p>	
	<p><b>Special initiatives/Progress</b></p>	<p>NIL</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p>According to the MICC: No collective agreements exist in RMI as there are no unions in the private sector.</p>
		<p><b>Workers' organizations</b></p>	<p>According to the MITU: The MITU has low registered membership because most teachers are afraid of government retaliation if joining a trade union. Therefore, there is a need of adequate laws to effectively protect freedom of association and the right to collective bargaining in the public and private sectors of RMI.</p>



	<b>According to the Government</b>	<b>2012 AR:</b> The Government mentioned the following challenges concerning the realization of the PR in Marshall Islands: (i) Lack of public awareness and/or support; (ii) lack of information and data; (iii) legal provisions; (iv) lack of capacity of responsible government institutions; (v) lack of capacity of employers' and workers' organizations; and (vi) lack of social dialogue on the PR.
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2014-2015 ARs:</b> According to the Government: The Government would appreciate ILO technical support in training government officials and the social partners on the Fundamental Principles and Rights at Work (FPRW), including the content of all core Conventions so as to consider possible ratifications, and to maintain the momentum and enabling environment which was created following ILO technical cooperation in 2011. This support could also include international tripartite experience-sharing with other countries on FPRW and reporting issues, including participation in the ILO Training in Turin.</p> <p><b>2013 AR:</b> According to the Government: The Government would appreciate ILO technical support in promoting the FPRW, including the content of all core Conventions so as to consider possible ratifications. This support could also include international tripartite training so as to share experience with other countries.</p> <p><b>2012 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of this PR in Marshall Islands, in particular in the following areas, in order of priority: (1) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; strengthening tripartite social dialogue; legal reform (labour law and other relevant legislation); (2) strengthening data collection and capacity for statistical analysis;); developing labour market policies that promote equality of opportunity; developing policies regarding equal remuneration; sharing of experiences (best-practices) across countries/regions; and (3) training of other officials (e.g. police, judiciary, social workers, teachers).</p> <p>The MICC and MITU supported the government's requests for ILO technical cooperation and in particular the strengthening of their capacity building on collective bargaining and on how to strengthen workers' organizations, respectively. The MICC further requested special training in collective bargaining and a permanent ILO presence in RMI. The MITU emphasized the need for labour law reform to realize the PR in RMI as part of a holistic approach on the fundamental principles and rights.</p>
	<b>Offer</b>	ILO (Decent Work Country Programme; and Assistance in fulfilling reporting obligations to ILO, including under the Declaration's AR.



<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>NIL.</b></p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**REFERENCIA POR PAIS DENTRO DEL MARCO DEL EXAMEN ANUAL DE LA DECLARACION DE LA OIT (2000-2015) <sup>1</sup>: MEXICO**

***LIBERTAD SINDICAL Y DE ASOCIACION Y RECONOCIMIENTO EFECTIVO DEL DERECHO DE NEGOCIACION COLECTIVA (LSANC)***

<b>PRESENTACION DE MEMORIAS</b>	<b>Cumplimiento de las obligaciones gubernamentales</b>	<b>SI</b> , desde el principio del Examen anual (EA) en 2000.
	<b>Cometido de las organizaciones de Empleadores y Trabajadores en la presentación de memorias</b>	<b>SI</b> , el Gobierno señala que han transmitido copias de memorias gubernamentales a las organizaciones de Empleadores (Confederación de Cámaras Industriales de los Estados Unidos Mexicanos (CONCAMIN) y a la Confederación Patronal de la República Mexicana (COPARMEX) así como de Trabajadores (Confederación de Trabajadores de México (CTM), la Confederación Auténtica de Trabajadores de la República Mexicana (CAT), y a la Confederación Revolucionaria de Obreros y Campesinos (CROC) y a la Unión Nacional de Trabajadores (UNT)).
<b>OBSERVACIONES DE LOS INTERLOCUTORES SOCIALES</b>	<b>Organizaciones de Empleadores</b>	<p><b>EA 2015:</b> Observaciones de la CONCAMIN y de la COPARMEX.</p> <p><b>EA 2014:</b> Observaciones de la CONCAMIN.</p> <p><b>EA 2013:</b> Observaciones de la CONCAMIN.</p> <p><b>EA 2012:</b> Observaciones de la CONCAMIN y de la COPARMEX.</p> <p><b>EA 2011:</b> Observaciones de la CONCAMIN y de la COPARMEX.</p> <p><b>EA 2006:</b> Observaciones de la CONCAMIN y de la COPARMEX.</p> <p><b>EA 2005:</b> Observaciones de la CONCAMIN.</p> <p><b>EA 2002:</b> Observaciones de la CONCAMIN.</p> <p><b>EA 2001:</b> Observaciones de la CONCAMIN. Observaciones de la COPARMEX.</p> <p><b>EA 2000:</b> Observaciones de la CONCAMIN.</p>

<sup>1</sup> Referencias dentro del Examen anual de la Declaración de la OIT están basadas sobre los elementos siguientes en la medida en que estén disponibles: memorias de Gobiernos dentro del Examen anual de la Declaración, observaciones de Organizaciones de Empleadores y Trabajadores, estudios específicos con profundidad preparados sobre la patrocinación del país y de la OIT, y observaciones/recomendaciones de los Expertos Consejeros en la Declaración de la OIT y del Consejo de Administración.



	<p><b>Organizaciones de Trabajadores</b></p>	<p><b>EA 2015:</b> Observaciones de la UNT. Observaciones de la CROC. Observaciones de la CTM.</p> <p><b>EA 2013:</b> Observaciones de la CTM.</p> <p><b>EA 2012:</b> Observaciones de la CAT. Observaciones de la CTM.</p> <p><b>EA 2011:</b> Observaciones de la CTM.</p>	
		<p><b>EA 2006:</b> Observaciones de la CTM. Observaciones de la Confederación Internacional de Organizaciones Sindicales Libres (CIOSL).</p> <p><b>EA 2005:</b> Observaciones de la CTM. Observaciones de la CIOSL.</p> <p><b>EA 2002:</b> Observaciones de la CTM. Observaciones de la CIOSL.</p> <p><b>EA 2001:</b> Observaciones de la CTM. Observaciones de la CIOSL.</p> <p><b>EA 2000:</b> Observaciones de la CTM.</p>	
<p><b>ESFUERZOS Y PROGRESOS DESPLEGADOS PARA REALIZAR EL PRINCIPIO</b></p>	<p><b>Ratificación</b></p>	<p><b>Estado de ratificaciones</b></p>	<p>México ratificó en 1950 el Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 (núm. 87). Sin embargo, no ha ratificado el Convenio sobre el derecho de sindicación y negociación colectiva, 1949 (núm. 98).</p>

<p><b>Y DERECHO</b></p>		<p><b>Intención de ratificación</b></p>	<p><b>ESFUERZOS PARA FACILITAR EL PROCESO DE RATIFICACION. Según el Gobierno se están haciendo esfuerzos preliminares para facilitar el proceso de ratificación del C.98.</b></p> <p><b>EA 2015:</b> Según el Gobierno: la Secretaría del Trabajo y Previsión Social (STPS) dio inicio al proceso de análisis para la eventual ratificación del C.98, por lo que en 2014 emitió un dictamen positivo con base en la opinión positiva de las autoridades competentes y de la Unión Nacional de Trabajadores. Durante 2015, en el marco del proceso de análisis para la eventual ratificación del C.98 se ha dado inicio a un diálogo con las organizaciones de empleadores y de trabajadores más representativos de México, a efecto de tratar temas sustantivos y de orden técnico relativos a la implementación de dicho instrumento internacional y estar en posibilidades de ratificarlo. El gobierno indicó que se están haciendo esfuerzos preliminares para facilitar el proceso de ratificación del C.98. En abril de 2014 el Gobierno de México en cumplimiento al artículo 5, apartado c) del Convenio 144 sobre la consulta tripartita, inició las consultas correspondientes con los interlocutores sociales y las autoridades encargadas de la aplicación de las disposiciones de este instrumento, a fin de contar con los elementos necesarios para evaluar la viabilidad de su ratificación y en su caso remitirlo al Senado de la República. Además, el gobierno reportó que la UNT expresó su conformidad para que el Gobierno Federal impulse el procedimiento constitucional para obtener la aprobación de la Cámara de Senadores del Congreso de la Unión, para luego proceder a la ratificación del C.98, y la CONCAMIN señaló que por lo que se refiere al C.98, éste no ha sido ratificado por México y aunque en principio se puede identificar que en la legislación mexicana y prácticas nacionales garantizan el cumplimiento de los objetivos y finalidades que se tienen en dicho convenio, las perspectivas de ratificación son lejanas e incluso inconvenientes.</p> <p>Según la UNT, la iniciativa para la ratificación del C.98 está en marcha. Se espera que el Senado deliberará en un futuro próximo sobre la ratificación del C.98.</p> <p><b>EA 2014:</b> Según el Gobierno: La ratificación del Convenio núm. 98 se encuentra pendiente la armonización de la legislación laboral a las exigencias de la Convención. Sin embargo, Con la derogación del último párrafo del artículo 395 de la Ley Federal del Trabajo, en el marco de la Reforma Laboral promulgada el 30 de noviembre de 2012, relativo a la obligación del patrón de suspender de su empleo a los miembros que renunciaran o fueran expulsados del sindicato contratante, podría estarse en posibilidad de analizar de nueva cuenta la pertinencia de ratificar este instrumento. Previamente, sería necesario llevar a cabo las consultas correspondientes con los interlocutores sociales y las autoridades encargadas de la aplicación de las disposiciones de este instrumento, en términos de la obligación establecida por el Convenio 144 sobre la consulta tripartita de la OIT.</p> <p>Según de la CONCAMIN: La legislación aplicable en el país en relación con el derecho a la libertad de asociación y a la de la celebración de un contrato colectivo de trabajo, ofrece plena garantía de los derechos, por lo que resulta innecesario el suscribir un convenio cuyo contenido está plenamente superado. Convenio núm. 98 está una legislación reiterativa que daría solo un margen de confusión, sin que aclare o adicione elementos a la plena vigencia de las libertades de asociación y de contratación colectiva. Por lo tanto, en atención a la situación que se deriva de las disposiciones legales y de carácter internacional vigentes en México, resulta innecesario ratificar el C. 98.</p>
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			<p><b>EA 2013:</b> Según el Gobierno: A la fecha no hay perspectivas de ratificación del C.98, ya que prevalecen las condiciones por las que no fue ratificado.</p> <p>Según de la CONCAMIN: La ratificación de los convenios de la OIT implican al ser celebrado por el Ejecutivo Federal y ratificado por el Senado de la Republica, la integración de la Ley Suprema del país, lo que requiere una seria reflexión respecto de su contenido y alcances, de las condiciones económicas, políticas y sociales del mismo o del efecto que esos ámbitos puede generar le instrumento en cuestión.</p> <p>La CTM reiteró su apoyo a favor de la ratificación del C.98.</p> <p><b>EA 2012:</b> Según el Gobierno: No existe ningún cambio en la legislación y la practica. Actualmente, el reto principal es obtener consenso dentro de la Comisión de Trabajo Y Previsión Social de la Cámara de Diputados para que se aprueben las modificaciones a la LFT y con ello el Gobierno de México este en posibilidad de iniciar nuevamente el estudio para la eventual ratificación del C.98.</p> <p>Según la CAT: Se necesita una enmienda de las leyes laborales para permitir la ratificación del C.98.</p> <p>Según la CONCAMIN y la COPARMEX: No es necesaria la ratificación del C.98, dado que los elementos fundamentales del instrumento de referencia se encuentran amparados por la legislación vigente, con independencia de la limitación que el Senado de la República ha señalado en relación con dicho Convenio.</p> <p><b>EA 2011:</b> La CTM expreso su opinión a favor de la ratificación del C.98.</p> <p><b>EA 2006:</b> Según el Gobierno: México no ha ratificado el Convenio sobre el derecho de sindicación y negociación colectiva, 1949 (núm. 98). De hecho, la Cámara de Senadores de la República decretó ratificar el mismo con una reserva por lo que se refiere al inciso <i>b</i>), apartado 2 del artículo 1 del Convenio. De esta manera, los mandatos establecidos en el artículo 123 de la Constitución y la LFT tendrían precedencia por lo que se refiere a la libertad de asociación y la libertad sindical. Sin embargo, la OIT no ha admitido la ratificación de México, debido a que esta Organización no admite reservas. Sin embargo en el marco de la «Nueva Cultura Laboral», se trabaja en una reforma legislativa laboral que coadyuve a promover la capacitación, la participación y una remuneración de los trabajadores, mismo que culminó en un proyecto de reformas en la LFT que aborda el tema de libertad sindical y el reconocimiento efectivo del derecho de a la negociación colectiva, mismo que se convirtió en iniciativa de ley el 12 de diciembre de 2002. En respuesta a los comentarios de la CIOSL, el Gobierno señala lo siguiente: i) En relación con la ratificación del C.98, a la fecha no ha habido ningún cambio sobre la reserva hecha por el senado de la república al inciso <i>b</i>), numeral 2 del artículo 1 del convenio.</p> <p><b>EA 2003:</b> El Gobierno señala que la Cámara de de Senadores de la República decretó ratificar el mismo con una reserva por lo que se refiere al inciso <i>b</i>), apartado 2 del artículo 1 del Convenio.</p> <p>La OIT no ha aceptado esta ratificación ya que no se aceptan reservas.</p>
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	<p><b>Reconocimiento del principio y derecho (perspectiva(s), medios de acción, disposiciones jurídicas básicas)</b></p>	<p><b>Constitución</b></p>	<p><b>SI.</b></p> <p><b>La Constitución Política de los Estados Unidos Mexicanos de 1917</b> (Artículo 9) establece que no se podrá coartar el derecho de asociarse o reunirse pacíficamente con cualquier objeto lícito. El artículo 123, apartado A, fracción XVI, del mismo ordenamiento, dispone que tanto los obreros como los empresarios tengan derecho para coaligarse en defensa de sus respectivos intereses, formando sindicatos, asociaciones profesionales, etc. Asimismo, el apartado B, fracción X, del mencionado artículo, establece que los trabajadores tendrán el derecho de asociarse para la defensa de sus intereses comunes. Además, lo previsto en la versión 2011 del artículo 107(II) (3) Constitucional es acorde con el principio y derecho (PYD) en lo siguiente: cuando los órganos del Poder Judicial de la Federación establezcan jurisprudencia por reiteración en la que determine la inconstitucionalidad de una norma general, la Suprema Corte de Justicia de la Nación lo notificará a la autoridad emisora, y si no se subsana el problema de inconstitucionalidad, dentro de un plazo de 90 días, el máximo tribunal emitirá la declaración general de inconstitucionalidad de la norma, fijando sus alcances y términos.</p> <p><b>EA 2015:</b> El gobierno indicó que mediante la reforma a la Constitución Política de los Estados Unidos Mexicanos publicada el 10 de junio de 2011 en el Diario Oficial de la Federación, se realizó uno de los cambios más relevantes en el orden jurídico mexicano, consistente en el otorgamiento de rango constitucional a las normas de derechos humanos derivadas de los tratados internacionales. Lo anterior, garantiza el respeto a los derechos humanos al incluirlos en la Constitución, e inclusive cuando éstos se encuentran en tratados internacionales que otorguen mayores beneficios que la propia Constitución. En este sentido, se considera que la libertad sindical y la negociación colectiva son principios universales de los trabajadores para alcanzar la justicia social.</p>
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		<p><b>Política, legislación y/o reglamentación</b></p>	<ul style="list-style-type: none"> <li>• <b>Legislación:</b>  <b>EA 2015:</b> Según la UNT, la Ley de Trabajadores fue modificado el año pasado.  <i>La Ley Federal del Trabajo (LFT)</i>, en sus artículos 441, 356, 357, 359 y 381, contempla disposiciones relativas al contrato colectivo de trabajo y al contrato-ley, dispuestos en los capítulos III y IV.  <i>La Ley Federal de los Trabajadores al Servicio del Estado (LFTSE)</i>, en su título cuarto establece disposiciones relativas a la organización colectiva de los trabajadores y a las condiciones de trabajo.                      El registro sindical es una garantía que le brinda a las organizaciones seguridad jurídica.                      La negociación colectiva se lleva a cabo en tres modalidades que se determinan según la práctica y entendimiento entre las organizaciones de los trabajadores y los empleadores o sus organizaciones. Los contratos colectivos no están sujetos a la autorización del Gobierno, las autoridades únicamente fungen como depositarias para registro de los documentos que los contienen.  <i>El Decreto del 30 de noviembre de 2012</i>, deroga a diversas disposiciones de la LFT, logrando con ello armonizar los preceptos de la Ley Laboral con los Convenios de la OIT. Entre las modificaciones más relevantes en materia sindical destacan las siguientes: (i) Se considera como información pública la relacionada con registros sindicales, contratos colectivos y reglamentos interiores; (ii) Se suprime la denominada “cláusula de exclusión por separación”; (iii) Para otorgar mayor certeza jurídica en las relaciones colectivas de trabajo, la Reforma a la Ley tiene entre sus objetivos fundamentales la transparencia y democracia sindical y la determinación de las facultades normativas y de vigilancia en la aplicación de la legislación laboral y sindical; (iv) Con la actualización del marco legal se busca: brindar mayor certeza jurídica a los sectores productivos, a través de mejorar la impartición de justicia laboral, haciéndola expedita, profesional y confiable; promover la transparencia y efectiva rendición de cuentas en las organizaciones sindicales, en favor de sus agremiados, con absoluto respeto a la autonomía y libertad sindicales y, dotar a las autoridades de herramientas tecnológicas de vigilancia y cumplimiento de la ley.</li> </ul>
		<p><b>Disposiciones jurídicas básicas</b></p>	<p>i) Ley Federal del Trabajo (LFT); ii) Ley Federal de los Trabajadores al Servicio del Estado (LFTSE); y iii) El Decreto del 30 de noviembre 2012.</p>
		<p><b>Decisiones judiciales</b></p>	<p><b>EA 2014:</b> Según la CONCAMIN: La legislación laboral ha tenido una reforma importante recientemente, que por una parte confirmó los derechos de libertad sindical y la de celebración de un contrato colectivo, incluso la eliminación de la cláusula de exclusión por renuncia a un sindicato, que confirma el principio de libre asociación, de querer o no asociarse o de dejar de pertenecer a un sindicato, sin por ello perder su trabajo. Este elemento a su vez ha sido confirmado por las resoluciones de la Suprema Corte de Justicia de la Nación.</p> <p><b>EA 2012:</b> Según la CONCAMIN: Una resolución de la Suprema Corte de Justicia de la Nación que ya tiene algún tiempo, dejó sin efecto una norma legal que limitaba la posibilidad de ser contratado si no se pertenecía a un sindicato.</p>

	<b>Ejercicio del principio y derecho</b>	<b>En el nivel nacional (empresas, sectores/ industrias, nacional)</b>	<p><b>Para Empleadores</b></p> <p><b>EA 2003:</b> Según el Gobierno: Todas las categorías de empleadores pueden ejercer el DNC, y no es necesario pedir la autorización/aprobación del Gobierno para celebrar convenios colectivos.</p>
			<p><b>Para Trabajadores</b></p> <p><b>EA 2003:</b> Según el Gobierno: Pueden ejercer el DNC: i) todos los trabajadores de los servicios públicos; ii) los profesionales de la medicina; iii) el personal docente; iv) agricultores; v) los trabajadores que desempeñan trabajos a domicilio; vi) los trabajadores en las zonas francas (ZFI) o empresas/industrias con categoría ZFI; vii) Todos los trabajadores. Además, no es necesario pedir la autorización/aprobación del Gobierno para celebrar convenios colectivos.</p>
	<b>Ejercicio del principio y derecho</b>	<b>En el nivel nacional (empresas, sectores/ industrias, nacional)</b>	<p><b>Tratamiento especial a determinadas situaciones</b></p> <p><b>EA 2015:</b> Según el Gobierno: Las acciones en materia de promoción en materia de libertad sindical y el reconocimiento efectivo del derecho a la negociación colectiva son permanentes y buscan el beneficio general de los trabajadores en general, sin que esté orientado a un sector especial de la población.</p> <p><b>EA 2012:</b> Según el Gobierno: La aplicación del SIMAPRO en la industria azucarera en el estado de Morelos.</p> <p><b>EA 2003: NO,</b> según el Gobierno.</p>
			<p><b>Recopilación y divulgación de información y datos</b></p> <p><b>EA 2013:</b> Según el Gobierno: Durante el periodo comprendido del 1º de noviembre 2010 al 31º de octubre de 2011, la Junta Federal de Conciliación y Arbitraje (JFCA) realizó las acciones siguientes: (i) Gracias a la conciliación y al diálogo social, se registro el menor número de huelgas en más de veinte años; (ii) De 54,563 emplazamientos a huelga recibidos de diciembre de 2006 a octubre de 2011, estallaron 92 huelgas, que equivale a un índice de 0.17% ; (iii) De noviembre de 2010 a octubre de 2011 destacan 13 huelgas registradas, que involucran a 4,871 trabajadores, y únicamente 7 de estas se encuentran vigente, y; (iv) Los emplazamientos por firma de contrato, 4470 corresponden a licitaciones de obras públicas de jurisdicción federal, representando 40.4% sobre el total de los conflictos de huelga y 62.4% respecto de los emplazamientos por forma de contrato colectivo de trabajo recibidos durante el citado periodo. Por otra parte, con la intermediación de la Unidad de Funcionarios Conciliadores, del 1º de septiembre de 2011 al 31º de julio de 2012, se celebraron 432 convenios de 449 asuntos atendidos, con lo que el índice de efectividad fue de 96.2%. Asimismo, para el periodo comprendido de 1º de julio de 2011 al 19 julio de 2012, se obtuvieron los siguientes resultados: 1. Emplazamiento a huelga: 10,415; 2. Huelgas estalladas: 25; 3. Índice de estallamiento: 0.24%; 4. Huelgas vigentes: 7; Revisiones contractuales: 7,665; 5. Trabajadores beneficiados: 2,096,857; Incremento salarial ponderado: 4.26%.</p>

			<p><b>EA 2012:</b> Según el Gobierno: Desde al 1.º de agosto 2010 al 30 de junio de 2011, se han presentado 11.139 emplazamientos a huelga, de los cuales sólo han estallado 10 movimientos de huelga, lo que representa un índice de 0,09 por ciento. Cinco de estas huelgas terminaron por convenio, una por laudo y una por desistimiento del sindicato, lo que representa un índice de conciliación de 60 por ciento. Tres huelgas están vigentes. Durante el mismo periodo, 6.726 contratos colectivos fueron revisados, y 1691.849 trabajadores beneficiaron de estas revisiones con un incremento salarial ponderado de 4,23 por ciento. Además, habían 390 conflictos colectivos, resolviéndose 344, con un índice de resolución de 88,20 por ciento. Por lo que hace a las estadísticas de Contratación Colectiva se recibieron en dicho periodo: 6.103 Contratos Colectivos de Trabajo, 4.589 convenios y 272 Reglamentos Interiores. A la fecha se tienen 15.403 Contratos Colectivos de Trabajo por tiempo indeterminado depositados en la Junta Federal de Conciliación y Arbitraje; 1.970 Contratos Colectivos de Trabajo por obra determinada vigentes; 2.823 Reglamentos Interiores de Trabajo; 2.225 Convenio de Administración de Contratos Ley.</p> <p><b>EA 2011:</b> Según el Gobierno: En lo relativo a la impartición de justicia laboral, del 1.º de enero de 2007 al 31 de julio de 2010, se han presentado 39.884 emplazamientos a huelga, de los cuales sólo han estallado 74 movimientos de huelga, lo que representa un índice de 0,2 por ciento. En el periodo del 1º de septiembre 2009 al 31 de julio 2010, se presentaron 12.012 emplazamientos y estallaron sólo 10 con un índice de estallamiento del 0,1 por ciento. De enero a julio de 2010 han concluido ocho huelgas, cuatro de éstas a través de la conciliación o voluntad de las partes, lo que representa un índice de conciliación del 50 por ciento. En materia de transparencia en la justicia laboral, al 31 de julio 2010, se encuentran registradas en la Secretaría del Trabajo y Previsión Social un total de 2.498 asociaciones sindicales, es decir 32 nuevas Asociaciones Sindicales en relación con el periodo anterior. En materia de negociación colectiva, de junio de 2009 a junio de 2010, se depositaron 6.268 Contratos Colectivos de Trabajo, 263 Reglamentos Interiores y 4.937 Convenios Colectivos. Durante este periodo se realizaron 8.463 revisiones salariales que beneficiaron a 2.073.244 trabajadores en donde se tuvo un incremento promedio de 4,4 por ciento en 2009 y de 4,7 por ciento en 2010. En el periodo de septiembre 2009 a julio 2010 se promovieron 361 conflictos colectivos y concluyeron 317 asuntos, 6 más y 22 menos que en el mismo periodo que le antecede, respectivamente. Esto muestra un índice de resolución del 87,8 por ciento.</p>
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			<p><b>EA 2009:</b> Según el Gobierno: En materia de libertad sindical del 1.º de enero al 26 de junio de 2008, se han registrado 4.591 emplazamientos a huelga, en empresas de jurisdicción federal, de los cuales únicamente han estallado 16. En materia de negociación colectiva del 1.º de enero al 26 de junio de 2008, se han llevado a cabo 3.570 revisiones salariales con 912.053 trabajadores y 4,40 por ciento de incremento salarial promedio, lo que equivale a una ganancia real de 0,14 por ciento al eliminar el efecto de la inflación del periodo. Del mes de enero al mes de mayo de 2008, se han depositado en la Junta Federal de Conciliación y Arbitraje, 2.773 contratos colectivos de trabajo, 114 reglamentos interiores, y 2.534 convenios colectivos, haciendo un total de 5.129 documentos en depósito recibidos en el primer semestre del año.</p> <p><b>EA 2008:</b> En materia de libertad sindical del período comprendido entre el 1º de mayo de 2006 al 1º de junio de 2007, se han registrado 9.212 emplazamientos a huelga, de los cuales únicamente 45 se han convertido en huelgas estalladas, lo que representa un índice de estallamiento de huelgas de un 0,5 por ciento. En materia de negociación colectiva, en este mismo período se han celebrado 2.736 revisiones salariales y 1.437 revisiones contractuales resultando beneficiados 54.223 trabajadores. Por cuanto hace a los conflictos colectivos, se han resuelto mediante la conciliación 2.136 conflictos; por desistimiento 3.359 y por otros motivos 3.646, lo cual arroja un índice de conciliación del 60 por ciento. Asimismo, el Plan Nacional de Desarrollo prevé modernizar el marco normativo laboral para promover la productividad y competitividad laboral, garantizando en todo momento los derechos de los trabajadores.</p> <p><b>EA 2007:</b> Según el Gobierno: Dentro de la negociación sindical del periodo de julio de 2005 a mayo de 2006, se han registrado 6.832 emplazamientos de huelga, de las cuales únicamente 42 se han convertido en huelgas estalladas, 10 que representa un índice de entallamiento de huelgas de un 0,4 por ciento. Por medio del diálogo y la conciliación se han celebrado 5.415 revisiones salariales y contractuales en el mismo período, resultando beneficiados 1.687.065 trabajadores.</p> <p><b>EAs 2000-2006:</b> Las autoridades administrativas han publicitado y enviado a la OIT diversas informaciones y cuadros estadísticos sobre contratos y convenios colectivos. La CTM comunicó también a la OIT información y datos sobre contratos negociados con los empleadores.</p>
		<p><b>En el nivel internacional</b></p>	<p>Ninguna mención particular.</p>

**Mecanismos de supervisión, aplicación y sanción**

**EA 2015:** Según el Gobierno: En 2014, con la participación de trabajadores, empleadores y la sociedad en general, se elaboró el nuevo Reglamento General de Inspección del Trabajo y Aplicación de Sanciones, publicado en el Diario Oficial de la Federación el 17 de junio de ese mismo año, cuyo texto no sólo sienta el curso de la vigilancia del cumplimiento de la normatividad laboral, sino que da pauta a las empresas para generar más fuentes de empleo formal, ser más productivas, competitivas y más seguras, instituyendo como una nueva función de la inspección del trabajo el promover el cumplimiento de las diversas disposiciones administrativas en materia laboral. Bajo dicho tenor, se dio inicio al “Operativo para Promover el Trabajo Digno Decente, Saludable y Libre de Violencia”, el cual tiene como propósito promover y vigilar el respeto a los derechos humanos y derechos laborales por parte de los patrones, a través de visitas de orientación y asesoría, mismo que abarca los ámbitos de trabajo, seguridad y salud y de capacitación, con criterios de aplicación elaborados con la participación de 20 instituciones, los cuales se refieren a:

- Respetar la dignidad humana del trabajador.
- No debe existir discriminación.
- Contar con acceso a la seguridad social.
- Se perciba un salario remunerador nunca inferior al mínimo.
- Exista capacitación continua.
- Condiciones óptimas de seguridad e higiene.
- Respeto irrestricto a los derechos colectivos de los trabajadores.
- Igualdad sustantiva.
- Ayuda alimentaria para los trabajadores.
- Protección del trabajo de menores.
- Derechos de las mujeres relacionados con la maternidad.
- Que los trabajadores estén inscritos al INFONAVIT.
- Que el centro de trabajo se encuentre afiliado al INFONACOT.
- Trabajo en el que se respete y promueva el disfrute del tiempo libre.
- Prevención, atención y erradicación de la violencia contra las mujeres.

En este marco se realizaron 8,474 inspecciones en 2014, en beneficio de 260,140 trabajadores (95,779 son mujeres), al cual dio continuación en 2015. Al mes de julio de este año, se han desahogado 2,003 visitas, en favor de 47,082 trabajadores.

**EA 2014:** Según el Gobierno: La conciliación administrativa es el instrumento de la Secretaría del Trabajo y Previsión Social (STPS) para procurar el equilibrio entre los factores de la producción y contribuir al cumplimiento del compromiso gubernamental de conservar la paz laboral, para propiciar el crecimiento del país e impulsar el desarrollo industrial. Para ello, la Reforma de la Ley Federal del Trabajo del 30 de noviembre de 2012, estableció nuevas obligaciones de la Junta Federal de Conciliación y Arbitraje (JFCA), entre las que destacan: i) Mejorar la conciliación, procuración e impartición de justicia laboral a través de: implementar el Servicio Público de Conciliación y elevar la calidad de la impartición de justicia laboral; ii) Garantizar certeza jurídica para todas las partes en las resoluciones laborales; iii) Transparencia; y iii) Lograr una justicia pronta y expedita.

**EA 2013:** Según el Gobierno: La STPS tiene en sus atribuciones, procurar el equilibrio entre los factores de producción, a través del servicio de conciliación, en la celebración, revisión o terminación de los contratos colectivos de trabajo y contratos-ley, de jurisdicción federal, así como en los casos en que se reclamen violaciones a dichos instrumentos jurídicos, con estricto respecto a los principios de legalidad, dialogó y transparencia.

**EA 2003:** Según el Gobierno: Se han establecido tres instancias a nivel federal y local: 1) inspección del trabajo (artículo 541 de la LFT) para verificar el cumplimiento de las normas de trabajo; 2) la procuraduría de la defensa del trabajo: su objeto es proponer a las partes interesadas (trabajadores y patrones), soluciones amistosas para el arreglo de sus conflictos y hacer constar los resultados en actas autorizadas (artículo 530 de la LFT); 3) juntas de conciliación y arbitraje: se encargan de conocer y resolver los conflictos de trabajo que se susciten entre trabajadores y patrones, sólo entre aquellos o sólo entre éstos, derivados de las relaciones de trabajo o de hechos íntimamente relacionados con ellas (artículos 601 y 604 de la LFT).

**EAs 2000 y 2003:** Según el Gobierno: La negociación colectiva se lleva a cabo en tres modalidades que se determinan según la práctica y entendimiento entre las organizaciones de los trabajadores y los empleadores o sus organizaciones: i) La primera



	<p><b>Cometido de los interlocutores sociales</b></p>	<p><b>EA 2008:</b> Según el Gobierno: El Plan Nacional de Desarrollo 2007-2012, mismo que tiene como finalidad establecer los objetivos nacionales, las estrategias y prioridades que deberán regir al gobierno durante la presente Administración, postula que, para lograr una Economía competitiva y generadora de empleos, una de las estrategias a seguir consiste en la Promoción del Empleo y la Paz Laboral; por tanto, una de las políticas nacionales del Gobierno de México se centrará en promover y vigilar el estricto cumplimiento de la normatividad laboral e impulsar su actuación, así como promover la productividad en las relaciones laborales, la competitividad de la economía en su conjunto, la oferta de empleo formal y con dignidad, y la salvaguarda de los derechos fundamentales de los trabajadores, señaladamente el de la contratación colectiva del trabajo, la autonomía y la libertad sindical y el derecho de huelga. Garantizando con ello la aplicación y promoción de estos principios.</p> <p><b>EA 2007:</b> Según el Gobierno: El Consejo para el Diálogo con los Sectores Productivos, ha sido una plataforma eficaz en la que los sindicatos, los organismos empresariales y los académicos más representativos intercambian reflexiones y propuestas sobre las políticas que impulsa el Gobierno Federal en la agenda económica. Se ha institucionalizado el diálogo social como un elemento central de visión nacional, en México se permite el pleno ejercicio de los derechos laborales y la libertad sindical, sin que exista discrecionalidad en el registro de los sindicatos mediante el respeto a la libre contratación colectiva, un compromiso sindical con la capacitación, la participación, la productividad y la competitividad de las empresas, así como con el mejoramiento del nivel de vida de los trabajadores.</p> <p><b>EAs 2003-2006:</b> Según el Gobierno: Se creó el Consejo para el Diálogo con los Sectores Productivos en 2001 Consejo en el cual se encuentran representantes de los sectores, obrero, campesino, patronal y público. El propósito de este Consejo es mantener un diálogo permanente de participación y colaboración para ventilar los programas generados por las nuevas condiciones nacionales e internacionales en materia laboral.</p>
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**Actividades de promoción**

**EA 2015:** Según el Gobierno: En la reunión de junio de 2015 de la Conferencia Nacional de Secretarios del Trabajo del país, CONASETRA, se aprobó un pronunciamiento conjunto en materia de promoción y vigilancia en el cumplimiento de obligaciones de transparencia en materia sindical, protección al derecho pleno de sindicalización y contratación colectiva, rechazo a prácticas de simulación que restrinjan la libertad de éstas, respeto a la autonomía sindical y tutela al ejercicio de los trabajadores a la libertad sindical, atendiendo a los principios constitucionales y a los instrumentos internacionales suscritos por México. Con la finalidad de generar una coordinación interinstitucional que logre alinear y hacer más eficientes las acciones necesarias para fortalecer la justicia cotidiana en el sector laboral y garantizar con ello los derechos de libertad sindical de los trabajadores, se han sometido a la consideración de la Junta Federal de Conciliación y Arbitraje (JFCA). Mexico ha centrado sus esfuerzos para fomentar la transparencia del manejo de las organizaciones sindicales en general, respetando su administración y gobierno internos, en el entendido de que la transparencia hacia dentro de los sindicatos motiva a los agremiados a confiar en los miembros de su directiva. Esta confianza, a su vez, se traduce en una franca relación destinada a buscar mejoras sustantivas para los trabajadores en las revisiones de los Contratos Colectivos de Trabajo. Como parte de las buenas prácticas de promoción de la libertad sindical y del reconocimiento efectivo del derecho a la negociación colectiva, se consideran los medios de negociación y conciliación de los conflictos colectivos, en virtud de que del período comprendido de noviembre de 2013, al mes de julio de 2014, no ha estallado movimiento de huelga alguno, aun cuando se han presentado 7, 086 emplazamientos, lo que refleja la capacidad de negociación y entendimiento de los sectores de la producción con o sin intervención de la autoridad jurisdiccional y administrativa para dirimir los conflictos, con base en el respeto a la ley y el entendimiento de las necesidades recíprocas de trabajadores y empleadores.

**EA 2013:** Según el Gobierno: El Gobierno fomenta la transparencia en el funcionamiento de las organizaciones sindicales, con pleno respecto a su autonomía, en particular en la revisión de los Contratos Colectivos de Trabajo.

**EA 2012:** Según el Gobierno: Muchas actividades promocionales se han desarrollado en materia de negociación colectiva, conciliación, dialogo social y a través del Sistema de Medición y Avance de la Productividad (SIMAPRO).

Según la CONCAMIN: La contratación colectiva se practica realmente en el país.

**EA 2011:** Según la CTM: Muchos convenios colectivos se han contratado en México con la participación la CTM.

**EA 2009:** Según el Gobierno: A partir del 1.º de enero de 2008, cualquier persona puede consultar directamente en el portal de Internet de la Secretaría del Trabajo y Previsión Social (STPS) ([www.stps.eob.mx](http://www.stps.eob.mx)), toda la información relativa al contenido de los contratos colectivos, reglamentos Internos de trabajo y convenios que están vigentes, así como comités ejecutivos y Estatutos de aquellos sindicatos, federaciones y confederaciones que han sido registrados ante la misma Secretaría. Esta transparencia y este acceso a la información pública contribuyen al respeto del PYD. Asimismo, el Gobierno ha transmitido a las principales agrupaciones sindicales, organismos del sector industrial, comercial y demás gremios vinculados al sector laboral, el compromiso y la importancia que tiene con el diálogo social para contribuir a fortalecer el equilibrio entre los factores de la producción que permitan un ambiente de paz laboral.

**EA 2008:** Según el Gobierno: Mediante el diálogo permanente con los factores de la producción la presente Administración ha convenido en la formulación de agendas específicas de trabajo con las principales agrupaciones sindicales, organismos del sector industrial, comercial y demás gremios vinculados al sector laboral. Se han creado veintidós mesas para la atención conjunta de los temas de interés entre el gobierno federal y los grupos sindicales y de empleadores, entre los que se encuentran las mesas con la Confederación Revolucionaria de Obreros y Campesinos (CROC), el Congreso del Trabajo (CT), la Unión Nacional de Trabajadores (UNT), la Confederación Patronal de la República Mexicana (COPARMEX), la Confederación Nacional de Cámaras Industriales (CONCAMIN) y la Cámara Nacional de la Industria de la Transformación (CANACINTRA). Asimismo, en coordinación con las Secretarías de Economía, de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación y Desarrollo Social, se mantiene una Mesa de Diálogo como instancia central de acuerdos para la atención de los planteamientos de diversas organizaciones sindicales. Adicionalmente, con el objeto de revisar los Contratos-Ley vigentes e impulsar las relaciones entre los factores de la producción basadas en la productividad, la competitividad y la capacitación del trabajo en las industrias del azúcar y del hule, en la Secretaría del Trabajo y Previsión Social se han establecido comisiones de trabajo con representantes de las empresas y de los sindicatos. Algunos de los temas a tratar en estas comisiones se refieren a: escalafón ciego, multihabilidades y/o multifuncionalidad, simplificación de tabuladores salariales, campo de aplicación de los contratos, jornadas de trabajo, prestaciones médicas, eliminación de cláusulas obsoletas,



		<p><b>EA 2007:</b> Según la CONCAMIN y la COPARMEX: La ley nacional cubre la negociación colectiva, y hay una práctica de contratos colectivos en México.</p> <p><b>EAs 2003-2006:</b> Según el Gobierno: i) Un diálogo permanente se mantiene a través del Consejo para el Diálogo con los Sectores Productivos. Además, la Secretaría del Trabajo y Previsión Social promueve la utilización del Diálogo Social como herramienta para alcanzar acuerdos en materia de negociaciones colectivas donde el gobierno interviene únicamente como mediador, logrando con ello una nueva relación entre trabajadores, empresarios y gobierno.</p>
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**Iniciativas especiales/Progreso**

**EA 2015:** Según el Gobierno: Actualmente se encuentran tres iniciativas en el Congreso de la Unión para modificar la LFTSE, pendientes de análisis:

- a) La presentada por la Diputada María del Carmen Martínez Santillán del Partido del Trabajo el 30 de abril 2014, que tiene por objeto garantizar la libertad sindical de los trabajadores al servicio del Estado. Para ello propone:
  - 1) Estipular que en cada dependencia habrá los sindicatos que los trabajadores determinen libremente cumpliendo con los requisitos establecidos; y,
  - 2) Considerar que en caso de existir varios sindicatos, las Condiciones Generales de Trabajo se fijarán tomando en cuenta al que tenga mayor número de trabajadores registrados.
- b) La presentada el 7 de octubre de 2014 por la Diputada Cristina Olvera Barrios, del Grupo Parlamentario de Nueva Alianza, que tiene por objeto permitir la formación de varios sindicatos de trabajadores dentro de una misma dependencia, armonizando el texto de la ley con las tesis de jurisprudencia emitidas por la Suprema Corte de Justicia de la Nación, y que en consecuencia son de aplicación obligatoria.
- c) La presentada por la Diputada Luisa María Alcalde Luján de MORENA, el 20/08/2014, que tiene por objeto permitir la creación de diversos sindicatos dentro de una misma dependencia. Entre lo propuesto, destaca:
  - 1) Indicar que si dentro de una misma dependencia existen varios sindicatos de trabajadores que pretendan celebrar la negociación colectiva, el Tribunal Federal de Conciliación y Arbitraje (TFCA) otorgará el reconocimiento al mayoritario
  - 2) Precisar que los trabajadores tienen derecho a formar parte del sindicato de su elección o a no pertenecer a él;
  - 3) Referir que los sindicatos deberán constituirse con 20 trabajadores en servicio activo por lo menos, destacando que para la determinación de dicho número se tomarán en consideración aquellos cuya relación de trabajo hubiese sido rescindida o dada por terminada dentro del período comprendido entre los 30 días anteriores a la fecha de presentación de la solicitud de registro del sindicato y la fecha en que se otorgue éste;
  - 4) Señalar que el TFCA comprobará la existencia de otras asociaciones sindicales dentro de la dependencia, a efecto de registrarlos en caso de que no exista, o en caso de existir dos o más que se adjudiquen con mayoría proceder al recuento de trabajadores; y
  - 5) Determinar que el registro del sindicato se podrá cancelar únicamente por: i) disolución; y, ii) dejar de tener los registros legales.

Para ello modifica los artículos 68, 69, 71, 72 y 73 de la Ley Federal de los Trabajadores al Servicio del Estado, Reglamentaria del apartado B) del artículo 123 constitucional.

**EA 2014:** Según el Gobierno: De conformidad con la Reforma del 30 noviembre de 2012 a la Ley Federal del Trabajo, y de forma puntual, se publican, vía internet, los registros de las organizaciones sindicales, así como los contratos colectivos y reglamentos interiores de trabajo depositados ante las autoridades federales, lo que permite que los trabajadores tomen mejores decisiones con más información y más libertad.

Según la CONCAMIN: La legislación laboral ha tenido una reforma importante recientemente, que por una parte confirmó los derechos de libertad sindical y la de celebración de un contrato colectivo, incluso la eliminación de la cláusula de exclusión por renuncia a un sindicato, que confirma el principio de libre asociación, de querer o no asociarse o de dejar de pertenecer a un sindicato, sin por ello perder su trabajo. Este elemento a su vez ha sido confirmado por las resoluciones de la Suprema Corte de Justicia de la Nación.

**EA 2013:** Según el Gobierno: Por la primera vez, el Gobierno, a través de la JFCA, hizo públicos los contratos colectivos celebrados en la jurisdicción federal (ver el siguiente enlace: [http://www.stps.gob.mx/bp/secciones/tranmites/aso\\_sindicales.html](http://www.stps.gob.mx/bp/secciones/tranmites/aso_sindicales.html)). Una iniciativa encaminada a reformar la LFT prevé de transparentar la situación de los sindicatos con la publicación en Internet de varios documentos incluyendo los contratos colectivos. De igual manera, la JFCA ha puesto a disposición del público, en el mismo sitio, una herramienta de consulta sobre el estado procesal de los asuntos que resuelve. Además, durante el periodo comprendido del 1º de noviembre 2010 al 31º de octubre de 2011, la JFCA realizó las acciones siguientes: (i) Gracias a la conciliación y al diálogo social, se registró el menor número de huelgas en más de veinte años con



			<p><b>EA 2007:</b> Según el Gobierno: El Gobierno federal, por conducto de la Secretaría del Trabajo y Previsión Social impulsa y facilita el diálogo obrero empresarial hacia una Nueva Cultura Laboral que constituye un verdadero diálogo social entre fuerzas productivas. Propiciando la libertad de negociación de los contratos colectivos entre las partes, de acuerdo con las condiciones específicas de cada empresa, la libre negociación sindical se demuestra con el reconocimiento de los sindicatos y las organizaciones empresariales como actores en la formación de consensos sociales.</p> <p><b>EAs 2003-2006:</b> Según el Gobierno: Con respecto a las iniciativas emprendidas en el país que se pueden considerar como logros en relación con este principio, y como se señaló en la memoria de 2002, en el marco de la «Nueva Cultura Laboral» del Gobierno se trabaja en una reforma legislativa laboral que coadyuve a promover la capacitación, la participación y una justa remuneración de los trabajadores. Para ello, se creó la Mesa Central de Decisión para la Reforma de la LFT, en la que las organizaciones de trabajadores y empleadores de México, teniendo al Gobierno como facilitador, lograron culminar un proyecto de reformas a la LFT que aborda el tema de la libertad sindical y el reconocimiento efectivo del derecho a la negociación colectiva.</p>
<p><b>PROBLEMAS PARA REALIZAR EL PRINCIPIO Y DERECHO</b></p>	<p><b>Según los interlocutores sociales</b></p>	<p><b>Organizaciones de Empleadores</b></p>	<p><b>EA 2011:</b> Según la CONCAMIN y la COPARMEX: El derecho de negociación colectiva está reconocido y implementado en México.</p> <p><b>EA 2000:</b> Según la CONCAMIN: El derecho de negociación colectiva está reconocido en México y no se requiere ninguna autorización/aprobación del Gobierno para concertar convenios colectivos. Sin embargo, los trabajadores de la economía informal no pueden ejercer este derecho. Asimismo, en el caso de los servidores públicos, las «condiciones generales de trabajo» se definen en el instrumento que fija las relaciones contractuales con la administración pública y las posibilidades de mejora de los mismos se vinculan necesariamente con el presupuesto de egresos trianual.</p>
		<p><b>Organizaciones de Trabajadores</b></p>	<p><b>EA 2012:</b> Según la CTM: Muchos empleadores no quieren hacer una negociación colectiva con los organizaciones de trabajadores.</p> <p><b>EA 2011:</b> Según la CTM: Hay una interferencia de los empleadores en las actividades sindicales en México.</p> <p><b>EAs 2001, 2002, 2005-2006:</b> Según la CIOSSL: i) Ciertas prácticas de las maquiladoras obligan a los empleados a firmar declaraciones que los dejan fuera de las negociaciones colectivas; ii) sin registrarse, un sindicato no puede convocar una huelga o participar en convenios colectivos y está excluido de todos los comités tripartitos; iii) la ley no permite a los trabajadores con contratos precarios negociar contratos colectivos; y iv) deficientes en la LFT han sido explotadas para crear falsos contratos colectivos que se llaman “contratos de protección” y v) la ley no permite la existencia de dos o más sindicatos en el mismo organismo estatal y los trabajadores tienen que afiliarse a sindicatos afiliados al sindicato de la función pública (i.e. la Federación de sindicatos de trabajadores al servicio de Estado).</p>



<p><b>Según el Gobierno</b></p>	<p><b>EA 2015:</b> Según el Gobierno: el acatamiento del artículo 635 bis impone nuevas obligaciones que debe cumplir para publicar los registros y estatutos sindicales por las juntas de conciliación y arbitraje de los 31 estados del país. Es también relevante para el gobierno prevenir el registro de sindicatos que no demuestren el apoyo de la mayoría de los trabajadores de un centro de trabajo, a través de garantizar un proceso genuino de elección sindical.</p> <p><b>EA 2014:</b> Según el Gobierno: Tomando como base la armonización del marco jurídico laboral, se encuentra pendiente la eventual ratificación del C.98.</p> <p><b>EA 2012:</b> Según el Gobierno: Actualmente, el reto principal es obtener consenso dentro de la Comisión de Trabajo Y Previsión Social de la Cámara de Diputados para que se aprueben las modificaciones a la Ley Federal del Trabajo y con ello el Gobierno de México este en posibilidad de iniciar nuevamente el estudio para la eventual ratificación del C.98.</p> <p><b>EA 2009:</b> Según el Gobierno: En el párrafo 36 de la Introducción del Examen anual de 2008 (OIT: GB.30113), los Expertos Consejeros en la Declaración de la OIT hacen mención a que en México además de otros países, las restricciones del derecho de sindicación de los trabajadores de los servicios públicos, no son compatibles con la plena realización de este principio y derecho. Al respecto, se señala que el derecho a la libre sindicalización, así como el derecho de negociación colectiva para los trabajadores al servicio del estado se encuentran garantizados en el artículo 123, apartado B, fracción X de la Constitución Política de los Estados Unidos Mexicanos. En dicho precepto se establece que estos trabajadores tendrán el derecho de asociarse para la defensa de sus intereses comunes y hacer uso del derecho de huelga cuando se viole de manera general y sistemática los derechos que esa disposición señala.</p>
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**EA 2007:** Según el Gobierno: El Gobierno considera indispensable el fortalecimiento de la concertación y el diálogo entre los factores de la producción, así como el análisis de la realidad desde los diferentes puntos de vista de los actores sociales, para buscar con ellos, de manera corresponsable, soluciones a los problemas y realidades sociales del país.

**EAs 2003 y 2006:** México no ha ratificado el Convenio sobre el derecho de sindicación y de negociación colectiva, 1949 (núm. 98). De hecho, la Cámara de Senadores de la República decretó ratificar el mismo con una reserva por lo que se refiere al inciso *b*), apartado 2 del artículo 1 del Convenio. De esta manera, los mandatos establecidos en el artículo 123 de la Constitución y la LFT tendrían precedencia por lo que se refiere a la libertad de asociación y la libertad sindical. Sin embargo, la OIT no ha admitido la ratificación de México, debido a que esta Organización no admite reservas. Sin embargo, en el marco de la “Nueva Cultura Laboral”, se trabaja en una reforma legislativa laboral que coadyuve a promover la capacitación, la participación y una remuneración de los trabajadores, mismo que culminó en un proyecto de reformas en La LFT que aborda el tema de la libertad sindical y el reconocimiento efectivo del derecho de a la negociación colectiva, mismo que se convirtió en iniciativa de ley el 12 diciembre de 2002.

En respuesta a los comentarios de la CIOSL, el Gobierno señala lo siguiente: i) En relación con la ratificación del C.98, a la fecha no ha habido algún cambio sobre la reserva hecha por el Senado de la Republica al inciso *b*), numeral 2 del artículo 1.º del convenio; ii) la reforma laboral sigue pendiente y podría afectar el derecho de negociación colectiva; iii) Dentro del marco del diálogo social que llevan a cabo los trabajadores y empleadores de México, el Gobierno actúa como facilitador y vigila que no se afecten las garantías o derechos constitucionales y legales, por lo tanto, son los partes inmersas en la negociación colectiva quienes deciden el resultado de la misma; iv) En relación con los contratos precarios, hay que hacer la diferencia entre el contrato de prestación de servicios profesionales que es civil y los contratos laborales que son de índole – en caso de que se compruebe la existencia de los elementos de subordinación y dependencia económica, se presumirá la existencia de una relación laboral independientemente de que exista un contrato de prestación de servicios profesionales; y v) los contratos colectivos de trabajo constituyen el resultado de la negociación directa entre ambas partes, reflejando sus experiencias y necesidades, creando con ello las normas laborales de las empresas, con la sola limitación de no afectar las garantías de los trabajadores previstas por las legislaciones correspondientes y se encuentren regidos por la voluntad de las partes que lo celebran, sin que la legislación contemple los acuerdos a los que el documento hace referencia.



<b>COOPERACION TECNICA</b>	<b>Solicitudes</b>	<p><b>EA 2015:</b> Según el Gobierno: Atender los desafíos planteados en la presente EA.</p> <p>Según la UNT, se requeriría la cooperación técnica de la OIT para supervisar la aplicación de la nueva ley del trabajo y la organización de una serie de actividades de creación de conciencia sobre el contenido y la implicación de la ratificación del C.98.</p> <p><b>EA 2013:</b> El Gobierno indicó que estaba abierto a la posibilidad de conocer mejores prácticas aplicadas en otros países.</p> <p><b>EA 2012:</b> Según la CONCAMIN: Se podría encausar la cooperación técnica a desarrollar los aspectos que se mencionan en la respuesta dada en la pregunta que antecede vía seminarios bipartitos o tripartitas, conferencias de parte de expertos de la OIT para hacer estudios comparativos de lo que existe en el media y en diferentes países que están mas adelantados con menos avance en esta materia para ubicar adecuadamente la estructura y desarrollo en este tema de las organizaciones empresariales y sindicales de México, así como la experiencia o la orientación a los interlocutores sociales par que se incorporen sistemas y cláusulas sobre productividad en los contratos colectivos de trabajo que ayuden a mejorar en esa materia alas actividades de trabajadores y empresas.</p> <p><b>EA 2011:</b> Según la CTM: Un gran Programa de Trabajo Decente debe ser adoptado en México, con mesa dignas tripartitas para implementar el trabajo decente en el país.</p> <p><b>EA 2005:</b> Según el Gobierno: No hace falta cooperación técnica de la OIT.</p> <p>Según la CONCAMIN, sin embargo, no solo es necesaria la cooperación técnica con la OIT y medidas para mejorar la concienciación respecto de estos principios, sino también llevar a cabo una reforma legislativa pertinente e intercambiar experiencias entre países y regiones.</p>
	<b>Ofertas</b>	No hay comentarios
<b>OBERVACIONES/ RECOMENDACIONES DE LOS EXPERTOS CONSEJEROS</b>	<p><b>EA 2008:</b> Los Expertos Consejeros en la declaración de la OIT reconocen el número importante de actividades promocionales relativas al principio y derecho en México (y en algunos otros países), e incitan a la Oficina a mantener esfuerzos para apoyar estas actividades. Notan también que las restricciones al derecho de organización de ciertas categorías de trabajadores en México (y en algunos otros países), así como los trabajadores de los servicios públicos, no son compatibles con la realización de este principio y derecho (Cf. Párrafos 35 y 38 de la Introducción del Examen anual de 2008 – OIT: GB.301/3).</p>	
<b>OBERVACIONES/ RECOMENDACIONES DEL CONSEJO DE ADMINISTRACION</b>	<p><b>EA 2015:</b> En su sesión de Marzo de 2014, el Consejo de Administración invitó al Director General: <i>a</i>) a que tenga en cuenta las orientaciones proporcionadas sobre las principales cuestiones y prioridades que se han de abordar al brindar asistencia a los Estados Miembros en sus esfuerzos por respetar, promover y hacer realidad los principios y derechos fundamentales en el trabajo; y <i>b</i>) a que tenga en cuenta este objetivo en el marco de las iniciativas de movilización de recursos de la Oficina.</p> <p><b>EA 2013:</b> En su sesión de Noviembre de 2012, el Consejo de Administración solicitó al Director General que tenga plenamente en cuenta el Plan de Acción de la OIT relativo a los principios y derechos fundamentales en el trabajo (2012-2016) y asigne los recursos necesarios para su aplicación. Este plan de acción está basado en la naturaleza universal de los principios y derechos fundamentales en el trabajo (PDFT), sus cualidades inseparables, interrelacionadas y que se refuerzan mutuamente, y la reafirmación de su importancia especial por cuanto son a la vez derechos humanos y condiciones propiciadoras. Refleja un enfoque integrado, que aborda tanto los vínculos entre las categorías de PDFT y entre éstos y los demás objetivos estratégicos de la OIT con el fin de mejorar su sinergia, eficiencia e impacto. En este sentido, la libertad de asociación y el reconocimiento efectivo del derecho de negociación colectiva se reafirman especialmente como derechos que propician el logro de todos los objetivos estratégicos de la OIT relacionados con los principios y derechos.</p> <p><b>EA 2011:</b> En su sesión de Marzo de 2010, el Consejo de Administración decidió que el tema recurrente en la Agenda de la 101a reunión (2012) de la Conferencia Internacional del Trabajo debería abordar el objetivo estratégico de la OIT de promover y hacer realidad los principios y derechos fundamentales.</p>	



**RESOLUCION DE  
LA CONFERENCIA  
INTERNACIONAL  
DEL TRABAJO**

**EA 2013:** En Junio de 2012, tras la discusión del tema recurrente sobre los principios y derechos fundamentales en el trabajo, en virtud de la Declaración de la OIT sobre la justicia social para una globalización equitativa, 2008 y la Declaración de la OIT relativa a los Principios y Derechos Fundamentales en el Trabajo y su Seguimiento, 1998, la Conferencia Internacional del Trabajo adoptó la Resolución relativa a la discusión recurrente sobre los principios y derechos fundamentales en el trabajo. Esta resolución incluye un marco de acción para el respeto, la promoción y la realización efectivos y universales de la PDFT para el período 2012-16. Pide al Director General que prepare un plan de acción que incorpore las prioridades establecidas en este marco de acción para la consideración del Consejo de Administración en su 316a sesión en Noviembre de 2012.

**EA 2011:** Después de un debate tripartito en la Comisión de la Declaración de 1998, la 99ª reunión, 2010, de la Conferencia Internacional del Trabajo adoptó una Resolución sobre el seguimiento de la Declaración de la OIT relativa a los principios y derechos fundamentales en el trabajo en 15 de Junio 2010. El texto adjunto a esta Resolución reemplaza el anexo de la Declaración relativa a los principios y derechos fundamentales en el trabajo, y se titula «anexo de la Declaración de 1998 (revisado)». En particular, la Resolución “[toma] nota de los avances realizados por los Miembros en lo que atañe al respeto, la promoción y la realización de los principios y derechos fundamentales en el trabajo, y de la necesidad de apoyar esos avances manteniendo un mecanismo de seguimiento. Para más información, consulte las páginas 3-5 del siguiente enlace: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143168.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143168.pdf).



**BASE DE RÉFÉRENCE PAR PAYS AU TITRE DE L'EXAMEN ANNUEL DE LA DÉCLARATION DE L'OIT (2000-2015) <sup>1</sup>: MAROC**

***LIBERTÉ D'ASSOCIATION ET RECONNAISSANCE EFFECTIVE DU DROIT DE NÉGOCIATION COLLECTIVE (LANC)***

<b>SOUMISSION DES RAPPORTS</b>	<b>Accomplissement par le gouvernement de l'obligation de rapport</b>	<b>OUI</b> depuis le début de l'examen annuel (EA) en 2000. Rapport faisant état d'une situation inchangée au titre de l'EA 2006.
	<b>Implication des organisations d'employeurs et de travailleurs dans le processus d'élaboration des rapports</b>	<b>OUI</b> selon le gouvernement: Implication des organisations représentatives d'employeurs (la Confédération générale des Entreprises du Maroc (CGEM) et la Fédération des chambres marocaines de commerce, d'industries et de services (FCMCIS)) et de travailleurs (l'Union générale des travailleurs du Maroc (UGTM); la Fédération démocratique du travail (FDT); la Confédération démocratique des travailleurs (CDT); et l'Union marocaine du travail (UMT)), et par voie de consultations et de communications des rapports gouvernementaux.  En matière de communication des rapports gouvernementaux au BIT: l'UGTM et la FDT estiment que la communication des rapports gouvernementaux au BIT est souvent tardive, ce qui ne leur permet pas de faire des observations approfondies. De son côté, la CDT signale que ces rapports ne lui sont pas régulièrement communiqués par le gouvernement.
<b>OBSERVATIONS DES PARTENAIRES SOCIAUX</b>	<b>Organisations d'employeurs</b>	<b>EA 2015:</b> Observations de la FCMCIS Observations de la CGEM. <b>EA 2014:</b> Observations de la CGEM. <b>EA 2013:</b> Observations de la CGEM. <b>EA 2012:</b> Observations de la CGEM. <b>EA 2010:</b> Observations de la CGEM. <b>EA 2009:</b> Observations de la CGEM. <b>EA 2008:</b> Observations de la FCMCIS.

<sup>1</sup> Les bases de référence par pays continues dans l'examen annuel de la Déclaration de l'OIT sont fondées sur les éléments suivants, dans la mesure de leur disponibilité: les rapports de gouvernements, les observations des organisations d'employeurs et de travailleurs, les études de terrain préparées sous l'égide du pays et du BIT, ainsi que des observations/recommandations des Experts-conseillers de la Déclaration de l'OIT et du Conseil d'administration du BIT. Pour de plus amples informations sur la réalisation du principe et droit dans un pays donné concernant une convention ratifiée ou des cas éventuels qui ont été soumis au Comité de la liberté syndicale du BIT, prière de voir: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<b>Organisations de travailleurs</b>	<p><b>EA 2015:</b> Observations de l'UMT. Observations de la CDT. Observations de l'UGTM. Observations de la FDT.</p> <p><b>EA 2014:</b> Observations de l'UGTM. Observations de la FDT.</p> <p><b>EA 2012:</b> Observations de l'UGTM.</p> <p><b>EA 2010:</b> Observations de la CDT.</p> <p><b>EA 2009:</b> Observations de l'UGTM. Observations de la FDT. Observations de la CDT. Observations de la Confédération syndicale internationale (CSI).</p> <p><b>EA 2008:</b> Observations de l'UGTM. Observations de la CSI.</p> <p><b>EA 2007:</b> Observations de la Confédération internationale des syndicats libres (CISL).</p> <p><b>EA 2006:</b> Observations de la CISL.</p> <p><b>EA 2005:</b> Observations de la CISL.</p> <p><b>EA 2004:</b> Observations de la Confédération mondiale du travail (CMT).</p> <p><b>EA 2002:</b> Observations de la CISL.</p> <p><b>EA 2001:</b> Observations de la CISL.</p> <p><b>EA 2000:</b> Observations de la CISL.</p>
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EFFORTS ET PROGRÈS ACCOMPLIS POUR LA RÉALISATION DU PRINCIPE ET DROIT	Ratification	Etat des ratifications	Le Maroc a ratifié en 1957 la convention (n° 98) sur le droit d'organisation et de négociation collective, 1949 (C.98). Toutefois, il n'a pas encore ratifié la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948 (C.87).
		Intention de ratification	<p><b>OUI, depuis 2011, pour la C.87.</b></p> <p><b>EA 2015:</b> Selon le gouvernement: Les obstacles majeurs qui font face à une éventuelle ratification de ladite convention restent inchangés, en l'occurrence, l'article 111 de la constitution de 1er juillet 2011, qui interdit dans son dernier paragraphe aux magistrats l'appartenance aux organisations politiques et syndicales, ainsi que l'interdiction de l'exercice du droit syndical au profit de certaines catégories de fonctionnaires tels que les agents d'autorité du ministère de l'intérieur. Malgré la non ratification par le Maroc, jusqu'à présent, de la C.87, il est à noter que le législateur marocain a inclus la quasi-totalité des dispositions de cette dernière dans le code du travail promulgué en 2004, notamment, le livre III portant, entre autres, sur les syndicats professionnels, le comité d'entreprise et les représentants des syndicats dans l'entreprise.</p> <p>L'UMT fait observer que le processus de ratification de la C.87 serait en voie d'aboutissement.</p> <p><b>EA 2014:</b> Selon le gouvernement: Les efforts du Maroc se poursuivent pour ratifier la C.87 en continuant les consultations avec les départements ministériels concernés.</p> <p>Selon la FDT et l'UGTM: Malgré certaines difficultés dans les négociations tripartites, la ratification de la C.87 se trouve en bonne voie.</p> <p><b>EA 2013:</b> Selon le gouvernement: Lors de la dernière session du dialogue social en avril 2011, le gouvernement et les partenaires sociaux ont convenu d'accélérer la ratification de la C.87. Ainsi, au cours de l'année 2012, le Département de l'Emploi a entamé une série de réunions avec les départements ministériels concernés afin d'étudier la possibilité de réviser leurs textes juridiques en vue de les mettre en pleine conformité avec les principes de la C.87.</p> <p>Selon la CGEM: La ratification de la C.87 fait l'objet d'une négociation tripartite et se trouve en bonne voie.</p> <p><b>EA 2012:</b> Selon le gouvernement: Lors de la dernière session du dialogue social en avril 2011, le gouvernement et les partenaires sociaux ont convenu, dans un accord social tripartite, d'accélérer la ratification de la C.87, laquelle devrait se faire avant la fin 2011.</p> <p>Selon l'UGTM: Après la signature d'un protocole d'accord par les cinq syndicats représentatifs de travailleurs, en faveur de la ratification de la C.87, un accord tripartite allant dans ce sens a été signé le 26 Avril 2011.</p> <p><b>EA 2011:</b> Selon le gouvernement: Les perspectives de ratification de la C.87 font l'objet d'un débat national et sont au cœur du dialogue social.</p>

			<p><b>EA 2010:</b> Selon le gouvernement: La ratification de la C.87 présente des difficultés relatives à l'harmonisation de certains statuts de fonctionnaires de l'Etat, notamment ceux se rapportant à l'exercice du droit syndical. Dans cette perspective, la ratification de la C.87 fait l'objet de nombreuses concertations tripartites.</p> <p>Selon la CGEM: Le Code du travail prévoit que tout syndicat peut être créé sans aucune difficulté au Maroc. Lesdites dispositions légales sont observées par les employeurs.</p> <p>La CDT encourage vivement le gouvernement à ratifier la C.87, dans la mesure où elle estime que la liberté d'association et la liberté syndicale ne sont pas respectées dans le secteur privé au Maroc.</p> <p><b>EA 2009:</b> Selon le gouvernement: 95 pour cent des dispositions de la C.87 sont déjà reflétées dans le Code du travail. Le Maroc est l'un des rares pays de la région à bénéficier du pluralisme syndical. Toutefois, il y a deux obstacles majeurs à la ratification de la C.87: i) la condition de nationalité c'est-à-dire que, pour participer à la gestion d'un syndicat, il faut impérativement être de nationalité marocaine – un étranger ne peut pas être responsable syndical; et ii) la privation de certains fonctionnaires de l'exercice de la liberté d'association. Il s'agit, notamment, des personnes relevant du statut particulier des administrateurs du ministère de l'Intérieur et de toutes les personnes exerçant une fonction comportant le droit d'utiliser une arme et le corps de la magistrature. Cependant, ces derniers disposent d'une amicale qui est une structure associative autonome. Le gouvernement estime que ces difficultés ne sont pas insurmontables et il s'est engagé à les surmonter en vue d'une éventuelle ratification.</p> <p>Selon la CGEM: Les partenaires sociaux parlent sérieusement de la ratification de la C.87 et l'encouragent, même s'ils estiment que la liberté d'association est largement respectée dans le pays.</p> <p>De leur côté, l'UGTM, la FDT et la CDT encouragent la ratification de la C.87 et ne cessent de la réclamer, dans la mesure où elles estiment que la liberté syndicale n'est pas respectée au Maroc.</p> <p><b>EA 2008:</b> La FCMCIS encourage la ratification de la C.87, dans la mesure où celle-ci considère que le droit à la liberté syndicale au Maroc est largement respecté.</p> <p>La CSI encourage également la ratification de la C.87.</p>
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	<p><b>Reconnaissance du principe et droit (perspective(s), moyens d'action, dispositions juridiques principales)</b></p>	<p><b>Constitution</b></p>	<p><b>OUI.</b></p> <p>La Nouvelle Constitution adoptée par référendum en juin 2011 (art. 8) dispose que les organisations syndicales des salariés, les chambres professionnelles et les organisations professionnelles des employeurs contribuent à la défense et à la promotion des droits et des intérêts socioéconomiques des catégories qu'elles représentent. Leur constitution et l'exercice de leurs activités, dans le respect de la Constitution et de la loi, sont libres. Les structures et le fonctionnement de ces organisations doivent être conformes aux principes démocratiques. Les pouvoirs publics œuvrent à la promotion de la négociation collective et à l'encouragement de la conclusion de conventions collectives de travail dans les conditions prévues par la loi. La loi détermine les règles relatives notamment à la constitution des organisations syndicales, aux activités et aux critères d'octroi du soutien financier de l'État, ainsi qu'aux modalités de contrôle de leur financement.</p>
		<p><b>Politiques, législation et/ou réglementation</b></p>	<ul style="list-style-type: none"> <li>• <b>Politique</b></li> </ul> <p><b>EA 2013:</b> Selon le gouvernement: Dans sa Déclaration de 2012, le gouvernement réaffirme son attachement et son engagement pour le respect et la promotion du dialogue social par le renforcement du rôle des partenaires socio-économiques en vue de veiller et œuvrer ensemble à la consolidation et à la protection des droits fondamentaux des travailleurs ainsi qu'à la préservation de la paix sociale au sein de l'entreprise. Cela permettra ainsi d'atteindre et d'honorer les objectifs du travail décent. Afin de promouvoir et d'améliorer les relations professionnelles, il a été décidé d'accélérer le parachèvement de l'arsenal juridique social par l'adoption des projets de lois relatifs aux syndicats et au droit de grève, l'élargissement et le renforcement de la protection sociale et de la réglementation du travail ainsi que le respect des libertés et droits syndicaux.</p> <p><b>EA 2004:</b> Dans le cadre des efforts déployés par le gouvernement pour promouvoir le principe et droit (PED), le ministère de l'Emploi s'est fixé, entre autres, comme objectifs: i) le renforcement du contrôle de l'application de la législation du travail; ii) le développement du droit conventionnel; et iii) l'harmonisation du droit du travail avec les normes internationales.</p>

			<ul style="list-style-type: none"> <li>• <b>Législation</b></li> </ul> <p><b>EA 2015 :</b> Selon le gouvernement : Le plan tri-annuel du Ministère de l'Emploi et des Affaires Sociales (MEAS) (2015-2017), établi en 2014, ayant pour devise « Ensemble pour promouvoir l'emploi productif et décent », accorde une attention particulière aux droits fondamentaux au travail, notamment, la liberté syndicale et la protection du droit syndical à travers la sensibilisation au respect des libertés syndicales et le renforcement de l'arsenal juridique régissant les relations professionnelles et les conditions du travail.</p> <p>Selon la FCMCIS: la Constitution reconnaît la liberté syndicale. Toutefois, elle ne permet pas à certaines catégories professionnelles comme les juges de se syndiquer.</p> <p>L'UMT confirme la reconnaissance constitutionnelle de la liberté syndicale au Maroc, tout en précisant que des migrants participent à la direction de syndicats.</p> <p><b>EA 2013:</b> Selon le gouvernement: Depuis l'entrée en vigueur de la nouvelle Constitution, l'élaboration des projets de lois sur les syndicats et sur le droit de grève a été accélérée en vue de leur adoption au courant de l'actuel mandat gouvernemental. Aussi, le projet de loi sur les syndicats a été soumis au Conseil économique et social pour avis.</p> <p><b>EA 2012:</b> Selon le gouvernement: Le projet de loi sur les syndicats vise la promotion et le renforcement des activités de concertation et de consultation des organisations syndicales, faisant ainsi d'elles un partenaire social à différents niveaux (national, secteur public, secteur privé, région). Par ailleurs, ce projet garantit la protection effective de la liberté syndicale en incriminant toute entrave à son exercice, il met en place un ensemble de mécanismes pouvant faciliter l'activité syndicale. Ce projet est actuellement déposé au Secrétariat général du gouvernement pour suivre la procédure d'adoption. Ainsi, le droit du travail comporte la majorité des dispositions de la C.87. Toutefois le droit public n'est pas en conformité avec les principes de ladite convention; surtout en ce qui concerne les statuts particuliers de certains fonctionnaires de l'Etat.</p> <p><b>EA 2011:</b> Selon le gouvernement: Un projet de loi sur les syndicats est en cours d'élaboration et vise l'amélioration du fonctionnement démocratique ainsi que la moralisation de l'activité syndicale.</p> <p><b>EA 2005:</b> Le Code du travail de 2004 (art. 398) a trait au PED. Il y a également un projet de loi sur le droit de grève. Selon le gouvernement: La législation nationale garantit, d'une part, la non-ingérence du gouvernement et des employeurs dans la vie et le fonctionnement des syndicats, ce qui leur assure une liberté totale, et, d'autre part, elle incrimine toutes les atteintes à la liberté syndicale. La loi du 8 juin 2004 portant révision du Code du travail a modifié les critères de représentativité syndicale. Au niveau national, il faut au moins 6 pour cent des sièges des élections professionnelles et, au niveau de l'entreprise, il faut 35 pour cent des sièges pour être représentatif. Le Code du travail impose une obligation annuelle de négocier.</p> <ul style="list-style-type: none"> <li>• <b>Réglementation:</b></li> </ul> <p>Le décret du 16 juillet 1957 ainsi que le dahir [décret] du 24 février 1958 font référence au PED.</p>
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		<p><b>Dispositions juridiques principales</b></p>	<p>i) dahir du 16 juillet 1957 (art. 2);  ii) dahir du 24 février 1958 (art. 14);  iii) nouveau Code du travail (2004) (art. 398).</p>	
		<p><b>Décisions judiciaires</b></p>	<p><b>EA 2006:</b> Selon la CISL: Suite à une décision judiciaire, les «sit-in» sont interdits et les employeurs peuvent suspendre pendant sept jours tout travailleur qui empêche les non-grévistes d’aller travailler. Une récidive au cours de la même année peut entraîner une suspension de 15 jours.</p>	
<p><b>EFFORTS ET PROGRÈS ACCOMPLIS POUR LA RÉALISATION DU PRINCIPE ET DROIT</b></p>	<p><b>Exercice du principe et droit</b></p>	<p><b>Au niveau national (entreprise, secteur/industrie national)</b></p>	<p><b>Pour les employeurs</b></p>	<p><b>EA 2013:</b> Selon la CGEM: La liberté syndicale est effective au Maroc. Le PED est exercé par toutes les catégories d’employeurs au niveau de l’entreprise, ainsi que sur les plans sectoriel et national.</p> <p><b>EAs 2000-2005:</b> La constitution d’une organisation d’employeurs n’est pas soumise à l’autorisation ou à l’approbation préalable du gouvernement.</p> <p>Toutes les catégories d’employeurs peuvent exercer le PED aux niveaux de l’entreprise, du secteur ou de l’industrie, ainsi qu’aux niveaux national et international.</p>
			<p><b>Pour les travailleurs</b></p>	<p><b>EAs 2000-2005:</b> La constitution d’une organisation de travailleurs n’est pas soumise à l’autorisation ni à l’approbation préalable du gouvernement.</p> <p>Toutes les catégories socioprofessionnelles suivantes peuvent exercer le PED aux niveaux de l’entreprise, du secteur ou de l’industrie, ainsi qu’aux niveaux national et international: i) travailleurs des services publics; ii) médecins; enseignants; iii) travailleurs agricoles; iv) travailleurs employés au service domestique; v) travailleurs des zones franches (ZFE) ou entreprises/industries assimilées; travailleurs migrants; vi) travailleurs de tout âge; et vii) travailleurs de l’économie informelle.</p> <p>Toutefois, une restriction est apportée concernant les catégories suivantes de travailleurs qui ne peuvent se prévaloir du principe de la liberté d’association: i) les fonctionnaires et agents exerçant une fonction comportant le droit d’utiliser une arme; ii) les personnes relevant du statut particulier des administrateurs du ministère de l’Intérieur et le corps de la magistrature.</p> <p>Le nouveau Code du travail permet aux magistrats de constituer des associations ayant pour but de défendre leurs intérêts professionnels.</p>

			<p><b>Attention spéciale accordée à des situations particulières</b></p>	<p><b>EA 2015:</b> Selon le gouvernement: Il y a lieu de rappeler que les manifestations du 1<sup>er</sup> Mai (fête du travail) connaissent, depuis 2012, la participation massive de nombreux travailleurs d'origine subsaharienne installés au Maroc. Cette participation découle de la création au sein de l'Organisation Démocratique du Travail (ODT) de syndicats dont les membres constituants sont des étrangers. Cette année une attention particulière a été accordée à la promotion de la négociation collective dans le secteur agricole ce qui a abouti à la signature d'un certain nombre de conventions collectives du travail dans des régions à vocation agricole. Ces conventions auront un impact positif sur le climat social dans ce secteurs d'activité.</p> <p><b>EA 2013:</b> Selon le gouvernement: Le secteur agricole.</p> <p><b>EA 2012:</b> Selon le gouvernement: Le Département de l'emploi avait organisé des sessions de formation au profit des délégués des salariés, représentant les différentes tendances syndicales et professionnelles dans le secteur agricole. Par ailleurs, une étude portant sur les lacunes juridiques et pratiques en matière de liberté syndicale et de négociation collective dans le secteur rural au Maroc, a été réalisée en coopération avec le BIT afin de créer un plan national d'action pour promouvoir les droits syndicaux et de négociation collective dans le secteur rural et assurer ainsi la compétitivité du secteur tout en faisant face à la pénurie de travail décent. Ces activités ont été couronnées par un séminaire de présentation des résultats de l'étude qui a eu lieu en avril 2011.</p> <p><b>EA 2005:</b> Selon le gouvernement: Une attention spéciale est accordée à la situation de la femme salariée ainsi qu'à celle des personnes handicapées.</p> <p>De même, une attention spéciale est aussi accordée aux secteurs du textile et de l'habillement, des transports urbains, de la construction et de la conserverie.</p>
			<p><b>Collecte et diffusion d'informations ou de données</b></p>	<p><b>EA 2000-2005:</b> Selon le gouvernement: Il y a un manque d'informations et de données statistiques sur le PED.</p>
		<p><b>Au niveau international</b></p>	<p>RAS.</p>	



	<p><b>Mécanismes de contrôle, mise en œuvre et/ou sanctions</b></p>	<p><b>EAs 2012-2013:</b> Selon le gouvernement: Lors des visites de contrôle ou des tentatives de conciliation en cas de conflits du travail, les agents de l'inspection du travail veillent sur l'application des dispositions de la législation du travail, et notamment en matière du respect de la liberté syndicale. En cas d'infraction, l'inspecteur du travail fait un constat et prend les mesures qui s'imposent.</p> <p><b>EA 2008:</b> Selon le gouvernement: Dans le cadre de la promotion du PED, les institutions nationales tripartites existantes ont été solidifiées, plus particulièrement le Conseil supérieur de la mutualité et le Conseil supérieur de la négociation collective.</p> <p><b>EA 2003:</b> Selon le gouvernement: Les mesures suivantes ont été mises en œuvre en vue de respecter, promouvoir et réaliser le PED: i) mécanismes d'inspection/supervision; ii) renforcement des capacités des fonctionnaires; iii) mécanisme institutionnel spécial; iv) sanctions civiles ou administratives; et v) sanctions pénales.</p> <p><b>EA 2001:</b> Selon le gouvernement: Une Commission nationale d'enquête et de conciliation a été créée. Par ailleurs, l'inspection du travail joue un rôle important au plan local. Les inspecteurs peuvent engager des poursuites et transmettre les dossiers aux tribunaux compétents. Le nouveau Code du travail a relevé le montant des amendes. En outre, des mesures particulières ont été mises en œuvre en vue de respecter, promouvoir et réaliser le PED dans le pays: i) mécanismes d'inspection/supervision; ii) renforcement des capacités des fonctionnaires responsables; iii) renforcement des capacités des organisations d'employeurs et de travailleurs; iv) activités de sensibilisation/mobilisation; v) mécanisme institutionnel spécial; vi) sanctions civiles ou administratives; et vii) sanctions pénales.</p>
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	<p><b>Implication des partenaires sociaux</b></p>	<p><b>EA 2014:</b> Selon le gouvernement: Le Département de l'Emploi a l'intention de créer un comité tripartite chargé du suivi des questions concernant les activités de l'OIT, notamment la ratification de la C.87.</p> <p><b>EA 2013:</b> Selon le gouvernement: Le dialogue social a été pratiqué par le gouvernement et les partenaires sociaux afin d'accélérer la ratification de la C.87.</p> <p><b>EA 2012:</b> Selon la CGEM: Un protocole d'accord sur le dialogue social a été signé entre le gouvernement, le Président de la CGEM, et les secrétaires généraux de cinq syndicats l'UGTM, le 26 avril 2011. Cet accord a porté sur les points suivants: i) amélioration du rendement; ii) extension et renforcement de la protection sociale; iii) promotion des relations interprofessionnelles et des négociations collectives; iv) amélioration des conditions de travail, de la santé et de la sécurité professionnelles; v) renforcement de la législation du travail, et; v) respect des libertés syndicales.</p> <p><b>EA 2011:</b> Selon le gouvernement: Le droit syndical est exercé d'une manière libre et effective avec une cartographie syndicale libre et variée, ainsi que la mise en œuvre du principe du tripartisme, avec l'implication des syndicats dans toutes les institutions de dialogue social tant au niveau national qu'au sein de l'entreprise.</p> <p><b>EA 2009:</b> Selon le gouvernement: Des réunions tripartites sur le dialogue social ont eu lieu en mars et avril 2008 et sont également prévues en septembre de la même année.</p> <p>Selon la FDT: Des séminaires tripartites ont été organisés sur la liberté d'association.</p> <p><b>EA 2007:</b> Selon le gouvernement: Une rencontre tripartite sur le thème des «mécanismes de promotion des droits fondamentaux au travail» a été organisée par le gouvernement avec la participation du BIT et du Centre arabe de l'administration du travail et de l'emploi à Tunis.</p> <p><b>EA 2003:</b> Selon le gouvernement: La CGEM et la FCCISM participent, au côté du gouvernement et des syndicats, à la négociation, au règlement des conflits et à la formulation de la politique économique et sociale. En outre, des examens tripartites des questions ont été mis en œuvre en vue de respecter, promouvoir et réaliser le PED.</p> <p><b>EA 2001-2005:</b> Selon le gouvernement: Les syndicats professionnels prennent une part active aux consultations menées par les pouvoirs publics dans le cadre de la formulation et de la mise en œuvre de la politique économique et sociale. Les partenaires sociaux sont impliqués au niveau de la Commission nationale d'enquête. Ils participent aussi aux négociations nationales (Code du travail, projet de loi sur la grève), au projet de coopération technique mis en œuvre par le BIT ainsi qu'aux examens tripartites des questions relatives au PED.</p>
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	<p><b>Activités promotionnelles</b></p>	<p><b>EA 2015:</b> Selon le gouvernement: En septembre 2014, le Ministère de l'Emploi et des Affaires Sociales a organisé un colloque sur le thème « Le Code du travail après dix ans de son entrée en vigueur: entre les exigences du développement économique et la garantie du travail décent ». Pour ce faire, Le Ministère a impliqué les partenaires sociaux dans tout le processus de préparation de ce colloque, qui a été couronné par un certain nombre de recommandations ayant trait, notamment, à l'amélioration des relations professionnelles dont le renforcement de l'exercice du droit syndical. Les partenaires sociaux ont été associés au processus de l'élaboration du projet de la nationale de l'emploi, qui a en cours de validation par le gouvernement. Ce projet, réalisé avec le concours du BIT, a pour objectif central la promotion de l'emploi décent à travers une croissance riche en emplois productifs et de qualité, l'accroissement de la participation des jeunes et des femmes dans le marché du travail, le renforcement de l'égalité dans l'accès aux emplois et la réduction des disparités territoriales d'emploi. Dans la même vision, le projet intitulé « la promotion et la bonne gouvernance du marché du travail et des droits fondamentaux au Maroc » a pu réaliser, avec l'appui technique du BIT, des activités importantes, dont : a) une étude sur l'analyse et le fonctionnement des instances tripartites de consultation et les résultats de leurs travaux. Cette étude a compris, également, un volet sur les propositions d'amélioration du fonctionnement de ces instances, et b) l'organisation de trois ateliers régionaux tripartites sur la négociation collective, dont l'objectif était la sensibilisation des acteurs à la négociation collective, la vulgarisation du droit et la culture de la négociation collective et la mise en place d'un réseau des acteurs impliqués dans le processus. Aussi, plusieurs sessions de formation sur les principes et droits fondamentaux au travail ont été organisées au profit des inspecteurs du travail du Ministère de l'Emploi et des Affaires Sociales (environ 500 inspecteurs du travail ont bénéficié de cette formation), et un guide méthodologique sur le contrôle des droits fondamentaux au travail a été élaboré, avec le concours du BIT, et distribué aux inspecteurs du travail en vue d'améliorer leur méthodologie d'intervention en la matière, notamment, la protection du droit syndical.</p> <p><b>EA 2014:</b> Selon le gouvernement: Des formations pour les partenaires tripartites sur la liberté syndicale ont été réalisées dans le cadre de la mise en œuvre du projet BIT/Maroc intitulé « promouvoir les principes et les droits fondamentaux au travail via le dialogue social et l'égalité entre femmes et hommes ». Le projet prévoit des activités de sensibilisation de l'opinion publique, des journalistes et des parlementaires. Par ailleurs, une formation de l'ensemble des inspecteurs a été assurée en coopération avec le BIT.</p> <p><b>EA 2013:</b> Selon le gouvernement: Dans le but de promouvoir la liberté syndicale dans le secteur agricole, le Département de l'Emploi avait organisé, en octobre 2011, des sessions de formation dans la région de Meknès-Tafilalet. Ladite formation a porté essentiellement sur l'institution des délégués du personnel dans le cadre du Code du travail et le rôle des institutions représentatives du personnel.</p>
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	<p><b>Initiatives spéciales/Progrès</b></p>	<p><b>EA 2015:</b> Selon le gouvernement: En instaurant les sessions du dialogue social annuel depuis l'année 1996, le Maroc a manifesté sa bonne volonté à faire participer les partenaires sociaux dans l'élaboration de tout l'arsenal juridique et stratégique national relatif au monde du travail en vue de construire une paix sociale durable. Ainsi, la session du dialogue social au titre de l'année 2014 a été soldée par la revalorisation des salaires minima dans les secteurs public et privé. Cependant, la session du dialogue social au titre de l'année 2015 qui se poursuit en ce moment est marquée par la discussion de la réforme du régime des retraites. En optant pour une modernisation des relations de travail et une promotion du dialogue social, le MEAS continue à dynamiser les instances à caractère tripartite créées par le code du travail. Au titre de l'année 2014, toutes les instances à caractère tripartite, notamment, le conseil de la négociation collective, le conseil de la médecine et de la commission chargée du suivi de l'application des dispositions légales afférentes au travail temporaire, ont tenu leurs réunions annuelles respectives. Au titre de cette année, le Ministère de l'Emploi et des Affaires Sociales a continué à financer les plans de formation et d'encadrement au sein des centrales syndicales dans le but de renforcer les droits et libertés syndicaux qui revêtent une importance primordiale pour les pouvoirs publics. Le mois de juin 2015 connaît l'organisation de l'élection des délégués des salariés. Cette opération revêt un intérêt particulier pour les centrales syndicales qui en sont parties prenantes. A l'issue de cette opération la représentativité des centrales syndicales sera redéfinie. Toutefois, un projet de loi sur les syndicats professionnels a été mis dans les circuits d'approbation. Ce projet a pris en compte l'ensemble des dispositions de la C.87. Cependant et suite à la ratification, par le Maroc, de la convention internationale du travail n°144 de 1976 sur les consultations tripartites relatives aux normes internationales du travail, une commission tripartite, chargée de la promotion des consultations relatives aux normes internationales du travail, a été instituée au sein du Ministère de l'Emploi et des Affaires Sociales. Cette commission a tenu sa première réunion le 7 Avril 2015, avec un ordre du jour portant sur le bilan des consultations relatives aux normes internationales du travail réalisées au titre de l'année 2014, le plan d'action des consultations proposées au titre de l'année en cours et sur la discussion du règlement intérieur régissant ladite commission. Il est à noter qu'une session de formation a été organisée au profit des membres de cette commission avec la collaboration et le soutien technique du BIT. Cette formation portait sur les organes de contrôles réguliers de l'OIT.</p> <p><b>EA 2014:</b> La CGEM a indiqué qu'elle assurait la promotion de la représentativité syndicale dans les entreprises marocaines à travers des caravanes sociales dans le royaume visant à sensibiliser les partenaires sociaux sur l'importance du respect de la liberté syndicale et du dialogue social.</p> <p><b>EA 2010:</b> Selon le gouvernement: Des élections professionnelles ont été organisées pour la première fois après l'entrée en vigueur du Code du travail, à l'échelon national dans les secteurs privé et public. Ces élections ont également été organisées pour la première fois dans les secteurs agricole et de l'artisanat.</p> <p><b>EA 2004:</b> Selon le gouvernement: Le renforcement dans l'application de la législation du travail, le développement du droit conventionnel et l'harmonisation du droit du travail avec les normes internationales peuvent être considérés comme une réussite dans la réalisation du PED. Des modifications importantes concernant le PED sont intervenues: i) adoption du projet du Code du travail par le Parlement (fin 2003); ii) élaboration de la partie réglementaire (fin 2003 - début 2004); et iii) lancement du programme sur le renforcement des relations professionnelles (mai 2004).</p>
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<b>DIFFICULTÉS DANS LA RÉALISATION DU PRINCIPE ET DROIT</b>	<b>Selon les partenaires sociaux</b>	<b>Organisations d'employeurs</b>	<b>EA 2014:</b> Selon la CGEM: Il y a un manque de connaissance ou d'interprétation des conventions fondamentales du travail, y compris en matière de liberté syndicale. <b>EA 2013:</b> Selon la CGEM: Il y a méfiance tripartite sur la question du droit de grève. <b>EA 2012:</b> Selon la CGEM: la question des corps paramilitaires et des magistrats explique que le gouvernement n'ait pas encore pris les mesures nécessaires pour ratifier la C.87. <b>EA 2010:</b> Selon la CGEM: Les élections représentatives du personnel se sont déroulées dans le respect des règles régissant lesdites élections.
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		<p><b>Organisations de travailleurs</b></p>	<p><b>EA 2015:</b> Selon UMT: la non-reconnaissance de la liberté syndicale pour certaines catégories de travailleurs constitue un obstacle à la ratification de la C.87.</p> <p><b>EA 2014:</b> Selon l'UGTM et la FDT: La liberté syndicale n'est pas respectée dans certaines entreprises étrangères installées au Maroc, allant même jusqu'au licenciement de certains représentants syndicaux dans les zones franches d'exportation.</p> <p><b>EA 2012:</b> Selon l'UGTM: La question des corps armés (douanes, agents des eaux et forêts, et magistrats) constitue un problème pour la ratification de la C.87.</p> <p><b>EA 2010:</b> Selon la CDT: Il existe des problèmes d'origine politique, structurelle et juridique dans la réalisation du PED au Maroc. La liberté syndicale est bafouée dans le pays et les travailleurs grévistes sont emprisonnés s'ils font des piquets de grève devant l'entre car le Code pénal dispose que la liberté du travail est bafouée. La répression face à la liberté syndicale est forte au Maroc, et plus de 66 pour cent des travailleurs du pays sont sans appartenance syndicale.</p> <p><b>EA 2009:</b> Selon l'UGTM: Le gouvernement n'a mené aucune activité de promotion de la liberté d'association, et il ne cesse de mentionner que les personnes ayant une fonction armée ne peuvent jouir du droit de se syndiquer. La liberté syndicale est bafouée en permanence au Maroc. Les syndicats subissent des intimidations, des pressions de toutes sortes et en permanence de la part des employeurs et, chaque fois qu'un bureau syndical est élu, les délégués syndicaux sont soit licenciés, soit mutés. Toutes ces manœuvres consistent à casser le mouvement syndical. Or l'UGTM n'est pas dans une logique de confrontation, elle veut simplement contribuer à améliorer les conditions de travail des salariés, notamment la formation. Les syndicats veulent être considérés comme des partenaires et non comme des adversaires. Ils considèrent la liberté syndicale comme une condition nécessaire au développement économique du pays.</p> <p>Selon la FDT: Il reste beaucoup à faire en matière de liberté syndicale au Maroc. Les principales difficultés se rencontrent dans l'économie informelle (notamment le tourisme et le bâtiment qui sont les secteurs les moins syndiqués) où les salariés subissent toutes sortes d'intimidations de la part des employeurs, mais aussi au sein des entreprises qui n'ont pas adhéré à la CGEM. Il est nécessaire d'abroger l'article 288 du Code pénal qui constitue le principal obstacle à l'exercice effectif de la liberté d'association.</p> <p>La CDT a estimé que la liberté syndicale n'était pas respectée dans le pays.</p> <p>La CSI a réitéré les mêmes observations qu'elle a formulées concernant le Maroc dans le cadre du précédent EA (2008), notamment sur: i) les restrictions au droit de grève et les lourdes sanctions prévues en cas de recours à la grève; et ii) les restrictions imposées aux «sit-in», aux piquets et aux manifestations publiques.</p>
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			<p><b>EA 2008:</b> Selon l'UGTM: La liberté syndicale est peu respectée au sein de la fonction publique, et de nombreux «sit-in» ont été organisés. Elle estime également que le non-respect des engagements et la non-institutionnalisation du dialogue social mettent un frein à la promotion du droit à la liberté syndicale et de sa protection. D'autres difficultés ont été notées, notamment: i) le manque de coopération de la Caisse nationale de sécurité sociale avec quelques associations de travailleurs, dont l'UGTM; ii) le non-respect des provisions législatives et constitutionnelles en ce qui concerne la représentativité; et iii) le manque d'efficacité du Comité de la liberté syndicale.</p> <p>Selon la CSI: i) les restrictions législatives sont utilisées pour réprimer les grèves, notamment celles menées par les femmes dans le secteur du textile; ii) les licenciements collectifs ont eu lieu dans l'industrie textile et le secteur de la production floricole pour cause d'actions syndicales; iii) la forte répression policière lors de manifestations publiques, sit-in et piquets (cas de Moustapha Laaraj à Tiflet); iv) toute activité syndicale est interdite pour les magistrats; v) les travailleurs domestiques et agricoles ne sont pas couverts par le Code du travail; vi) abus dans les zones franches, particulièrement avec les sous-traitants; et vii) la loi portant sur la négociation collective ne stipule pas clairement si certaines catégories de fonctionnaires (enseignants, responsables des prisons, gardiens de phares, employés des eaux et forêts) jouissent des droits de négociation collective.</p> <p><b>EA 2007:</b> Selon la CISL: La législation sur le droit du travail est ignorée dans les entreprises, et notamment dans les zones franches qui sont en train de se développer.</p> <p><b>EA 2006-07:</b> Selon la CISL: i) les agriculteurs jouissent de droits syndicaux restreints par rapport aux autres travailleurs; ii) toute activité syndicale reste complètement interdite pour les magistrats; iii) le projet de loi de 2004 sur le droit de grève rend impossible l'exercice de ce droit; iv) il y a de nouvelles restrictions sur les «sit-in», les piquets de grève et les manifestations publiques.</p> <p><b>EA 2005:</b> Selon la CISL: Le nouveau Code du travail ne satisfait pas complètement les organisations de travailleurs car il institutionnaliserait la précarité des emplois (pour le gouvernement, il s'agit de flexibilité et non de précarité).</p> <p><b>EA 2004:</b> Selon la CMT: i) il existe de graves restrictions au droit de grève; ii) la législation ne garantit pas le plein exercice du droit de grève, et le nouveau projet de législation en la matière ne semble pas tenir compte des considérations des organisations syndicales; iii) les organisations de travailleurs contestent en partie le projet de loi sur le droit de grève.</p> <p><b>EA 2002:</b> Selon la CISL: i) le gouvernement continue de s'ingérer dans le travail quotidien des syndicats; ii) de nombreux conflits du travail ont surgi suite au non-respect des conventions collectives par les employeurs; iii) la loi (<i>dahir</i>) de 1957 sur les syndicats n'étend pas l'égalité des droits aux travailleurs du secteur agricole; iv) dans plusieurs entreprises, et même dans le secteur public, il est fréquent que le droit du travail ne soit pas respecté; v) l'article 288 du Code pénal sur le «droit de grève» ne donne pas véritablement aux travailleurs le choix de participer ou non à une grève.</p> <p><b>EA 2000-01:</b> Selon la CISL: i) Licenciements et emprisonnements de syndicalistes dans le secteur privé; ii) arrestation et emprisonnement des grévistes sur le fondement de l'article 288 du Code du travail pour «entrave à la liberté du travail».</p>
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	<p><b>Selon le gouvernement</b></p>	<p><b>EA 2015:</b> Selon le gouvernement: A l'exception de certains cas minimes de refus de l'exercice du droit syndical au sein de certaines unités de production, le principe de la liberté syndicale et la reconnaissance effective de ce droit se manifestent et s'exercent dans la pratique sans aucune difficulté majeure.</p> <p><b>EA 2014:</b> Selon le gouvernement: Les difficultés en matière de respect et de promotion de la liberté syndicale se rapportent essentiellement à certains textes législatifs et réglementaires qui ont besoin de faire l'objet d'amendement.</p> <p><b>EA 2013:</b> Selon le gouvernement: Les difficultés en matière de respect et de promotion de la liberté syndicale se rapportent essentiellement à l'interprétation des dispositions de la législation du travail.</p> <p><b>EA 2012:</b> Selon le gouvernement: C'est la constitution en syndicat des agents d'autorité (gardes forestiers, agents de la protection civile et magistrats) qui explique la non ratification de la C.87.</p> <p><b>EA 2011:</b> Selon le gouvernement: La ratification de la C.87 présente des difficultés relatives à l'harmonisation de certains statuts de fonctionnaires de l'Etat, notamment ceux se rapportant à l'exercice du droit syndical.</p> <p><b>EA 2009:</b> Selon le gouvernement: Il existe des difficultés de compréhension et de mise en œuvre du PED au Maroc, notamment au sein des entreprises nationales. En réponse aux observations concernant le souhait exprimé par la FDT concernant l'abrogation de l'article 288 du Code pénal qu'elle juge attentatoire à la liberté d'association, le gouvernement a estimé que cet article avait été conçu non pas pour porter atteinte à la liberté syndicale, mais pour sanctionner toute entrave à la liberté du travail. Il précise que c'est pour lutter contre les violences, les destructions de locaux et les intimidations de certains syndicalistes envers les non-grévistes que cette disposition a été instituée.</p> <p><b>EA 2008:</b> En réponse aux observations de la CSI, le gouvernement a indiqué ce qui suit: i) les travailleurs agricoles et domestiques sont soumis au Code du travail. A ce titre, l'article 1 du Code du travail stipule clairement que «les dispositions de cette loi s'appliquent aux personnes liées par un contrat de travail quels que soient ses modalités d'exécution, la nature de la rémunération et le mode de paiement qu'il prévoit et la nature de l'entreprise dans laquelle il s'exécute, notamment les entreprises industrielles, commerciales, artisanales et les exploitations agricoles et forestières et leurs dépendances». Quant aux travailleurs domestiques, l'article 4 du Code du travail prévoit la mise en œuvre d'une loi spéciale sur le travail domestique qui prendrait en compte la spécificité de la relation du travail dans les maisons. A cet effet, un projet de loi sur le travail domestique a été élaboré, en juin 2006, après consultation de tous les acteurs concernés par la question et a été soumis aux services compétents pour adoption; ii) concernant les membres de la magistrature, les magistrats s'organisent actuellement dans le cadre d'une amicale, dont le rôle est de défendre leurs intérêts et qui répond aux objectifs assignés par l'article 10 de la C.87; iii) la loi n'exclut aucune catégorie de travailleurs de la négociation collective; iv) l'intervention des pouvoirs publics pour faire cesser des manifestations dans des lieux publics se fait quand ces dernières sont accompagnées de violences ou portent atteinte à l'ordre public; v) concernant les licenciements pour motifs syndicaux, notamment dans le secteur textile, ils sont réglés, à l'instar des conflits du travail, au niveau de l'inspection du travail. A défaut de solution amiable, il est fait recours aux commissions d'enquête et de conciliation, les salariés peuvent également saisir la justice qui rend ses sentences sur la base des prescriptions légales en la matière; et vi) les zones franches sont soumises à la législation du travail au même titre que le reste du territoire national. Quant au développement de la sous-traitance, reconnue légalement, ce n'est pas un motif justifiant l'atteinte à la liberté syndicale dans la mesure où les sous-traitants sont tenus de se conformer à la législation du travail.</p>
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		<p><b>EA 2007:</b> En réponse aux observations de la CISL, le gouvernement a indiqué ce qui suit: i) les travailleurs agricoles sont soumis aux dispositions du Code du travail; par conséquent, ils jouissent des mêmes droits aux les travailleurs des autres secteurs soumis a cette loi; ii) les magistrats bénéficient du droit d'association, ils sont organisés en une association qui a pour but la défense de leurs intérêts; iii) en dépit de l'absence de cadre légal sur l'exercice du droit de grève, celui-ci s'exerce de fait, de façon libre et sans aucune entrave; iv) les grèves accompagnées de <i>sit-in</i> qui sont pacifiques sont tolérées, sous réserve qu'elles ne portent pas atteinte à l'outil de production, à la liberté du travail des non-grévistes et à la libre circulation des marchandises (entrées et sorties); v) les entreprises exerçant dans les zones franches sont assujetties au contrôle de l'application de la législation nationale, à l'instar de tous les établissements installés sur le territoire national, dans tous les secteurs d'activité. Par ailleurs, des inspecteurs du travail effectuent des visites d'inspection dans les entreprises installées dans les zones franches, notamment dans les ports de Tanger et de Casablanca.</p> <p><b>EA 2005:</b> Selon le gouvernement: Les principales difficultés rencontrées dans la réalisation du PED sont les suivantes: i) valeurs sociales et traditions culturelles; ii) manque de moyens des institutions gouvernementales responsables; et iii) manque de moyens des organisations d'employeurs et de travailleurs.</p> <p><b>EA 2002:</b> En réponse aux observations de la CISL, le gouvernement indique ce qui suit: i) le gouvernement n'intervient ni dans l'organisation ni dans le fonctionnement d'un groupement professionnel d'employeurs et de travailleurs; ii) plusieurs mesures ont été prises afin de garantir une protection adéquate contre tout acte d'ingérence dans les syndicats; iii) le principe de l'égalité des droits est reconnu aussi bien pour les travailleurs des secteurs de l'industrie et des services que pour les travailleurs du secteur agricole; iv) en cas de non-application d'une des clauses de la convention collective, la partie lésée a le droit de saisir la justice; v) le respect du droit du travail dans le secteur privé est assuré par un contrôle effectué quotidiennement par les inspecteurs du travail par le moyen de visites d'inspection; et vi) le droit de grève est un droit qui demeure garanti par la Constitution marocaine dans son article 14, et aussi bien dans le secteurs public que privé, les faits sanctionnés conformément à l'article 288 du Code pénal sont des actes de violence, voie de fait, menaces frauduleuses et l'entrave à la liberté de travail et non pas l'exercice du droit de grève.</p> <p><b>EA 2001:</b> En réponse aux observations de la CISL, le gouvernement a soutenu que la liberté syndicale et le droit de grève étaient reconnus par la Constitution nationale et que plusieurs mesures avaient été prises en ce sens.</p>
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<p><b>COOPÉRATION TECHNIQUE</b></p>	<p><b>Demande</b></p>	<p><b>EA 2015:</b> Selon le gouvernement: Il est à noter qu'en marge de la tenue de la 104<sup>ème</sup> session de la conférence internationale du travail, une rencontre non formelle a été tenue entre un représentant gouvernemental et deux fonctionnaires du Département des droits fondamentaux du travail, pour étudier la possibilité de ratification de la C.87 ainsi que l'appui technique possible du BIT en vue de la ratification de ladite convention. Au cours de cette rencontre, il a été proposé de tenir, une réunion, au mois de novembre 2015, au Maroc avec la participation du BIT et des départements ministériels concernés pour débattre ce sujet.</p> <p>Selon l'UMT: l'assistance du BIT serait bienvenue en matières de sensibilisation à la ratification de la C.87 et de formation tripartite sur le PED.</p> <p><b>EA 2014:</b> Selon le gouvernement: L'assistance du BIT en matière de droits fondamentaux au travail est toujours sollicitée.</p> <p>Selon la CGEM: L'assistance technique du BIT est nécessaire pour former des formateurs en matière de droits fondamentaux au travail.</p> <p>Selon l'UGTM et la FDT: L'assistance technique du BIT en matière de droits fondamentaux au travail est nécessaire, avec un accent particulier sur la C.87.</p> <p><b>EA 2013:</b> Selon le gouvernement: L'assistance du BIT en matière de droits fondamentaux au travail est toujours sollicitée.</p> <p><b>EA 2012:</b> Selon le gouvernement: L'assistance technique du BIT est nécessaire pour la sensibilisation des principaux acteurs sur la nécessité de ratification et une meilleure compréhension de la C.87, ainsi que des autres droits fondamentaux au travail.</p> <p>Selon la CGEM: L'assistance technique du BIT est nécessaire surtout pour une meilleure compréhension du droit de grève.</p> <p>Selon l'UGTM: Un appui technique du BIT serait nécessaire pour accélérer la ratification de la C.87.</p> <p><b>EA 2010:</b> Selon le gouvernement: L'assistance technique du BIT est nécessaire pour promouvoir et réaliser le PED dans le pays.</p> <p>La CGEM souhaiterait la coopération technique du BIT dans les domaines suivants: 1. Campagne de sensibilisation; 2. Renforcement du dialogue tripartite; et 3. Formation des partenaires tripartites sur le PED.</p> <p>Selon la CDT: Une intervention plus marquée de la part du BIT est nécessaire afin d'encourager le gouvernement à mettre en œuvre le PED au Maroc.</p> <p><b>EA 2009:</b> Selon la CGEM: La coopération technique du BIT concernant la promotion du PED serait très utile et pourrait permettre d'accompagner les changements très concrets de la société marocaine.</p> <p>L'UGTM et la FDT ont à nouveau sollicité l'assistance technique du BIT pour conscientiser le gouvernement sur l'importance de la ratification de la C.87.</p> <p>La CDT a appuyé cette requête tout en sollicitant une formation supplémentaire des travailleurs en matière d'éducation ouvrière.</p> <p><b>EA 2008:</b> L'UGTM sollicite l'assistance technique du BIT pour sensibiliser les autorités gouvernementales sur la ratification éventuelle de la C.87 et apporter une aide dans la formation des fonctionnaires publics.</p> <p><b>EA 2005:</b> Une coopération technique avec le BIT est nécessaire pour faciliter la réalisation du PED au Maroc, en particulier dans les domaines suivants, classés par ordre de priorité: 1) échange d'expériences entre pays ou régions; renforcement du dialogue social tripartite; renforcement des capacités des organismes gouvernementaux responsables; 2) évaluation en coopération avec le BIT des difficultés constatées et de leur incidence sur la mise en pratique du principe; mise en œuvre de sensibilisation, initiation juridique et mobilisation; renforcement de la collecte des données et de l'aptitude à tenir et à analyser les statistiques; réforme des instruments juridiques (législation du travail et autres pertinentes); formation des fonctionnaires d'autres services (police, juristes, travailleurs sociaux, enseignants, etc.); renforcement des capacités des organisations d'employeurs et de travailleurs.</p>
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	<b>Offre</b>	<p>BIT/Déclaration;BIT/Programme pour le dialogue social en Afrique francophone (PRODIAP) ; Centre arabe de l'administration du travail et de l'emploi.</p> <p>Selon le gouvernement: Un plan d'action 2008-2011 en collaboration avec le BIT sur les droits fondamentaux a été mis en œuvre. Un des points importants porte sur la liberté d'association.</p>
<p><b>OBSERVATIONS/ RECOMMANDATIONS DES EXPERTS- CONSEILLERS</b></p>	<p><b>EA 2008:</b> Les Experts-conseillers de la Déclaration notent que des restrictions au droit d'organisation de certaines catégories de travailleurs au Maroc (et certains autres pays) – tels que les travailleurs dans les zones franches d'exportation et les travailleurs des services publics – ne sont pas compatibles avec la réalisation du principe et droit (cf. paragr. 38 de l'Introduction à l'examen annuel de 2008, BIT, document GB.301/3).</p> <p><b>EA 2003:</b> Les Experts-conseillers de la Déclaration notent avec satisfaction que le gouvernement du Maroc a souligné qu'il est nécessaire de renforcer les capacités des organisations d'employeurs et de travailleurs et qu'il sollicite l'aide du BIT à cet effet. Le Bureau devrait mobiliser ses ressources aussi rapidement que possible, sous réserve naturellement que le renforcement envisagé ne concerne pas des structures de syndicat unique imposé ou des organisations d'employeurs. A la lumière des demandes faites par le Maroc qui a sollicité la coopération du BIT pour l'évaluation des difficultés et leur incidence sur la réalisation des principes et droits de la liberté d'association et la négociation collective, ils souhaiteraient que le Conseil d'administration demande que des contacts de haut niveau soient pris immédiatement entre le Bureau et deux ou trois pays qui ne bénéficient pas encore de projets techniques du BIT dans ce domaine (voir paragr. 73 et 74 de l'Introduction à l'examen annuel de 2003, BIT, document GB.286/4).</p>	
<p><b>OBSERVATIONS/ RECOMMANDATIONS DU CONSEIL D'ADMINISTRATION</b></p>	<p><b>EA 2015 :</b> Lors de sa session de Mars 2014, le Conseil d'administration a invité le Directeur général: a) à tenir compte de ses orientations sur les principales questions et priorités concernant l'aide à apporter aux Etats Membres dans leurs efforts pour respecter, promouvoir et réaliser les principes et droits fondamentaux au travail; et b) à tenir compte de cet objectif dans les initiatives du Bureau visant à mobiliser des ressources.</p> <p><b>EA 2013:</b> Lors de sa session de Novembre 2012, le Conseil d'administration a demandé au Directeur général de tenir pleinement compte du Plan d'action de l'OIT relative aux principes et droits fondamentaux au travail (2012-2016) et d'allouer les ressources nécessaires à sa mise en œuvre. Ce plan d'action est ancré dans le caractère universel des principes et droits fondamentaux au travail (PDFT), leurs qualités indissociables, interdépendantes et complémentaires ainsi que de la réaffirmation de leur importance particulière, aussi bien en tant que droits de l'homme que comme conditions nécessaires à la réalisation des objectifs de l'OIT. Il reflète une approche intégrée, qui traite à la fois des liens inhérents entre les catégories de PDFT ainsi que ceux concernant ces catégories et les autres objectifs stratégiques de l'OIT en vue de renforcer leur synergie, leur efficacité et leur impact. À cet égard, la liberté d'association et la reconnaissance effective du droit de négociation collective sont particulièrement mises en lumière en tant que droits habilitant pour la réalisation de tous les objectifs stratégiques.</p> <p><b>2011 AR:</b> Lors de sa session de Mars 2010, le Conseil d'Administration a décidé que le thème de la question récurrente à l'ordre du jour de la 101ème session (2012) de l'OIT Conférence internationale du Travail devrait traiter de l'objectif stratégique concernant la promouvoir et la réalisation des principes et droits fondamentaux.</p> <p><b>EA 2009:</b> Lors de sa session de mars 2009, le Conseil d'administration a inclus la révision du suivi de la Déclaration sur les principes et droits fondamentaux au travail de 1998 à l'ordre du jour de la 99<sup>e</sup> session (2010) de la Conférence internationale du Travail.</p>	



**RÉSOLUTION  
DE LA CONFÉRENCE  
INTERNATIONALE  
DU TRAVAIL**

**2013 AR:** En Juin 2012, suite à la discussion récurrente sur les principes et droits fondamentaux au travail, conformément à la Déclaration de l'OIT sur la justice sociale pour une mondialisation équitable, 2008, et la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail et son suivi, 1998, la Conférence internationale du Travail a adopté la Résolution concernant la discussion récurrente sur les principes et droits fondamentaux au travail. Cette résolution comprend un cadre d'action pour le respect, la promotion et la réalisation efficaces et universels des PDFT pour la période 2012-16. Elle invite le Directeur général à soumettre le plan d'action intégrant les priorités énoncées dans ledit cadre d'action pour examen au Conseil d'administration à sa 316<sup>ème</sup> session en Novembre 2012.

**EA 2011:** Suite à un débat tripartite dans le cadre de la Commission de la Déclaration de 1998, la 99<sup>e</sup> session (2010) de la Conférence internationale du Travail a adopté le 15 juin 2010 une résolution sur le suivi de la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail. Le texte figurant en annexe à cette résolution et remplace l'Annexe de la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail, et est nommé «Annexe à la Déclaration de 1998 (révisée)». En particulier, la résolution «[note] les progrès accomplis par les Membres dans le respect, la promotion et la réalisation des principes et des droits fondamentaux au travail et la nécessité de soutenir ces progrès en maintenant un dispositif de suivi. Pour davantage d'informations, voir les pages 3 à 5 du lien suivant: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143166.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143166.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: MYANMAR**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, except for the 2000 and 2001 Annual Reviews (ARs). No change report for the 2006 and 2007 ARs.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) (the most representative employers' organization), and workers organisations such as: the Confederation of Trade Unions of Myanmar (CTUM) [formely known as the Federation of Trade Union of Myanmar (FTUM) and the Federation of Trade Unions – Burma (FTUB)], the Workers' Welfare Associations and the Ceramic Industrial Labour Organization (CILO), the Myanmar Trade Union Federation (MTUF), and the Agriculture and Farmers Federation of Myanmar (AFFM).
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2015 AR:</b> Observations by the UMFCCI.</p> <p><b>2014 AR:</b> Observations by the UMFCCI.</p> <p><b>2013 AR:</b> Observations by the UMFCCI.</p> <p><b>2012 AR:</b> Observations by the UMFCCI.</p> <p><b>2011 AR:</b> Observations by the UMFCCI.</p> <p><b>2008 AR:</b> Observations by the UMFCCI.</p>
	<b>Workers' organizations</b>	<p><b>2015 AR:</b> Observations by the CTUM. Observations by the MTUF.</p> <p><b>2014 AR:</b> Observations by the FTUM and the most representative workers' organizations.</p> <p><b>2013 AR:</b> Observations by the CILO.</p> <p><b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).</p> <p><b>2002 AR:</b> Observations by the ICFTU.</p> <p><b>2001 AR:</b> Observations by the ICFTU.</p> <p><b>2000 AR:</b> Observations by the ICFTU.</p>

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p>Myanmar ratified in 1955 of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) (C.87). However, it has not yet ratified the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98).</p>
		<p><b>Ratification intention</b></p>	<p><b>To be considered in appropriate time for C.98 (since 2009).</b></p> <p><b>2014-2015 ARs:</b> According to the Government: Myanmar is in the process of studying the alignment of its national laws to the requirements of the Convention, and hence ratification would be considered at an appropriate time in the future.</p> <p>UMFCCI reiterated its support for the ratification of C.98 but emphasized that ratification alone is not sufficient and building capacity for implementation is important.</p> <p>CTUM supports the ratification of C.98 and lobbies the Government to move ahead with ratification.</p> <p>MTUF expressed its support for the ratification of C.98.</p> <p><b>2014 AR:</b> The Government reiterated that ratification of C.98 would be considered at the appropriate time.</p> <p>The UMFCCI reiterated its full support for the ratification of C.98.</p> <p>The FTUM expressed its support for the ratification of C.98 and regarded it as an important instrument to backup C.87.</p> <p><b>2013 AR:</b> The Government reported that the ratification of C.98 would be considered at the appropriate time.</p> <p>The UMFCCI expressed its full support for the ratification of C.98 and mentioned that the PR was already implemented in domestic laws.</p> <p>The CILO expressed its support for the ratification of C.98 and underlined its positive effects on working conditions.</p> <p><b>2012 AR:</b> According to the Government: Ratification of C.98 will be considered in appropriate time to do so.</p> <p>The UMFCCI reiterated its support for the ratification of C.98 by Myanmar.</p> <p><b>2010-2011 ARs:</b> According to the Government: The new Constitution was adopted by the referendum held in May 2008, and the ILO should cooperate with Myanmar for the ratification of all ILO fundamental Conventions. Ratification of C.98 would be considered in appropriate time to do so.</p> <p><b>2008 AR:</b> The Government indicated that it would consider the ratification of C.98 once the new Constitution is promulgated.</p> <p>The UMFCCI supports the ratification of C.98.</p> <p><b>2001 AR:</b> According to the Government: C.98 has been submitted to the competent authorities for review.</p> <p>Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.98.</p>



	<p><b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>2015 AR:</b> According to the Government: Article 354 of the State Constitution 2008 provides the rights of the citizens including freedom of expression, peaceful assembly, and freedom of association. Article 96, chapter IV, of the Constitution stipulates that the legislative body shall enact respective laws including the law relating to the labour organization.</p> <p><b>2010-2012 ARs:</b> According to the Government: The new State Constitution has been ratified by referendum in May 2008, Article 354 of the Constitution provides the rights of the citizens including freedom of expression, assemble peacefully, and freedom of association. Article 96, chapter IV, of the Constitution stipulates that the legislative body shall enact respective laws including the law relating to the labour organization.</p> <p><b>2004 AR:</b> According to the Government: The Constitution is in the drafting stage.</p>
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		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li> <p><b>Legislation</b></p> <p><b>2015 ARs:</b> According to the Government: Under the Labour Organization Law which is enacted on 11th October 2011, 1676 basic worker's organizations, 80 township workers' organizations, 6 states/Regional workers' organizations, 7 workers' Federations, one worker confederation, 28 basic employer's organizations, one township employers' organization, one federation, and a total of 1800 Workers and Employers Organizations have been formed up to date. The Settlement of Labour Dispute Law was enacted on 28th March 2012 and its rules were issued on 26th April 2012. The amendment Law of the Settlement of Labour Dispute Law was enacted on 30th September 2014. The new Social Security Law was enacted in 31st August, 2012, and its rules were issued in 2nd April 2014. Employment and Skill Development Law has been enacted on 30th August 2013. The Minimum Wage Law was enacted on 22 March 2013 and its rules were also issued on 12 July 2013. Workmen's Compensation Act, 1923, Employment Statistics Act, 1948 and Employment Restriction Act, 1959 are in the process of being amended. The Law Relating to Oversea Employment, 1999 is being withdrawn for renewal. The Aliens Workers Bill is still being drafted for enactment.</p> <p><b>2014 AR:</b> According to the Government: A new minimum wage law has been established following consultations with the most representative employers' and workers' organizations and other stakeholders. Furthermore, a settlement of labour dispute law is currently being formulated in cooperation with the social partners and the ILO.</p> <p><b>2013 AR:</b> According to the Government: Freedom of association is guaranteed in the Chapter VIII of Constitution. New laws have been adopted in 2011 and 2012 in relation to the principle and right (PR): (i) The Labour Organization Law (Law No. 7/2011); (ii) The Settlement of Labour Dispute Law (Law No. 5/2012), and; (iii) The Law on the Right of Peaceful Assembly and Peaceful Procession, Dec/2011.</p> <p>According to the CILO: The Labour Organization Law (Law No. 7/2011) and the Settlement of Labour Dispute Law (Law No. 5/2012) were adopted in 2011 and 2012 respectively, bringing implications on the right to collective bargaining. Following these legal changes, small groups of workers have started to organize themselves, as the Labour Organization Law provides the right for a minimum of 30 workers in the same workplace to form an organization and collectively bring forward demands. However, the Labour Organization Law only provides the right to form an organization and to have workers' representatives, but does not provide the workers' representatives with the necessary conditions for representation, such as protection against dismissals by the employer due to absence during representational activities.</p> </li> </ul>
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			<p><b>2012 AR:</b> According to the Government: Draft legislation of the Labour Organization Law was completed on 30 June 2011. The Law was discussed in detail with the ILO Consultation Team in July 2011. After consultation, the Law was amended based on the experts' advice, followed by submission to the Union Cabinet and then shared again with the ILO on confidential basis. The Legislative drafting committee has submitted the draft Labour Organization Law to <i>Pyithu Hluttaw</i> and the <i>Hluttaw</i> representatives for thorough discussion. The Labour Organization Law shall then be enacted in accordance with the Democratic System.</p> <p><b>2005 AR:</b> According to the Government: In the public sector, workers' rights are stressed in the fundamental rules, orders and directives. Workers in the private sector have their rights protected by the labour laws.</p> <p><b>2002 AR:</b> According to the Government: Labour laws were being reviewed in the light of social and economic changes. This labour law reform will take into account the provisions of the State Constitution, which is in a drafting stage, as well as the comments and observations made by the Committee of Experts on the Application of Conventions and Recommendations and the Conference Committee on the Application of Standards.</p>	
		<b>Main legal provisions</b>	(i) The new State Constitution, Chapter VIII; (ii) the Labour Code; (iii) the Labour Organization Law (law no. 7/2011); (iv) the Settlement of Labour Dispute Law (Law No. 5/2012); (v) the Law relating to the Right of Peaceful Assembly and Peaceful Procession (Dec/2011); (vi) the Fundamental Rules; (vii)Orders; and (viii) Directives.	
		<b>Judicial decisions</b>	<b>NIL.</b>	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<p><b>2015 AR:</b> Disputes between workers and employers are systematically settled by the Workplace Coordinating Committee, the Conciliation Body, the Dispute Settlement Arbitration Body and the Dispute Settlement Arbitration Council according to the Settlement of Labour Dispute Law, 2012.</p> <p><b>2011-2012 ARs:</b> According to the Government: Government authorization is not required to conclude collective agreements. The right to collective bargaining can be exercised by all categories of employers. Disputes between workers and employers are systematically settled by tripartite mechanism including workers and employers concerned or their representatives before the Township Workers' Supervisory Committee.</p> <p><b>2003 AR:</b> According to the Government: No government authorization/approval is required to conclude collective agreements. The right to collective bargaining can be exercised by all categories of employers.</p>





			<p><b>For Workers</b></p>	<p><b>2015 AR:</b> Disputes between workers and employers are systematically settled by the Workplace Coordinating Committee, the Conciliation Body, the Dispute Settlement Arbitration Body and the Dispute Settlement Arbitration Council according to the Settlement of Labour Dispute Law, 2012.</p> <p><b>2011-2012 ARs:</b> According to the Government: Government authorization is not required to conclude collective agreements. The right to collective bargaining can be exercised by all categories of employers. Disputes arising between workers and employers are systematically settled by tripartite mechanisms, including the workers and employers concerned or their representatives before the Township Workers' Supervisory Committee. The tripartite consultation in Myanmar is practiced through the election of 10 to 50 workers' delegates by the workers from concerned factories, followed by negotiations directly with the employer before the government representative in order to reach conclusions.</p> <p><b>2004 AR:</b> According to the Government: Workers have the right to bargain individually or collectively for their rights within the existing Workers' Welfare Associations. Workers of factories and establishments have also the right to bargain collectively.</p> <p><b>2003 AR:</b> No government authorization/approval is required to conclude collective agreements. The right to collective bargaining cannot be exercised in the public service. However, the principle and right (PR) can be exercised at the enterprise level.</p>
			<p><b>Special attention to particular situations</b></p>	<p><b>2015 AR:</b> According to the Government: The proposed rate of minimum wage was issued on 29 June 2015 for the public awareness and the minimum wage will be issued by the national Committee very soon.</p> <p><b>2013 AR:</b> According to the CILO: Special attention is given to increase the low wage levels in the country.</p> <p><b>2003 AR:</b> According to the Government: Special attention is given to women and specific categories of persons.</p>

			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> According to the Government: Currently, 1676 basic worker’s organizations, 80 township workers’ organizations, 6 states/Regional workers’ organizations, 7 workers’ Federations, one Myanmar Labour confederation, 28 basic employer’s organizations, one township employers’ organization, one employer federation, a total of 1800 Workers and Employers Organizations have been organized under the Labour Organization Law. 476 disputes between workers and employers have been settled, and 5,972 workers were granted important financial compensations (885,421,453 kyat) in these processes. Moreover, there have been 23 compensation cases and as a result 29 workers have benefited from important compensations (46,000,290 Kyat) in those cases in 2015.</p> <p><b>2013 AR:</b> According to the Government: 196 workers’ organizations, one workers’ federation, 12 employers’ organizations and one employers’ federation have been created under the Labour Organization Law as of 21 August 2012.</p> <p><b>2012 AR:</b> According to the Government: 672 disputes between workers and employers have been settled, and 3912 workers were granted important financial compensations in these processes. Moreover, there have been 24 compensation cases and 24 workers have benefited from important compensations (16,11 million Kyat (approximately US\$ 2,474,000 as at 01/02//2012) in those cases in 2010.</p> <p><b>2011 AR:</b> According to the Government: In 2009, several cases have reached agreement through negotiation and conciliation, with a total of compensation of Kyat 409,47 millions (i.e., about US\$ 6,390 millions – official rate).</p> <p><b>2010 AR:</b> According to the Government: From January to August 2009, numerous cases have reached agreement through negotiation and conciliation, with a total compensation amounting to 7.551.920 Kyat.</p> <p><b>2008 AR:</b> According to the Government: From January to July 2007, several cases have reached agreement through negotiation and conciliation, with a total compensation amounting to Kyat 69,376819 (about US\$ 50,500 as of October 2007).</p> <p><b>2004 AR:</b> According to the Government: From July 2002 to July 2003, the Township-Level Workers’ Supervisory Committees heard and settled 305 cases concerning workers’ rights that were either collectively or individually bargained for by the workers.</p>
		<p><b>At international level</b></p>	<p><b>NIL.</b></p>	



	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2015 AR:</b> According to the Government: Law enforcement carried out through the township Registrar, Chief Registrar, Workplace Coordinating Committee, Conciliation Body, Dispute Settlement Arbitration Body and Dispute Settlement Arbitration Council.</p> <p><b>2013 AR:</b> According to the Government: Law enforcement is operated through conciliation, arbitration and judicial decisions.</p> <p><b>2010-2012 ARs:</b> According to the Government: The Township Level Workers' Supervisory Committees ensure workers' rights by means of conciliation and negotiations with the parties concerned. Between January 2006 and July 2009, the Supervisory Committees successfully settled 1,444 cases. And from January to August 2009, numerous cases have reached agreement through negotiation and conciliation, with a total compensation to workers amounting to 7551920 Kyat (1, 160,000 US\$ as at 02/02/2012). Additional monitoring and enforcement mechanisms include: the Township Trade Dispute Committees; the State/Regional Trade Dispute Appeal Committees; the Central Trade Dispute Committee, and the Township Workmen Compensation Scrutiny Committees.</p> <p><b>2008 AR:</b> According to the Government: From January to July 2007, several cases have reached agreement through negotiation and conciliation. The compensation to the workers amounted to 69376819 Kyat.</p> <p><b>2005 AR:</b> According to the Government: Inspection/monitoring mechanisms and capacity building of responsible government officials have been implemented. Legal reform and special institutional machinery are envisaged. In instances where the PR has not been respected, grievances can be submitted to the Ministry of Labour and to competent courts if no solution is found.</p> <p><b>2004-2005 ARs:</b> According to the Government: The Township Level Workers' Supervisory Committees ensure workers' rights by means of conciliation and negotiations with the parties concerned within the juridical confines of the 1929 Trade Disputes Act, the conciliation handbook, directives and rules. Between January 2000 and January 2003, the Supervisory Committees successfully settled 1,069 cases.</p> <p><b>2004 AR:</b> The Government indicated that it had assumed responsibility for ensuring the settlement and attainment of workers' rights.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2015 AR:</b> According to the Government: UMFCCI, CTUM, AFFM, MTUF and other workers' and employers' organizations under the labour Organization Law are involved.</p> <p><b>2014 AR:</b> According to the Government, the UMFCCI and the FTUM and other workers' organizations: Social dialogue and collective bargaining practices are being developed since 2012.</p> <p><b>2013 AR:</b> According to the Government: Workers' and employers' organizations are included in tripartite activities by means of social dialogue, collective bargaining and dispute resolution. Workers' and employers' representatives have participated in the 101<sup>st</sup> International Labour Conference.</p> <p><b>2012 AR:</b> According to the Government: Disputes arising between workers and employers are systematically settled by tripartite mechanisms that include the workers and employers concerned or their representatives. Disputes are settled before a government representative. The tripartite consultation in Myanmar is practiced through the election of 10 to 50 workers' delegates by the workers from concerned factories, followed by negotiations directly with the employer before the government representative in order to reach conclusions.</p>



	<b>Promotional activities</b>	<p><b>2015 AR:</b> According to the Government: 42 bipartite workshops concerning C.87 have been conducted for employers and workers in 2015.</p> <p><b>2014 AR:</b> According to the Government: Bipartite and tripartite promotional activities on collective bargaining have been undertaken throughout the country, in cooperation with the UMFCCI , the FTUM, ITUC and other employers' and workers' organizations. Moreover, a tripartite delegation has participated in the ILO/TURIN Pre-Conference Course on International Labour Standards held in May-June 2013 where issues concerning the PR were addressed.</p> <p><b>2013 AR:</b> According to the Government: Promotional activities on freedom of association have been undertaken in cooperation with ILO, with a particular focus on industrial relations management, social dialogue, collective bargaining and dispute resolution. A workshop on "Industrial Relations: Experiences from Asia and Europe" was held in June 2012 in cooperation with the Ministry of Labour and Friedrich Ebert Stifun (FES).</p> <p>According to the CILO: The CILO had been conducting various promotional activities to support the implementation of the new legislation which provides for basic workers' rights. The CILO is trying to establish a minimum wage through collective bargaining practices and the promotion of national minimum wage legislation.</p> <p><b>2008 AR:</b> According to the UMFCCI: the General Secretary of the industry's association organizes and promotes skill training seminars for workers.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: A Stakeholders’ Forum on Labour Law Reform was conducted on 18-19 May 2015 in Yangon in cooperation with United States, Japan, Denmark and the International Labour Organization (ILO). The Stakeholder Forum (SF) was intended to complement and strengthen domestic tripartite consultations and existing labour-related initiatives, provide international support for Myanmar’s labour reforms, and foster collaboration among international and domestic stakeholders. Ultimately, this engagement was intended to contribute towards constructive industrial relations and progressive improvement of worker rights and working conditions as Myanmar’s economy integrates in the global economy.</p> <p><b>2014 AR:</b> According to the Government: A settlement of labour dispute law is being formulated in cooperation with the social partners and the ILO.</p> <p><b>2013 AR:</b> According to the Government: The Government indicated that existing labour laws were currently being amended or redrafted with a view to bringing them in line with the democratic system. In this regard, new laws have been adopted in 2011 and 2012 in relation to the principle and right (PR): (i) The Labour Organization Law (Law No. 7/2011); (ii) The Settlement of Labour Dispute Law (Law No. 5/2012), and; (iii) The Law on the Right of Peaceful Assembly and Peaceful Procession, Dec/2011. The ILO has provided assistance through a project on freedom of association that supports the implementation of the Labour Organization Law.</p> <p>According to the CILO: Workers have gained substantial new rights through the legal changes in 2011 and 2012. Furthermore, some employers are starting to recognize workers’ organizations as their counterparts in collective bargaining. The CILO indicated that it had signed an agreement to ensure workers’ representation at company level. The agreement provides the right for two workers’ and two employers’ representatives to bargain collectively. If an agreement cannot be reached at company level, procedures have been put in place for it to proceed at district level and ultimately at national level.</p> <p><b>2012 AR:</b> According to the Government: Progress has been made with the draft Labour Organizations Law, which was completed on 30 June 2011.</p> <p><b>2008 AR:</b> The Government indicated that trade unions were created, especially in Yangon Division, which is under the supervision of the supervisory Committee of the Industrial Zones. Accordingly, workers’ organizations in eleven sectors have been formed in the industrial zones of Yangon Division and more workers’ organizations will be formed in other states and Divisions. Subsequently, these initial workers’ organizations will eventually form a union. It also added that the first level trade unions would be launched along with the new Constitution and the Labour Code.</p> <p><b>2003 AR:</b> According to the Government: The establishment in 2001 of the Myanmar Overseas Seafarers’ Association.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2014–2015 ARs:</b> According to the UMFCCI: There is a lack of awareness on the legal provisions concerning social dialogue in the country. Moreover, the fact that the country is still in transition in all sectors constrains the pace of progress in the ratification of the Convention.</p> <p><b>2008-2011 ARs:</b> According to the UMFCCI, the economic conjuncture is very fragile due to the economic embargos and sanctions placed on Myanmar by several western countries.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2015 AR:</b> According to MTUF: existing poor economic conditions pose challenges that undermine the ratification of C.98.</p>

			<p><b>2014 AR:</b> According to the FTUM: There is a lack of awareness on the legal provisions concerning social dialogue in the country.</p> <p><b>2013 AR:</b> According to the CILO: Since the right to collective bargaining has been non-existing over the last 50 years, serious challenges remain in ensuring the implementation of the provisions of C.98 in Myanmar. Despite the adoption of a new legislation, the persistence of social norms and employment culture remains a challenge to the realization of the PR in Myanmar. While some employers are starting to recognize workers’ organizations as their counterparts, many others are not willing to participate in collective bargaining. Furthermore, the CILO mentioned that although the two new laws (law no. 7/2011 and law no. 5/2012) provide substantial improvements in terms of workers’ rights, the Labour Organization Law is problematic when it comes to leave of absence for workers’ representatives that may be dismissed afterwards. Challenges are also related to the economic situation and low wage levels in Myanmar, with high unemployment rates, especially for the youth, which put further strain on the labour market and hampers development. The desperate economic situation of many workers had led to strikes in May 2012, with the workers joining forces trying to reach an increase in wage levels and realize the right to collective bargaining. During these strikes a number of workers have been subjected to violence and dismissals. Therefore, despite legal changes and the fact that some employers have started to recognize the role of workers’ organizations and collective bargaining, individual agreements are still the norm.</p> <p><b>2007 AR:</b> The ICFTU raised the following additional challenges: (i) It is difficult to have a clear idea of the legal system in force; (ii) only one single trade union system exists; (iii) the current legislation does not recognizes the principle of freedom of association; (iv) the independent Federation of Trade Unions-Myanmar (FTUM) is still obliged to operate clandestinely.</p> <p><b>2006 AR:</b> According to the ICFTU: (i) Legislation is obscure in Myanmar and any legal institutions can be overruled by military decrees or by the action of any powerful officials; (ii) restrictions are imposed under the 1929 Trade Disputes Act (amended in 1966), which appears to define the means of resolving industrial disputes; (iii) while negotiations are under way under the chairmanship of the Township Level Workers’ Supervision Committees, the workers are to continue to work as not to affect production and no demonstrations are allowed either inside or outside the factory; (iv) the independent Federation of Trade Unions-Myanmar (FTUM) monitors among others the denial of collective bargaining rights in industrial sectors, which it communicates to the ILO and to the international labour movement. The FTUM members caught doing so incur the death penalty.</p> <p><b>2000-2002 ARs:</b> According to the ICFTU: (i) there is no legal framework to protect collective bargaining; (ii) abuse of workers’ rights is rampant, especially in export-oriented industries.</p>
	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> There is lack of awareness and capacity on the PR in the public and private sectors.</p>	<p><b>2014 AR:</b> There is a lack of awareness on the legal provisions concerning social dialogue in the country.</p> <p><b>2007 AR:</b> In response to the ICFTU’s observations, the Government made the following comments: (i) authorities have been set up to conciliate workers’ and employers’ disputes; (ii) some trade unionists have to function clandestinely because they transgress the law; (iii) the FTUM does not operate in the country, it is an unlawful association as mentioned in the Declaration of the Ministry of Home Affairs notification No. 3/2005.</p>



<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> According to the Government, UMFCCI, CTUM and MTUF: there is a need for ILO technical cooperation to build up their capacities.</p> <p><b>2014 AR:</b> According to the Government, the UMFCCI and the FTUM: There is a need for ILO technical cooperation to build up tripartite capacity on the PR.</p> <p>The FTUM further requested specific assistance in trade union education.</p> <p><b>2013 AR:</b> The Government requested the ILO to provide comprehensive training courses on the PR for tripartite partners and other relevant stakeholders.</p> <p>The CILO requested for ILO technical cooperation in (i) strengthening workers' organizations through capacity building in all areas related to the FPRW. For the right to collective bargaining to be realized, (ii) workers and workers' representatives need to be sensitized on the content of the FPRW and on the new labour legislation which had been passed in 2011 and 2012. Furthermore, (iii) public awareness raising campaigns are essential in contributing to the creation of an open society where workers are aware of their rights. There is a need for (iv) vocational training for workers, especially for the female dominated textile industry where the salaries are particularly low in relation to living expenses, and where there is a challenging situation related to migrant workers and victims of trafficking. High unemployment rates are putting further strain on the labour market and hampers development. In this regard, the CILO requested for (v) support in order for the sanctions to be lifted so as to ease the economic situation. The CILO also expressed a wish for the ILO to (vi) support the Government in its democratic transition, to boost the economic development and bring new investment to the country. This will, in its turn, improve the situation for workers and the realization of C.98.</p> <p><b>2012 AR:</b> The Government reiterated the request it made under the previous review (2011 AR).</p> <p>The UMFCCI requested ILO's support for capacity building of employers, in particular in training of trainers (TOT) on the fundamental principles and rights at work.</p> <p><b>2011 AR:</b> According to the Government: ILO technical cooperation is requested to strengthen the capacity of the government and the employers' and workers' organizations in promoting and realizing the PR.</p> <p><b>2008 AR:</b> The UMFCCI indicated that ILO technical assistance is needed in order to better train the workers in Myanmar.</p> <p><b>2005 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Myanmar, in particular in assessing difficulties and their implication for realizing the PR.</p>
	<b>Offer</b>	ILO, NGO (Friedrich Ebert Foundation).
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2003 AR:</b> In light of requests by Myanmar for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, the ILO Declaration Expert-Advisers (IDEAs) called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field (cf. paragraph 74 of the 2003 AR Introduction – ILO: GB.286/4).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>





**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: NEPAL**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2002, 2003 and 2011 Annual Reviews (ARs).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Employers' Council of the Federation of Nepalese Chamber of Commerce and Industry (FNCCI), the General Federation of Nepalese Trade Unions (GEFONT), the Nepalese Trade Union Congress (NTUC), the Democratic Confederation of Nepalese Trade Unions (DECONT), the National Democratic Confederation of Nepalese Trade Unions (NDCONT), the All Nepal Federation of Trade Union (ANFTU), and the Confederation of Nepalese Professionals (CONEP) and National Employees' Federation of Nepal (NEFON) through communication of the Government's report.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the FNCCI. <b>2012 AR:</b> Observations by the FNCCI. <b>2008 AR:</b> Observations by the FNCCI comprised of 90 affiliates.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations by the NEFON.  Observations by the ANFTU.  Observations by the NTUC.  Observations by the GEFONT.</p> <p><b>2014 AR:</b> Observations by the CONEP.</p> <p><b>2013 AR:</b> Observations by the ANFTU.  Observations by the GEFONT.  Observations by the the NTUC.</p> <p><b>2012 AR:</b> Observations by the GEFONT.</p> <p><b>2010 AR:</b> Observations by the ANFTU, the GEFONT and the NTUC.</p> <p><b>2009 AR:</b> Observations by the GEFONT and the NTUC.  Observations by the International Trade Union Confederation (ITUC).</p> <p><b>2008 AR:</b> Observations by the NDCONT comprised of 20 affiliates.  Observations by the ANFTU comprised of 22 affiliates.  Observations by the DECONT comprised of 25 affiliates.  Observations by the GEFONT.  Observations by the ITUC.</p> <p><b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).</p> <p><b>2006 AR:</b> Observations by the ICFTU.</p> <p><b>2002 AR:</b> Observations by the ICFTU.</p> <p><b>2000 AR:</b> Observations by the ICFTU.</p>
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<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p>Nepal ratified in 1996 the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</p>
		<p><b>Ratification intention</b></p>	<p><b>Yes, since 2000, for C.87 (in process since 2006).</b></p> <p><b>2015 AR:</b> The Government reiterated that the labour law provides for the right to organise; however, considering that the country is in a political transition period and the Constitutional Assembly has been busy with other political matters, the ratification of C.87 would be considered after having a fully functioning Government.</p> <p>NTUC supports the ratification process together with the other 10 trade unions, and considers that more lobby would be needed at the political level. It further mentioned that a study carried out in 2007 by the Law and Justice Ministry recommended the ratification of C.87.</p> <p>NEFON expressed its support for the ratification of C.87</p> <p><b>2014 AR:</b> According to the Government: Ratification of C.87 is pending due to the political transition period. However, the provisions of C.87 are already taken into consideration in the national legislation.</p> <p>The CONEP indicated that there was a lack of political will and that no progress had been made in the ratification process of C.87 during 2013.</p> <p><b>2013 AR:</b> According to the Government: Ratification of C.87 is pending until the next general elections and the establishment of a new Parliament.</p> <p>The ANFTU stated its strong support for the ratification of C.87 by Nepal.</p> <p>According to the GEFONT and the NTUC: Tripartite consensus has been reached and C.87. Although the political and bureaucratic situations in the country are delaying the ratification process. C.87 should be ratified after the upcoming elections.</p> <p><b>2012 AR:</b> According to the Government: Ratification of C.87 has been discussed and communicated to the employers' and workers' organizations, NGOs and Parliamentarians. It will be submitted to Cabinet for approval, and then to Parliament.</p> <p>The FNCCI and the GEFONT indicated their strong support for the ratification of C.87.</p> <p>According to the GEFONT: A proposal for ratification of C.87 was approved by the Cabinet several years ago. At this stage, laws need to be amended, in particular the laws regulating the activities of the Police and the Military. The amendment process is under consideration by the Cabinet.</p>

			<p><b>2010 AR:</b> According to the Government: Nepal was about to ratify C.87, but the process was interrupted by the political transition period. However, the new Government is contemplating this ratification in a near future.</p> <p>The ANFTU, the GEFONT and the NTUC mentioned their strong support for the ratification of C.87 by Nepal and indicated that a joint letter signed by eight workers' organisations was sent to the Government requesting ratification of C.87 by Nepal.</p> <p><b>2009 AR:</b> The Government reiterated its earlier commitment to the ratification of C.87.</p> <p>The GEFONT and NTUC supported the ratification of C.87. Furthermore the NTUC indicated that C.87 was expected to be ratified soon and this process should be facilitated by the adoption of the expected new Labour Act.</p> <p><b>2008 AR:</b> According to the Government: Nepal has already ratified C.98 and is now in the final stage of ratifying C.87, which will be presented to the Cabinet for endorsement.</p> <p>The FNCCI expressed its support for the ratification of C.87 and indicated that it was currently being discussed before a tripartite committee.</p> <p>The NDCONT, the ANFTU and the DECONT supported the ratification of C.87. They indicated that a Central Advisory Committee under the Ministry of Labour has already endorsed the ratification of C.87. The document will be subsequently submitted to the Cabinet and the Parliament for final approval.</p> <p><b>2007 AR:</b> According to the Government: The ratification of C.87 is in process.</p> <p><b>2001-2002 ARs:</b> According to the Government: Nepal is in the process of amending minor clauses in the Police Act and the Military Act to introduce some reservations for these sectors for the purpose of the ratification of C.87. Moreover, a technical committee has been implemented to initiate the process of ratifying ILO core Conventions.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.87.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p><b>2013 AR:</b> According to the Government: The Constitution of Nepal guarantees the right of all citizens to freedom of peaceful assembly and to form unions and associations.</p> <p><b>2012 AR:</b> According to the Government and the FNCCI: The Constitution is currently under revision.</p> <p><b>2008 AR:</b> The Government indicated that in the new Interim Constitution of Nepal, dated January 2007, the rights to freedom of association and to collective bargaining have been enshrined as fundamental rights. Several tripartite discussions have therefore been conducted to promote the PR.</p> <p>Article 12 of the Constitution of the Kingdom of Nepal guarantees to all the citizens the right to freedom to assemble peacefully and without arms and to form unions and associations.</p>



		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy</b>  <b>2015 AR:</b> The Government indicated that a new employment policy is being drafted.  <b>2006 AR:</b> The Government indicated that it has developed a new Labour and Employment Policy and a National Plan of Action on Decent Work in consultations with the social partners and other stakeholders.</li> <li>• <b>Legislation</b>            The Trade Union Act, 1993 and the Labour Act, 1992 deal with the principle and right (PR).  <b>2015 AR:</b> NEFON indicated that the Labour Act is ready; however it has not been accepted by the Government yet.  <b>2014 AR:</b> According to the Government: Tripartite consultations on a labour law reform are ongoing. Due to objections from employers' representatives, agreement on the legal amendments is yet to be reached.</li> </ul>
		<p><b>Main legal provisions</b></p>	<p>(i) Constitution (article 12); (ii) Trade Union Act, 1993; (iii) Labour Act, 1992.</p>
		<p><b>Judicial decisions</b></p>	<p><b>2005 AR:</b> The Government mentioned a case filed by the Jagriti Child Club in the Supreme Court in 1998 which had challenged the Government's decision to deny the registration of the Child Club as an organization based on existing Organization Registration Act, 1977. The Act demanded a citizenship certificate, which children cannot obtain until the age of 16. It was also argued that the children as minors are not able to bear all the responsibilities or the liabilities arising thereof. The Supreme Court declared the decision void in 2001. This decision had set a precedent and was considered to be a milestone in the children's right to association.</p>



	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<p><b>2012 AR:</b> According to the FNCCI: Following government initiative, a collective bargaining agreement was concluded in March 2011 between employers and workers.</p> <p><b>2004-2005 ARs:</b> Government authorization or approval is required to establish employers' organizations, but not to conclude collective agreements. Freedom of association and the right to collective bargaining can be exercised at enterprise, sector/industry, national and international levels by all categories of employers.</p>
			<b>For Workers</b>	<p><b>2004-2005 ARs:</b> Government authorization or approval is required to establish workers' organizations, but not to conclude collective agreements.</p> <p>The principle and right (PR) can be exercised at enterprise, sector/industry, national and international levels by the following categories of persons: medical professionals; teachers; agricultural workers; workers engaged in domestic work; migrant workers; workers of 18 years old or over (16 years old in the 2004 AR); workers in the informal economy.</p> <p>However, the gazetted level civil servants engaged in the management of state affairs and senior level employees of public enterprises cannot exercise freedom of association (FOA). All workers in the public service and any group of workers that fails to organize into collective entities or unions cannot exercise collective bargaining.</p>
			<b>Special attention to particular situations</b>	<p><b>2014 AR:</b> According to the Government: Special attention is given to ensure that rural and migrant workers enjoy the FPRW.</p> <p>The CONEP reported that targeted activities had been carried out to promote freedom of association in the service sector.</p>
			<b>Information/ Data collection and dissemination</b>	<p>According to the Government: There is a lack of information and data on the PR.</p>
		<b>At international level</b>	<p>According to the Government: There are no particular restrictions for the international affiliation of employers' and workers' organizations.</p>	



	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2015 AR:</b> NTUC mentioned that it reviews complaints through its Labour Relations Committee. It further indicated that at the national level, complaints are submitted to the Labour Office where 10 labour officers carry out inspections before the cases are submitted to the Labour Court subject to appeal.</p> <p><b>2008 AR:</b> The Government indicated that in the new Interim Constitution of Nepal dated January 2007, the rights to freedom of association and to collective bargaining have been enshrined as fundamental rights. Several tripartite discussions have therefore been conducted to promote the PR.</p> <p><b>2005 AR:</b> According to the Government: Action is taken where FOA has not been respected. The principle is constitutionally guaranteed and legally protected in the country, in case of violation of this from any quarter; the concerned party can have recourse to the Labour Court or Appellate Court and even to the Supreme Court for remedies. Since 1996, Nepal has a labour court to deal with industrial disputes.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2014 AR:</b> The Government indicated that it was organising tripartite consultations and promoting interaction between the tripartite partners on a regular basis.</p> <p>The CONEP indicated that social dialogue on the ratification of C.87 and possible legal amendments had taken place.</p> <p><b>2006 AR:</b> According to the Government: a new Labour and Employment Policy and a National Plan of Action on Decent Work have been developed in consultations with the social partners and other stakeholders.</p> <p><b>2000-2002 ARs:</b> According to the Government: Consultations with the social partners concerning the ratification of C.87 have been held through the formation of a technical committee.</p>



	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to NTUC: Workshops are regularly taking place on issues related to C.87.</p> <p><b>2014 AR:</b> The CONEP reported that targeted activities had been carried out to promote freedom of association in the service sector and that the Trade Union Coordination Centre was operating to coordinate promotional activities throughout the country.</p> <p><b>2013 AR:</b> According to the Government: Training activities and seminars were organized to promote and help workers better understand the FPRW, including C.87.</p> <p>According to the ANFTU and the GEFONT: A number of promotional activities were organized at national level through workshops and awareness raising campaigns on the PR.</p> <p><b>2012 AR:</b> According to the Government: Ratification of C.87 has been discussed in national workshops bringing together employers' and workers' organizations as well as Parliamentarians and NGOs. These activities benefitted from ILO support.</p> <p>The GEFONT stated that it had conducted a campaign in 2010 and 2011 to promote freedom of association, and had advocated for the ratification of C.87 towards the Government.</p> <p><b>2010 AR:</b> According to the Government: An awareness raising campaign was organized by the Government to promote the ratification of C.87 among the Members of Parliament, trade unions' and the media.</p> <p>The ANFTU, the GEFONT and the NTUC confirmed this Government's statement.</p> <p><b>2009 AR:</b> The Government indicated that awareness campaign was organized to promote the ratification of C.87.</p> <p>The GEFONT stated that it had organized a number of promotional activities for its members. In addition, the amendment of the Trade Union Act would facilitate freedom of association, and the transit of Nepal to a federal system of governance would also increase access to social dialogue.</p> <p><b>2008 AR:</b> The Government indicated that in the new Interim Constitution of Nepal dated January 2007, the rights to freedom of association and to collective bargaining have been enshrined as fundamental rights. Several tripartite discussions have therefore been conducted to promote the PR.</p> <p>According to the FNCCI: awareness-raising activities have been organized on the regional level together with workers' associations.</p> <p>The NDCONT, the ANFTU and the DECONT indicated that several meetings have been held by the Ministry of Labour in cooperation with ILO on FOA and the Declaration FPRW.</p> <p><b>2001-2002 ARs:</b> The Government indicated that it had formed a technical committee with representatives from trade unions, employers' associations and non-governmental organizations (NGOs) with a view to ratifying ILO fundamental Conventions. In cooperation with the ILO it had organized a one-day workshop in Kathmandu on November 1999 in order to raise awareness of all stakeholders at the national level on the liabilities linked to the ratification of the ILO core Conventions.</p>	
	<p><b>Special initiatives/Progress</b></p>	<p><b>2012 AR:</b> The GEFONT stated that it had conducted a national campaign in 2010 and 2011 to promote freedom of association, and had organized advocacy activities for the ratification of C.87 towards the Government; a ratification that is currently in process.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2012 AR:</b> According to the FNCCI: Political instability makes it difficult to promote freedom of association.</p> <p><b>2008 AR:</b> The FNCCI raised the issue of the realization of the PR in the private sector with the creation of several new trade unions who have not only social but political demands.</p>





		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> NTUC noted that the National Labour Advisory Committee has not been convened for the past two years.</p> <p>According to NEFON: the Labour Act has not been accepted by the Government and there is no strong relation among the tripartite partners, instead relations have been affected by confusion.</p> <p><b>2014 AR:</b> According to the CONEP: The main challenges to the ratification of C.87 are: (i) legal obstacles; (ii) lack of political will; and (iii) political instability.</p> <p><b>2013 AR:</b> According to the ANFTU, GEFONT and the NTUC: The main challenges to the realization of the PR are as follows: (i) political instability; (ii) lack of bureaucratic willingness, and; (iii) lack of freedom of association among civil servants and the armed forces.</p> <p><b>2012 AR:</b> According to the GEFONT: The main challenges in Nepal are related to the mandate of armed forces in the country, as well as national laws in contradiction to the provisions of C.87. Another obstacle also concerns the freedom of association of the civil servants, which according to the Government, is the main reason why ratification of C.87 is not possible at this stage.</p> <p><b>2010 AR:</b> According to the ANTUF, the GEFONT and the NTUC: The political instability is a major</p>



			<p>challenge to the ratification of C.87.</p> <p><b>2009 AR:</b> According to the GEFONT: The prevalent pressure from employers should favour ratification of C.87.</p> <p>The ITUC reiterated the observations it made under the previous AR (2008), in particular with respect to: (i) restrictions to forming trade unions (a maximum of four unions is allowed per enterprise); and (ii) restrictions on strikes. It further mentioned that the Government had restored public servants' rights to belong to trade unions through the adoption of the Civil Service Act.</p> <p><b>2008 AR:</b> The NDCONT, the ANFTU and the DECONT indicated that only the Defense Ministry, Ministry of Justice and Home Affairs Ministry do not agree on the ratification of C.87. Therefore, additional pressure is needed from all social partners. They also added that capacity building and scarcity of manpower are lacking in Nepal. Moreover, the worker's federations indicated that strike restriction remains a problem in practice even though the Essential Service Act was revised in April 2007.</p> <p><b>2007 AR:</b> According to the ICFTU (Additional challenges):(i) the Government has revoked public servants' rights to belong to unions; and (ii) excessive strikes restrictions.</p> <p><b>2006 AR:</b> The ICFTU raised the following challenges: (i) the Government again made abusive use of the Essential Services Act to ban strikes; (ii) even though the PR is recognized by law, the Government has not yet implemented all the provisions of these laws; (iii) restrictions at the enterprise level to form trade unions; (iv) strike restrictions; (vi) only few workers are unionized in the informal sector that represents 90 per cent of the national workforce.</p> <p><b>2002-2005 ARs:</b> The ICFTU raised the following challenges: (i) restriction on strikes; (ii) trade unions are not recognized in the country as representatives of workers; (iii) no structure to bargain and collective bargaining is rarely practiced; (iv) union rights are denied to public officials and bank workers; (v) no trade unions in the informal economy although it represents 70 per cent of the workforce (especially in the agricultural sector).</p>
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	<b>According to the Government</b>	<p><b>2015 AR:</b> The Ministry of Labour has a low number of labour inspectors and lacks capacity on the FPRW.</p> <p><b>2014 AR:</b> According to the Government: The main challenges are related to: (i) the political transition period that is still ongoing; (ii) political opposition against the ratification of C.87 in the National Assembly; (iii) difficulties in realizing freedom of association for low skilled and migrant workers which make up a substantial part of the labour force; and (iv) social and economic circumstances.</p> <p><b>2012-2013 ARs:</b> According to the Government: Nepal was about to ratify C. 87, but the process was interrupted by the political transition period. However, the new Government is contemplating this ratification in a near future.</p> <p><b>2010 AR:</b> According to the Government: The main difficulties encountered in Nepal in realizing the PR are as follows: (i) political situation; (ii) social and economic circumstances; (iii) lack of political confidence; (iv) lack of social dialogue; and (v) security issues.</p> <p><b>2008 AR:</b> According to the Government: capacity of the tripartite social partners needs to be enhanced.</p> <p><b>2005 AR:</b> According to the Government: The main difficulties encountered in Nepal concerning the realization of the PR are as follows: (i) lack of public awareness and/or support; (ii) lack of information and data; (iii) social and economic circumstances; (iv) political situation; and (v) lack of capacity of responsible government institutions.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR</b> The Government reiterated the technical assistance request it made under the previous AR and further requested additional capacity building labour inspectors.</p> <p>NTUC requested ILO technical support on awareness-raising on the PR and ratification of C.87.</p> <p>NEFON indicated the need for ILO technical assistance to: a) provide capacity building training for tripartite partners including in the area of trade unions' rights and organisational behaviour, b) facilitate tripartite dialogue and consensus building, and c) resolve migrant workers' issues.</p> <p><b>2014 AR:</b> According to the Government: ILO technical cooperation is needed to (i) strengthen the capacity of workers' organizations and (ii) foster collaboration between migrant sending and receiving countries to ensure the realization of the FPRW.</p> <p>The CONEP requested ILO technical cooperation to provide workshops to train the workers on the FPRW and to sensitize government officials on the content and implications of C.87.</p> <p><b>2013 AR:</b> According to the Government: The Government reiterated the request it made under the 2012 AR, and for it to be met by the ILO after the general elections and the political transition in the country.</p> <p>The ANFTU, GEFONT and the NTUC requested ILO's technical support to facilitate the realization of the PR in the country in the following areas: (i) awareness raising campaign; (ii) capacity building of the tripartite partners, and (iii) high-level meeting to speed up ratification of C.87.</p> <p><b>2012 AR:</b> The Government requested ILO's technical support in the drafting of new constitutional and other legal provisions so as to facilitate the transitional process and speed up ratification of C.87 by Nepal.</p> <p>According to the FNCCI: There is a need for ILO technical assistance in tripartite capacity building and awareness raising, especially at governmental level.</p> <p>The GEFONT requested the continuation of the ongoing ILO technical cooperation, and pointed out in particular the ILO's role in helping inform the Government about the content of C.87 and what the ratification process entails.</p> <p><b>2010 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realisation of the PR in the country in the following areas: (i) strengthening capacity of employers' and workers' organizations; (ii) capacity building of responsible government institutions; (iii) awareness raising campaigns; and (iv) strengthening of social dialogue.</p> <p>According to the ANTUF, GEFONT and the NTUC: ILO's technical cooperation is needed to assist and supervise the Ministry of Labour in the ratification process of C.87.</p> <p><b>2009 AR:</b> According to the Government: The ILO's technical cooperation is needed after the ratification of C.87.</p> <p>The NTUC and the GEFONT requested the ILO's technical cooperation to assist workers' organizations.</p> <p><b>2008 AR:</b> The Government requested technical cooperation and assistance from ILO to improve the collaboration between social partners.</p> <p>According to the FNCCI: ILO technical assistance is needed to carry out training activities for workers and employers. It also requested that a country assessment be conducted on the Declaration follow-up.</p> <p>The NDCONT, the ANFTU and the DECONT required technical assistance from the ILO to facilitate the organization of workshops and training programmes intended to guide the workers on the issue of FOA. ILO technical assistance would also be needed to carry out a country assessment on the Declaration follow-up.</p> <p>The ITUC raised the following challenges: (i) the Government again made abusive use of the Essential Services Act to ban strikes; (ii) freedom of association is severely restricted, a prior approval must be obtained from the Regional Administrator or Chief District Officer to organize workshops, meetings or conferences; (iii) every year, thousands more women find themselves in domestic service, where there are no trade unions.</p>
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		<p><b>2007 AR:</b> According to the Government: Priority needs for technical cooperation to facilitate the realization of the PR exist in the following areas, in order of priority: (1) capacity building (Government institutions, employers' and workers' organizations); (2) facilitate the legal reform (labour law, trade union law and other relevant regulations).</p> <p><b>2006 AR:</b> According to the Government: The new Labour and Employment Policy and the National Plan of Action on Decent Work anticipate support and technical cooperation from the ILO and other agencies.</p> <p><b>2005 AR:</b> According to the Government, priority needs for technical cooperation to facilitate the realization of the PR exist in the following areas, in order of priority: (1) strengthening capacity of employers' organizations, strengthening capacity of workers' organizations, sharing of experiences across countries/regions, capacity building of responsible government institutions, awareness raising, legal literacy and advocacy, strengthening data collection and capacity for statistical collection and analysis; (2) legal reform (labour law and other relevant legislation), strengthening tripartite social dialogue; (3) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle, training of other officials (police, judiciary, social workers, teachers).</p>
	<b>Offer</b>	ILO.
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS/ OBSERVATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) welcomed the inclusion of the principle and right within the Interim Constitution of Nepal. They also noted that restrictions on the right to organize of certain categories of workers in Nepal, such as domestic workers, are not compatible with the realization of this principle and right (cf. paragraph 34 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs listed Nepal among the countries that had been indicating their intention to ratify C.87 and C.98 for several years, with no indication that progress had been made (cf. paragraph 33 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The ILO Declaration Expert-Advisers listed Nepal among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification. Moreover, they hoped that the momentum of the positive dialogue on the realization of the PR would be kept and that the intention to ratify C.87 would be realized soon in Nepal (cf. paragraphs 13 and 139 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: NEW ZEALAND**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , but “no change” reports for the 2002 and 2005 Annual Reviews (ARs).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of Business New Zealand (BNZ) and the New Zealand Council of Trade Unions (NZCTU) through communication of Government reports; and involvement of the most representatives workers' and employers' federations by means of consultations for the 2005 AR.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by BNZ. <b>2013 AR:</b> Observations by BNZ. <b>2012 AR:</b> Observations by BNZ. <b>2011 AR:</b> Observations by BNZ. <b>2010 AR:</b> Observations by BNZ. <b>2009 AR:</b> Observations by BNZ. <b>2008 AR:</b> Observations by BNZ. <b>2007 AR:</b> Observations by BNZ. <b>2006 AR:</b> Observations by BNZ. <b>2005 AR:</b> Observations by BNZ. <b>2004 AR:</b> Observations by BNZ. <b>2003 AR:</b> Observations by BNZ. <b>2002 AR:</b> Observations by BNZ. <b>2001 AR:</b> Observations by the NZEF. <b>2000 AR:</b> Observations by the NZEF.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations by the NZCTU.  <b>2014 AR:</b> Observations by the NZCTU.  <b>2013 AR:</b> Observations by the NZCTU.  <b>2011 AR:</b> Observations by the NZCTU.  <b>2010 AR:</b> Observations by the NZCTU.  <b>2009 AR:</b> Observations by the NZCTU.  <b>2007 AR:</b> Observations by the NZCTU.  <b>2006 AR:</b> Observations by the NZCTU.  <b>2005 AR:</b> Observations by the NZCTU.  <b>2004 AR:</b> Observations by the NZCTU.  <b>2003 AR:</b> Observations by the NZCTU.  <b>2002 AR:</b> Observations by the NZCTU.          Observations by the International Confederation of Free Trade Unions (ICFTU).  <b>2001 AR:</b> Observations by the NZCTU.  <b>2000 AR:</b> Observations by the ICFTU.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification<sup>0</sup></b></p>	<p><b>Ratification status</b></p>	<p>New Zealand ratified in 2003 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</p>





		<p><b>Ratification intention</b></p>	<p><b>Unable, for the time being, to ratify C.87.</b></p> <p><b>2015 AR:</b> The Government reiterated the statement it made under the previous review. NZCTU continues to advocate for legal changes to bring New Zealand’s law into compliance with C87 and for ratification of the Convention.</p> <p><b>2014 AR:</b> The Government reiterated the “no change” statement it made under the previous review. According to the BNZ: While the BNZ supports the concept of freedom of association, it does not support ratification of C.87 due to the belief that strike action should not be permissible over matters for which the affected employer can do nothing to influence.</p> <p><b>2013 AR:</b> According to the Government: There has been no change in the status of the ratification of C.87 over the last year. According to the BNZ: There are no impediments to the right to form and join unions in New Zealand. According to the NZCTU: Considering the latest development and legal reforms in the country, the NZCTU regrets to report that it believes that ratification of C.87 is now less likely than it was before 2009.</p> <p><b>2012 AR:</b> According to BNZ: As BNZ has noted on previous occasions, while it supports the concept of freedom of association, it does not support ratification of C.87 due to the concern that C.87 would entitle workers to take strike action over social and economic matters or secondary strike action against employers not involved in a particular dispute. BNZ does not believe that strike action should be permissible over matters for which the affected employer has no responsibility and can do nothing to influence.</p> <p><b>2011 AR:</b> According to BNZ: While BNZ supports the concept of freedom of association, it does not support ratification of C.87. It remains concerned that C.87 entitles workers to take strike action over social and economic matters or secondary strike action against employers not involved in a particular dispute, as interpreted by the Freedom of Association Committee. BNZ does not believe that strike action should be permissible over matters for which the affected employer has no responsibility and can do nothing to influence.</p> <p><b>2010 AR:</b> BNZ and NZCTU reiterated the statements they made under the 2009 AR.</p>
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			<p><b>2009 AR:</b> According to the Government: It is New Zealand government policy to ratify treaties only when it is certain that New Zealand will be fully compliant. To all intents and purposes, New Zealand already complies with the letter and spirit of this Convention, but is unable to ratify it given that ILO jurisprudence requires that sympathy strikes and strikes on general social and economic issues should be able to occur without legal penalty. This is contrary to New Zealand’s employment relations legislative framework, which clearly specifies the range of lawful and unlawful strikes and the respective immunities and penalties involved in taking such actions. Under current law, protected strike action is that which takes place in pursuit of collective bargaining or on worker health and safety grounds. The Government considers that these provisions remain appropriate although an additional review of the compatibility between national employment legislation and the provisions of C.87 could bring a little substantive benefit, as proposed by the NZCTU.</p> <p>According to BNZ: BNZ would reiterate comments made under the previous ARs regarding New Zealand’s non-ratification of C.87. In this particular case the problem is not so much with the Convention itself but with the way in which it has been interpreted by the ILO Committee on Freedom of Association. Sympathy strikes, and strikes on social and economic grounds are not in the interests of the country generally and are matters that an affected employer cannot readily deal with. Strikes that inconvenience more than the immediate parties are not, in the opinion of BNZ, something to be encouraged, particularly when, as will often be the case, the focus of the action is on government decision-making. In addition, the decent work concept, with its emphasis on workplace productivity, makes general strikes counter-intuitive. In a democracy there is an electoral process to address concerns of this sort.</p> <p>According to the NZCTU: NZCTU believes that there should be a review of current employment legislation and practice in New Zealand for compliance with C.87 with a view to ratifying that Convention. Recent improvements in employment legislation have strengthened the workers’ rights to freedom of association and protection of the right to organise. The NZCTU notes that New Zealand employment policy and practice is more robust in recognizing workers’ rights than the policy and practice of many other ILO member States which have ratified C.87. NZCTU notes that New Zealand law and practice complies with a literal reading of C.87. Issues relating to non-compliance are based on the broad interpretation and implications of the discussion by the ILO Committee of Experts on the Application of Conventions and Recommendations, particularly in its General Survey of 1994. The employment legislation and practice in New Zealand has changed since the 1990s, with a particular strengthening of “the right to have recourse to impartial and rapid arbitration machinery for individual or collective grievances concerning the interpretation or application of collective agreements”, as outlined in chapter V, paragraph 167 of the 1994 ILO General Survey. There has been overall strengthening of employment legislation for collective bargaining by workers in New Zealand, including the use of mediation and judicial processes for examining employment disputes arising from collective bargaining. The NZCTU further notes that the Government adheres to such arbitration processes in general situations where the Government is the employer. The NZCTU recommends therefore a review of the New Zealand employment legislation and practice together with substantive ILO discussions on the issue, such as in the above chapter V on the right to strike, with a view to ratifying C.87.</p>
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			<p><b>2008 AR:</b> According to the Government: New Zealand is unable, for the time being, to ratify C.87. According to BNZ: it does not support ratification of C.87 for reasons stated previously given the broad interpretation by the Committee on Freedom of Association that includes the right. The BNZ considers that such strikes benefit neither employers nor worker and could only undermine current government attempts to transform the New Zealand economy.</p> <p>The NZCTU stated its support for the ratification of C.87; however, the employment legislation and practice had to be reviewed.</p> <p><b>2007 AR:</b> According to the Government: New Zealand's policy remains not to ratify any Convention unless law, policy and practice fully comply with the provisions of the Convention.</p> <p><b>2004 AR:</b> The Government stated that it is continuing to monitor the compatibility of national law, policy and practice with C.87 to assess whether ratification of this instrument will be possible in the future.</p> <p><b>2001 AR:</b> The Government stated that its intention is to promote observance in New Zealand of the principles underlying in C.87 and C.98 in order to ratify them.</p> <p>Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.87 and C.98.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>NIL.</b></p>
		<p><b>Policy/Legislation and/or Regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2015 AR:</b> According to the Government: The Employment Relations Act 2000 (ER Act) encompasses the right to freedom of association and right to organise. Part 3 of the ER Act (Freedom of Association) exists to make clear that employees have the freedom to choose, or not to choose, to be part of a union, and that an employee's preference either way cannot be used against them. Part 4 of the ER Act (Recognition and Operation of Unions) outlines the role of unions in promoting their members' collective interests and stipulates how unions are to operate. Part 5 of the ER Act (Collective Bargaining) provides parties with the core requirements of the duty of good faith in relation to the collective bargaining process and assists them in understanding these provisions. Part 5 also covers the frameworks for initiating collective bargaining, multi-union or multi- employer bargaining, facilitating bargaining, the collective agreements process, and what constitutes a breach of good faith. A copy of the ER Act can be found here: <a href="http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM58317.html?src=qs">http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM58317.html?src=qs</a></p> <p>In 2012, amendments were made to the ER Act that require unions to hold a secret ballot of members who would become party to a strike and to approve any strike action before undertaking</p>



			<p>the strike action (unless it is a strike on health and safety grounds). A majority is required for the strike to proceed and the union is required to announce the results of the ballot to their members as soon as reasonably practicable. The Employment Relations Amendment Bill is currently before Parliament, which is considering further amendments to the ER Act including changes to some collective bargaining provisions. These amendments are intended to reduce ineffective bargaining, increase choice and flexibility in the collective bargaining framework, and improve fairness and balance of bargaining requirements. A copy of the Employment Relations Amendment Bill can be found here:</p> <p><a href="http://www.legislation.govt.nz/bill/government/2013/0105/latest/whole.html#DLM5160">http://www.legislation.govt.nz/bill/government/2013/0105/latest/whole.html#DLM5160</a></p> <p>According to NZCTU: Two key issues appear to stand in the way of New Zealand's ratification of Convention 87. The Employment Relations Act 2000 only permits strike action relating to bargaining for a new collective agreement for the striking employees or on health and safety grounds (ss 83- 86). Secondary strike action (such as sympathy strikes) and strikes over social and economic issues are prohibited. These prohibitions have been held to be violations of freedom of association by the Committee on Freedom of Association (CFA) and the ILO has previously found that the Employment Relations Act 2000 does not comply with C.87. NZCTU continues to advocate for law change to bring New Zealand's law into compliance with C.87 and for ratification of C.87. The Government continues to pursue law changes that the NZCTU believes are in breach of C.98 (and C.87). A useful overview of the issues with these law changes is contained in the ITUC's submission on the Employment Relations Amendment Bill. The submission is available at: <a href="http://union.org.nz/policy/ituc-submission-employment-relations-amendment-bill">http://union.org.nz/policy/ituc-submission-employment-relations-amendment-bill</a>. As NTCU noted in previous declaration reports, the Employment Relations Amendment Bill currently before Parliament is fundamentally inconsistent with rights to strike and rights to collective bargaining. The Government has attempted an extraordinarily weak justification of this violation of their human rights obligations in advice provided to the Select Committee:</p> <p><a href="http://www.parliament.nz/resource/en-nz/50SCTIR_ADV_00DBHOH_BILL12107_1_A358682/9feb13263da6bba952f89284f2fd1d25dbaf2c5a">http://www.parliament.nz/resource/en-nz/50SCTIR_ADV_00DBHOH_BILL12107_1_A358682/9feb13263da6bba952f89284f2fd1d25dbaf2c5a</a> As will be apparent to the Committee, there is almost no attempt to engage with ILO jurisprudence on the various issues in this document only bald attempts to claim compliance. As previously indicated, the CTU will look to progress complaints through ILO and other channels if this law is passed. We call upon the Government to discard the regressive elements of this law.</p> <p><b>2014 AR:</b> According to the Government: The Government currently has the Employment Relations Amendment Bill before the House which aims to create and maintain a flexible and fair employment relations framework for both employees and employers. The Bill provides a package of measures that will enhance the employment relations framework. The Bill is available online: <a href="http://www.legislation.govt.nz/act/public/2010/0125/latest/DLM3172506.html">http://www.legislation.govt.nz/act/public/2010/0125/latest/DLM3172506.html</a></p>
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			<p><b>2013 AR:</b> According to the NZCTU: Challenges have occurred following the amendments of the Employment Relations Act which came into effect in 2011. As the Act enables employers to define certain workers as contractors instead of employees, these workers who are now being regarded as contractors are encountering hostility when attempting to unionize. Furthermore, the recent legislative changes have limited union access to workplaces, creating a barrier to organising workers. There is now a requirement for unions to give one working day’s notice of intention to visit a worksite. An employer has another day to decide whether to permit access. If the employer decides to refuse the application they have an additional day to respond in writing explaining why they are refusing access. The ground for refusal requires a “reasonable cause” to withhold access, but while “reasonable” is not defined in the law, this ground can be misused and it effectively frustrates union access to its members.</p> <p><b>2012 AR:</b> According to the Government: The majority of the amendments of the Employment Relations Act, passed in November 2010, came into effect on 1 April 2011.</p> <p>BNZ indicated that it had supported the Employment Relations Act amendments.</p> <p><b>2011 AR:</b> According to the Government: In July 2010 a Bill amended New Zealand’s Employment Relations Act 2000 to provide more flexibility, greater choice, and ensure a balance of fairness for both employers and workers. The Bills amends the Act to provide that union access to workplaces is conditional on the employer’s consent, which cannot be unreasonably withheld. If a union representative makes a request to enter a workplace, the employer must make a decision on that request as soon as practicable but within two working days after the request. If the employer does not respond within working days, consent is treated as being given. If the employer declines a request, s/he must provide reasons in writing within two working days after the reason. Where an employer denies consent but does not provide a written explanation on the grounds for refusal, s/he would be subject to penalty action.</p> <p><b>2006 AR:</b> The Government indicated that the Employment Relations Amendment Act, 2004 came into force on 1 December 2004. The objectives of this Act are the promotion of union access, representation rights and collective bargaining. The amendments include among others the prohibition of employers from deliberately undermining union membership through the automatic passing on of union negotiated benefits to non-union workers.</p> <p>NZCTU welcomes the employment law changes introduced by the Employment Relations Act (No.2), 2004.</p> <p><b>2004 AR:</b> The Government points out that it is currently reviewing the Employment Relations Act, 2000 with the aim of considering what legislative changes are required so that the Act can better meet its statutory objectives of promoting freedom of association and the right to collective bargaining.</p> <p><b>2001-2002 ARs:</b> The Employment Relations Act (ERA), 2000, which came into force on 2 October 2000, replaces the Employment Contracts Act (ECA).</p> <p>According to the Government: One of the overall objectives of the ERA is to promote observance of the principles underlying C.87 and C.98. The Act also modifies existing provisions relating to the rights to strike and lockout, including a change to provide that workers and their organizations are able to take industrial action in support of multi-employer collective agreements.</p>
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		<p><b>Main legal provisions</b></p> <p>(i) the Employment Relations Amendment Act, 2004 (ii) the personal grievance provisions of the Act (Part IX); (iii) the New Zealand Bill of Rights Act 1990 (NZ BOR Act); (iv) the Human Rights Act, 1993 (HR Act); (v) the Employment Relations Act, 2000.</p>
		<p><b>Judicial decisions</b></p> <p><b>2013 AR:</b> According to the NZCTU: Several cases of trade union hostility, where freedom of association is being challenged, have been reported over the last year. For example, the New Zealand Dairy Workers union challenged the actions of Open Country Cheese Ltd in preventing collective bargaining at their processing plant and won the issue in Court. Subsequently, all but six of the 34 union members left that workplace, and the remaining six union members accepted non-union contracts resulting in a de-unionisation of the workplace.</p> <p><b>2008 AR:</b> <i>Christchurch City Council v Southern Local Government Officers Union Inc</i> (2007) 4 NZELR 63; [2007] NZCA 11.</p> <p><i>Greenlea Premier Meats Limited v. New Zealand Meat &amp; Related Trade Union Inc</i> (16 June 2006, Employment Court).</p> <p><b>2006 AR:</b> J. Wilson, 24 August 2004, CA 100/04 – Judgment No. CC 12/05.</p>
	<b>Exercise of the principle and right</b>	<p><b>At national level (enterprise, sector/industry, national)</b></p> <p><b>For Employers</b></p> <p><b>2003-2005 ARs:</b> The PR can be exercised at enterprise, sector/industry, national and international levels by all categories of employers, without Government authorization/approval.</p>
		<p><b>For Workers</b></p> <p><b>2003-2005 ARs:</b> Government authorization/approval is necessary to establish a workers’ organization, but not to conclude collective agreements. The PR can be exercised at enterprise, sector/industry, national and international levels by the following categories of persons: all workers in the public service; medical professionals; teachers; agricultural workers; workers engaged in domestic work; migrant workers; workers of all ages workers in the informal economy.</p> <p>The armed forces are not covered by the legislation and the police are covered under the ERA, but with certain separate arrangements that apply to sworn police officers under the Police Act, 1958.</p>
		<p><b>Special attention to particular situations</b></p> <p><b>2015 AR:</b> According to the Government: Migrant workers</p> <p><b>2003-2005 ARs:</b> According to the Government: Women and young persons.</p>

			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> According to the Government: As at 1 March 2013 there were 138 registered unions in New Zealand with a total membership of 371,613. This union membership represents 16.6 per cent of the total employed labour force (March 2013 Household Labour Force Survey), and 20.1 per cent of wage/salary earners for that period (March 2013 Household Labour Force Survey). The total number of union members has declined by 2 per cent since March 2012. The total employed labour force increased 0.3 per cent over the same period. The ten largest unions account for 79.3 per cent of the total union membership. 41.1 per cent of registered unions have fewer than 100 members. Union membership is highest in the public sector and in large enterprises in the private sector. The total number of collective agreements has fallen by 26.9 per cent from 1,690 in 2011/12 to 1,331 in 2012/13, although coverage across these agreements has increased by 8,553 employees to 307,131. Organisations that have covered more than 500 employees account for the majority of collective bargaining coverage. These large collective agreements account for only 19 per cent out of the total of 1,331 collective agreements. Agreements with less than 50 employees account for 63 per cent of the total agreements recorded. It is worth noting that not all collective agreements contain the number of employees covered. Due to staff turnover, the number of employees covered by a collective agreement might not reflect the actual number of employees employed (and covered). As such, the above numbers are indicative. The Ministry of Business, Innovation and Employment (MBIE) is in the process of reviewing its Collective Agreements' database to ensure the information is accurate.</p> <p><b>2014 AR:</b> According to the Government: As of 1 March 2012 there were 138 registered unions in New Zealand with a total membership of 379,185. This union membership represents 17 per cent of the total employed labour force (March 2012 Household Labour Force Survey), and 20.5 per cent of wage/salary earners for that period. The total number of union members declined by 0.1 percentage points since March 2011. The total employed labour force increased 0.7 percentage points over the same period. Union membership is highest in the public sector and in large enterprises in the private sector.</p> <p><b>2013 AR:</b> According to the Government: As of 1 March 2011, there were</p>
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			<p>145 registered unions in New Zealand with a total membership of 384,644. This union membership represents 17.4 per cent of the total employed labour force (March 2011 Household Labour Force Survey), and 20.9 per cent of wage/salary earners for that period. The total number of union members declined by 0.9 per cent from March 2010. The total employed labour force increased 1.0 per cent over the same period. Union membership is highest in the public sector and in large enterprises in the private sector.</p> <p><b>2012 AR:</b> According to the Government: As of 1 March 2010, there were 157 registered unions in New Zealand with a total membership of 379,649. This union membership represents 17.4 per cent of the total employed labour force (March 2010 Household Labour Force Survey), and 20.9 per cent of wage/salary earners for that period. The total number of union members decreased by 2.1 per cent from March 2009. Union membership is highest in the public sector and in large enterprises in the private sector.</p> <p><b>2011 AR:</b> According to the Government: As of 1 March 2009, there were 159 registered unions in New Zealand with a total membership of 387,959. This union membership represents 17.9 per cent of the total employed labour force (cf. March 2009 Household Labour Force Survey), and 21.5 per cent of wage/salary earners for that period. The total number of union members increased by 3.9 per cent from March 2008.</p> <p><b>2010 AR:</b> According to the Government: Statistics on union membership are as follows: As at 1<sup>st</sup> March 2008, there were 168 registered unions with a total membership of 373,327, representing 17.4 per cent of the total employed labour force. However, the total number of union members has decreased by 2.7 per cent between March 2007 and 2009, compared to a decrease of 1.3 per cent in the total employed labour force for the same period.</p> <p><b>2009 AR:</b> The Government indicated that between 2003 and 2007 union membership as a proportion of the total employed labour force has been static at approximately 17 per cent. Union membership is higher in the public sector and large enterprises in the private sector.</p> <p><b>2007 AR:</b> According to the Government: An amended Code of Good faith publication is available upon request, and information is also available at any time on the web at <a href="http://www.ers.govt.nz/goodfaith/code.html">www.ers.govt.nz/goodfaith/code.html</a>. Moreover, the Collective Agreement Database &amp; strike information databases are linking actively with the Department's Mediation Service to pre-empt potential collective bargaining problems. The databases contain information on proposed and historical strike action.</p>
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		<p><b>At international level</b></p>		<p>According to the Government: There are no particular restrictions on the international affiliation of employers' and workers' organizations.</p>



	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2003-2006 ARs:</b> According to the Government: The following measures have been implemented to respect and implement the PR: (i) legal reform (labour law and other relevant legislation); (ii) inspection/monitoring mechanisms; (iii) penal sanctions; (iv) civil or administrative sanctions; (v) special institutional machinery.</p> <p><b>2001 AR:</b> According to the Government: The Registrar of Unions (as well as members of a union, other unions and affected employers) is able to take action through the appropriate authorities if they believe a union has acted contrary to the provisions of the Act or unlawfully in some other manner, or contrary to their own rules.</p> <p><b>2000 AR:</b> According to the Government: The ERA ensures the effectiveness of collective agreements by specifying minimum requirements for collective bargaining, including that there must be a ratification procedure, that collective contracts be in writing and that collective contracts include a date of expiry.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2009 AR:</b> The BNZ and the NZCTU indicated that they had participated actively in the provision of employment relations education course.</p> <p><b>2006 AR:</b> Involvement of the social partners in the amendment and promotion of the Employment Relations Amendment Act, 2004.</p> <p><b>2003 AR:</b> According to the Government: Through the implementation of tripartite discussion of issues.</p> <p>Moreover, consultation is underway with New Zealand's social partners – NZCTU and BNZ - to address the compatibility of the ERA with C.87 and C.98.</p>



	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: MBIE is currently undertaking a work programme that includes research into migrants' awareness of their employment rights and responsibilities. It includes gathering information on where migrants are getting their information from and provides an opportunity for feedback on website content. This work programme will enable the MBIE to continue to make informed decisions about how best to provide employment information for all of the public, including migrants, on various issues including the right to join a trade union. The NZCTU is a key member on the National Labour Governance Group which is industry- led overseeing seasonal labour in conjunction with attendance from relevant MBIE staff. The NZCTU is also invited to consult on employer applications when employers apply to gain the Recognised Seasonal Employer (RSE) status.</p> <p><b>2014 AR:</b> According to the Government: The Government continues to provide information about the right to join or not join a union, union membership and collective bargaining through various Ministry of Business, Innovation and Employment (MBIE) channels. This includes: the MBIE website, telephone contact centre, and mediation services. MBIE also operates union registration, maintains a collective agreements database, and there are online resources for supporting workplace partnerships.</p> <p>According to the NZCTU: The NZCTU continues to advocate for law change to bring New Zealand's law into compliance with C.87 and for ratification of the instrument. The NZCTU believes that the Government has been going backwards in promotion of freedom of association; while the Government previously provided active assistance to unions and employers through a semi-autonomous unit within the Department of Labour called the Partnership Resource Centre (PRC), following the disbandment of the PRC in June 2012 most of the Government's promotional efforts are now informational only. Furthermore, workers access to paid leave for union training provided by Employment Related Education Leave (EREL) has been severely restricted by budget cuts of over 50 per cent from \$2.05 million (2010) to \$889,000 (2012).</p> <p><b>2013 AR:</b> According to the Government: The Government continues to provide information about the right to join or not join a union, union membership and collective bargaining through various Ministry of Business, Innovation and Employment (MBIE) channels. This includes: the MBIE website, telephone contact centre, and mediation services. MBIE also operates union registration, maintains a collective agreements database, and there are online resources for supporting workplace partnerships.</p> <p><b>2012 AR:</b> According to the Government: As reported under the 2011 AR, the Government continues, through the Department of Labour, to provide information about freedom of association and the right to organise.</p>
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		<p><b>2011 AR:</b> According to the Government: New Zealand continues to provide information about rights to freedom of association and the right to organize through Department of Labour channels. This includes: the Department website, telephone contact center, and mediation services. The Department also operates union registration, maintains a collective agreements database, and provide resource to union through the partnership resource center.</p> <p>The NZCTU and union affiliates continue to participate in an Employment Relations Education (ERE) activities and provide a range of ERE courses for workers. See <a href="http://union.org.nz/organising">http://union.org.nz/organising</a> for more information about NZCTU courses and some of these activities.</p> <p><b>2009 AR:</b> The Government stated that it had organized employment relations education activities that assisted in increasing employers', workers' and unions' knowledge of employment matters.</p> <p>The BNZ and the NZCTU indicated that they had participated actively in the provision of employment relations education course.</p> <p><b>2008 AR:</b> The BNZ stated that its regional employers' organisations are involved in the provision of employment relations education and as well provide advice and information to their employer members through seminars, advice line services, collective and individual bargaining assistance and so on.</p> <p><b>2007 AR:</b> According to the Government: A government budget of NZ\$2 millions is being provided annually towards an openly contestable employment relations' education fund. This has resulted in the creation of 282 courses for 2005/06. The courses are designed to increase skills and knowledge of employers and workers in employment matters and to improve relationships within the workplace to allow parties to deal with each other in good faith.</p> <p>The BNZ stated that its regional employers' organisations are involved in the provision of employment relations education and as well provide advice and information to their employer members through seminars, advice line services, collective and individual bargaining assistance and so on.</p> <p><b>2003 AR:</b> According to the Government: The following measures have been implemented to promote and implement the PR: (i) capacity building of responsible government officials; (ii) training of other government officials; (iii) capacity building for employers' and workers' organizations; (iv) awareness raising/advocacy activities.</p> <p>Moreover, Information Officers and Labour Inspectors have conducted approximately 400 talks or seminars about employment rights and obligations with high schools, tertiary providers, Citizens Advice Bureaus, industry training providers, workplaces, community representatives, and employers.</p> <p>A tripartite meeting was held in New Zealand in February 2002, with the Director of the International Labour Standards Department.</p> <p><b>2002 AR:</b> According to the Government: The ERA provides for paid leave for eligible workers (union members) to undertake approved courses in employment relations' education.</p> <p><b>2001 AR:</b> According to the Government: The Department of Labour is currently undertaking an extensive information campaign, utilizing a number of forums, relating to the new statutory regime. This information campaign includes material relating to the promotion of freedom of association and the right to collective bargaining.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2008 AR:</b> The Department is moving to publish information on collective bargaining outcomes and union membership online to replace Employment Relations info in 2007/08.</p> <p><b>2006 AR:</b> According to the Government:</p> <ul style="list-style-type: none"><li>- The Department of Labour held 'Road shows' in major centers in 2005 that discussed the amendments implemented by the Employment Relations Amendment Act 2004. The 'Road shows' were well attended by employers' and workers' representatives.</li><li>- Employment Relations Education (ERE) continues to help employers, unions and workers improve their skills and knowledge of employment matters, including on the PR.</li><li>- Involvement in ERE continues, and over 200 ERE courses are approved under the Employment Relations Act 2000.</li><li>- The ERE Contestable Fund continues to have New Zealand \$2 million available annually for courses. In 2004/05, 24 organizations were funded for employment relations' education, and two organizations for Health and Safety Representative training.</li><li>- Some organizations, particularly NZCTU and BNZ, have become major providers of both ERE and Health and Safety Representative training. The range of projects funded continues to expand, and includes researching the employment relations needs of migrant workers and educating union representatives on enterprise and industry economics.</li></ul>
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<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014 AR:</b> According to the BNZ: While New Zealand's employment relations legislation is concerned to promote the principles underlying C.87 and while BNZ also supports those principles, the BNZ cannot support the way in which the Convention has been interpreted by the ILO supervisory bodies.</p> <p><b>2013 AR:</b> According to BNZ: While freedom of association is unchallenged in New Zealand, the problem related to the ratification of C.87 stems from the way in which the Convention has been interpreted by the ILO's Committee of Experts, especially as regards the right to strike.</p> <p><b>2011 AR:</b> According to BNZ: BNZ supports the proposal to require unions to seek permission before entering an employer's premises but is concerned that the suggested process is overly complex and would therefore undermine the Government's apparent intent to simplify the current legislation. A simple requirement to request with penalties applying both to the employer and the union representative for any abuse of the legislative requirement would be more effective.</p> <p><b>2008 AR:</b> According to BNZ: There are concerns that the recent contract proposals developed by the Government, particularly in the health sector, overrides to some extent the integrity of individual choice regarding membership of a union.</p> <p><b>2007 AR:</b> According to BNZ: Ratification of C.87 would not be in the interests of New Zealanders generally, given that the Convention has been interpreted as permitting sympathy strikes and boycotts as well as strikes on social and economic grounds which would affect many more individuals than those whom such action is intended to influence.</p> <p><b>2006 AR:</b> According to BNZ, limiting the right to officially registered unions is a retrograde step, which prevents the full realization of freedom of association.</p> <p><b>2003 AR:</b> BNZ raised the following challenges: (i) women in New Zealand do not suffer from labour market disadvantage; (ii) encourages the Government not to ratify C.87 and C.98; (iii) and does not believe it is in the interest of New Zealanders, and more generally of employers, to face the possibility of sympathy strikes and boycotts and strikes on social, and economic grounds, which they have no ability to resolve; (iv) Such strikes are in contradiction with strike action as originally conceived, that is, as an action to enable workers with little bargaining power to challenge an employer with greater bargaining power.</p> <p><b>2002 AR:</b> According to BNZ's: (i) only unions are entitled to negotiate collective agreements, and to be so entitled, the union itself must be officially registered; (ii) freedom to associate is limited; (iii) paid employment relations educational leave is available only to workers who are union members; and (iv) the Act promotes registered unions only.</p> <p><b>2001 AR:</b> The NZEF raised the following challenges: (i) before workers can form a union of their own choosing they need to have 15 potential members; (ii) unions are also required to register as an incorporated society.</p> <p><b>2000 AR:</b> No particular challenges have been raised by the NZEF.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> According to the NZCTU: NZCTU reiterates its strong disagreement with the Government's comments that there are no challenges and difficulties faced in relation to freedom of association and collective bargaining. It refers to its comments under the 2014 AR, and links therein for evidence of the</p>

		<p>Government’s regressive attacks on freedom of association. As discussed in the 2014 AR, the Government continues to cut funding for programmes designed to promote freedom of association and collective bargaining. Workers access to paid leave for union training provided by Employment Related Education Leave (EREL) has been severely restricted by budget cuts of over 50 percent from \$2.05 million (in 2010) to \$889,000 (in 2012) and under \$500,000 (in the 2014/15 budget). Much of the Government’s promotional efforts are informational only. Previously an active semi-autonomous unit within the Department of Labour called the Partnership Resource Centre (PRC) provided active assistance to unions and employers (including in relation to collective bargaining issues) but the PRC was disbanded on 30 June 2012. There are major weaknesses in the Government’s provision of information to migrants (an acknowledged group of workers who are extremely vulnerable to exploitation. The MBIE language hub (<a href="http://www.dol.govt.nz/languagehub/">http://www.dol.govt.nz/languagehub/</a>) sets out information documents in a number of other languages. There is a reasonable amount of information in some languages (such as Samoan) but the range and detail of translated information is appallingly low for many languages spoken less in New Zealand. Non-English speakers from Kiribati, Solomon, Tuvalu and Vanuatu must make do with a basic RSE explanation that does not fully explain the employment standards and, somewhat unbelievably, a factsheet on cooking and nutrition in New Zealand. It is little wonder that Pasifika are less likely to receive their entitlements when the information provided to them by the regulator is so inadequate. We strongly call for MBIE to undertake a translation exercise to make the full range of guidance available in the full range of languages spoken by the most frequent migrants to New Zealand (and with a particular emphasis on our Pasifika cousins).</p> <p><b>2014 AR:</b> According to the NZCTU: The NZCTU strongly disagrees with the Government’s comments that there are no challenges and difficulties faced in relation to freedom of association. The NZCTU has identified two key issues that appear to stand in the way of New Zealand’s ratification of C.87: (i) the Employment Relations Act 2000 only permits strike action relating to bargaining for a new collective agreement for the striking employees or on health and safety grounds; and (ii) secondary strike action (such as sympathy strikes) and strikes over social and economic issues are prohibited. These prohibitions have been held to be violations of freedom of association by the ILO Committee on Freedom of Association and the ILO has previously found that the Employment Relations Act 2000 does not comply with C.87. The NZCTU strongly disagrees with the Government’s characterisation of the Employment Relations Act 2000 as “providing more flexibility, greater choice, and ensure a balance of fairness for both employers and employees.” The NZCTU finds it disappointing to see the use of what it regards as propagandistic language by the Government. Furthermore, the Employment Relations Amendment Bill 2013 currently being considered by the Transport and Industrial Relations Select Committee contains a number of proposals which contravene ILO jurisprudence relating to freedom of association. The NZCTU believes that these proposed legal changes are in breach of C.87 and that the proposed measures are extremely retrogressive. The most egregious breaches relate to: (i) a sixty-day ‘free hit’ period that constitutes an unacceptable restriction on the right to strike; and (ii) unnecessary obstacles to and disproportionate deductions for taking strike action. The NZCTU has offered to assist the Government in seeking technical assistance on these changes but the Government has declined. These proposed legal changes, in breach of C.87, do not improve the prospects for ratification of C.87 as the Government has expressed that it will not ratify treaties that the national legislation is not in full compliance with.</p> <p><b>2013 AR:</b> The NZCTU reported that challenges have occurred following the amendments of the Employment Relations Act which came into effect in 2011. As the Act enables employers to define certain workers as contractors instead of employees, these workers who are now being regarded as contractors are encountering hostility when attempting to unionize. The sectors concerned include ports where permanent jobs have been</p>
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		<p>replaced by contract positions and in the meat and dairy processing sectors. While the major dairy process company is unionized, smaller companies are not. Cases have been reported where employers who are hostile to union participation in a workplace repeatedly have breached the provisions of the Employment Relations Act to prevent unionization of their workplace. Even where a union wins a legal challenge against such employers' actions, the cost to a union in money, time, and energy may be such that the union and union membership are vulnerable following industrial action as a result of the aftermath. It has also led to a decline in membership and union influence from undermining of the union and in some cases direct bullying of workers who have taken industrial action to defend their right to organize. Furthermore, the recent legislative changes have limited union access to workplaces, creating a barrier to organising workers. There is now a requirement for unions to give one working day's notice of intention to visit a worksite. An employer has another day to decide whether to permit access. If the employer decides to refuse the application they have an additional day to respond in writing explaining why they are refusing access. The ground for refusal requires a "reasonable cause" to withhold access, but while "reasonable" is not defined in the law, this ground can be misused and it effectively frustrates union access to its members. Some employers have created additional barriers preventing a union representative from meeting with members, such as through restriction of union access to one-on-one meetings with individual workers.</p> <p><b>2011 AR:</b> The NZCTU raised the following challenges in the realization of freedom of association in New Zealand: (i) The Government has recently cut funding for the Employment Relations Education Contestable Fund (ERECF) by almost 56 per cent or \$1.2 million – from \$2.05 million to \$889,000 in its 2010 Budget; (ii) In 2009, the NZCTU reported on Government amendments to the Employment Relations Act 2000, which meant that workers in workplaces with 20 or fewer workers could be employed on a trial employment period of up to 90 days, during which time the worker could be dismissed with no recourse to grievance procedures. In 2010, the Government introduced legislation to extend these provisions to workers at any workplaces regardless of the size. This is a negative move, and the NZCTU is opposed to the removal of employment rights during a worker's first 90 days employment given that short term employment decreases, among others, the likelihood of workers joining a union; (iii) While the Government's proposals to restrict union access state that employers will not be able to unreasonably withhold their consent to allow union officials into the workplace, they will be able to slow the process down. This could frustrate and at times isolate and intimidate union members or potential union members. Unions have experience of this under similar legislation in the 1990s. Preventing speedy resolution would in many instances mean that some workers would be denied assistance when they need it most; (iv) In July 2010, the Prime Minister announced the introduction of new legislation to reduce the labour rights of employees and of unions. If the proposed law changes are enacted they will restrict, <i>inter alia</i>, freedom of association meaning that New Zealand will no longer be compliant with C.87; (v) Since 2008 there has been an overall decrease in tripartite consultation. There are now fewer tripartite structures for the NZCTU to provide input into policy or operational deliberations. The Government commitment to the Decent Work Action Plan is reduced and there is not the same level of resourcing or commitment; and (vi) The NZCTU and union affiliates are organising to ensure that workers' rights are recognised, identifying barriers to workers participation in unions and to possible solutions to the problems. Work is underway on: exploring how to make it easier for workers to sign up with a union on first entering employment; how to more easily transfer union coverage when moving to a new job; improving options for workers communicating with unions; and providing workers with more information about the benefits of union coverage.</p> <p><b>2009 AR:</b> The NZCTU stated that union membership rates continued to be low, in particular, in the private</p>
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	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> According to the Government: The Government considers that there are no challenges and difficulties faced with regard to the PR and that all workers have the right to join a union or not join a union and the right to collectively bargain. For information with regard to the current situation please refer to the section on statistics on union membership and coverage of collective agreements.</p> <p><b>2013-2014 ARs:</b> According to the Government: The Government considers that there are no challenges and difficulties faced with regard to the promotion and realization of freedom of association. All employees have the right to join a union or not join a union.</p> <p><b>2011 AR:</b> In response to the NZCTU's comments, the Government provided the following information: (i) The baseline funding for ERECF was \$1.778 million back in 2002. Some funding was transferred from the 2006/07 funding round appropriation and added to the 2007/08, 2008/09 and 2009/10 funding round appropriations. The 2009/10 appropriation reverted to the baseline funding of \$1.778 million. The reduction in funding for the 2010/11 fiscal year is from \$1.778 million to \$889,000, a reduction of 50 per cent; (ii) The Government is not aware of any evidence or research that shows trial periods are limiting, among others, workers' rights to access union membership; (iii) Employers have a right to control who comes onto a worksite at work time, and the Government considers that the proposal is consistent with relevant ILO Conventions; and (iv) The purpose of the proposed amendment is to clarify and create certainty that communications while bargaining is underway are permissible provided such communications adhere with the duty of good faith. Current case law supports this position.</p> <p><b>2009-2010 ARs:</b> The Government indicated that between 2003 and 2007 union membership as a proportion of the total employed labour force has been static at approximately 17 per cent. Union membership is higher in the public sector and large enterprises in the private sector.</p> <p><b>2007 AR:</b> In response to NZCTU's comments, the Government indicated that the Department of Labour has undertaken to provide information on the Employment Relations Service website. The information will be available to a wider audience and will be updated on a more frequent basis than the previous publication. This website should be online by Christmas 2006.</p> <p><b>2006 AR:</b> In response to BNZ's comments, the Government indicated that the requirements that only officially registered unions may bargain collectively does not constitute a barrier to freedom of association. Registration as a union protects members' interests and gives access to the rights afforded to unions under the Employment Relations Act.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2014 AR:</b> According to the NZCTU: Despite the Government's refusal to date, the NZCTU believes that there is value in ILO technical assistance to bring the national legislation into conformity with C.87.</p>
	<p><b>Offer</b></p>	<p>ILO.</p>



<p><b>EXPERT-ADVISERS' RECOMMENDATIONS</b></p>	<p><b>2011 AR:</b> The NZCTU indicated that <b>2009 AR:</b> The NZCTU indicated that the ILO's cooperation was needed in the review of the New Zealand legislation and practice for compliance with C.87.</p> <p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that the Government of New Zealand (and three other governments) had indicated the current impossibility to ratify C.87, without further justification (cf. paragraph 29 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs listed New Zealand among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification. Furthermore, the ILO Declaration Expert-Advisers stated that they hope that the momentum of the positive dialogue on the realization of the PR will be kept, and the intention to ratify C.87 will be realized soon in New Zealand (cf. paragraphs 13 and 139 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs noted the meaningful exchange that can take place when employers' and workers' organizations enter the process of dialogue that is also constituted by this annual review process such as in the case of New Zealand (cf. paragraph 82 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2001 AR:</b> The IDEAs noted that relatively few national employers' organizations had submitted separate observations; but where they did, they offered useful insights into their experiences and the implications of recent legislative and institutional developments, such as in New Zealand (cf. paragraph 76 of the 2001 Annual Review Introduction – ILO: GB.280/3/1).</p>
<p><b>GOVERNING BODY RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>



**INTERNATIONAL LABOUR  
CONFERENCE  
RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015 <sup>1</sup>: OMAN**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Omani Chamber of Commerce and Industry (OCCI), the General Federation of Oman Trade Unions (GFOTU) and the Board of Employers' and Workers' Organizations (the Oman Oil Company; Khimji Ramdas, Oman Oil Company, Ahmed and Mohammed Khunji, W.J. Towel and Baqir Salman) through communication of government reports and tripartite meetings on reporting issues.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the OCCI. <b>2013 AR:</b> Observations by the OCCI. <b>2009 AR:</b> Observations by the OCCI. <b>2007 AR:</b> Observations by the OCCI.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations by the GFOTU.  <b>2014 AR:</b> Observations by the GFOTU.  <b>2013 AR:</b> Observations by the GFOTU.  <b>2012 AR:</b> Observations by the GFOTU.  <b>2009 AR:</b> Observations by the GFOTU.          Observations by the International Trade Union Confederation (ITUC).  <b>2008 AR:</b> Observations by the General Federation of Oman Trade Unions (GFOTU) that substituted the Main Omani Workers' Committee (MOWC).          Observations by the ITUC.  <b>2007 AR:</b> Observations by the Main Omani Workers' Committee (MOWC).          Observations by the International Confederation of Free Trade Unions (ICFTU).  <b>2006 AR:</b> Observations by the MOWC.          Observations by the ICFTU.  <b>2005 AR:</b> Observations by the ICFTU.  <b>2002 AR:</b> Observations by the ICFTU.  <b>2001 AR:</b> Observations by the ICFTU.  <b>2000 AR:</b> Observations by the ICFTU.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Oman has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b></p>

		<p><b>Ratification intention</b></p>	<p><b>YES, since 2002 for C.87 and C.98.</b></p> <p><b>2015 AR:</b> According to the Government: The Government reiterated the statement it made under the previous review.  OCCI reiterated its support to the ratification of C.87 and C.98.  GFOTU reiterated its support to the ratification of C.87 and C.98 and indicated that there are no obstacles to ratification, particularly as national legislation has been harmonized to a large extent with the substance of the Conventions. However, to date, there is no clear momentum toward ratification of the two Conventions.</p> <p><b>2014 AR:</b> According to the Government: The Government is still in favour of ratification of C.87 and C.98 once the national legislation has been harmonized with International Labour Standards (ILS).  The GFOTU reiterated its commitment to the ratification of C.87 and C.98 by Oman, and indicated that a tripartite assessment of the ratification of C.87 and C.98 was being undertaken to determine steps forward in the ratification process.</p> <p><b>2013 AR:</b> The Government reiterated the statement it made under the previous review.  The OCCI and the GFOTU reiterated their support to ratification of C.87 and C.98 by Oman.</p> <p><b>2010-2012 ARs:</b> The Government reiterated its support for the ratification of C.87 and C.98. It further mentioned that upon compliance of national labour laws with international labour standards (ILS) and completion of the national capacity building, the ratification process of C.87 and C.98 would be initiated. This process should be accelerated by the current Decent Work Country Programme (DWCP). The Government expressed finally its expectation that ratification would take place soon, with ILO assistance in the process.  The GFOTU fully supported and prioritized ratification of C.87 and C.98, and expected the Government would ratify both C.87 and C.98 in a near future, while underlining that there were no opposing parties for these ratification.</p>
			<p><b>2009 AR:</b> The Government stated that it strongly supported the ratification of C.87 and C.98. However, national laws needed to be in compliance with C.87 and C.98.  The OCCI supported the ratification of C.87 and C.98 by Oman.  The GFOTU supported the ratification of C.87 and C.98 by Oman.</p> <p><b>2008 AR:</b> The Government reiterated its support for the ratification of C.87 and C.98 and added that once national labour laws come in line with international standards, the process of ratification will be initiated.  The GFOTU supported the ratification of C.87 and C.98.</p> <p><b>2007 AR:</b> The Government indicated that ratification of C.87 and C.98 was under consideration. It also mentioned, together with the OCCI and the MOWC, the need for tripartite discussions and ILO support for the ratification of all ILO Fundamental Conventions by Oman.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government intended to ratify C.87 and C.98.</p>

	<p><b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b></p>	<p><b>Constitution</b></p> <p><b>Policy, legislation and/or regulations</b></p>	<p><b>YES</b>, the Basic Statute, article 80, provides for freedom of assembly and association.</p> <ul style="list-style-type: none"> <li>• <b>Policy</b> The Government’s prospects: Compliance with the fundamental principles and rights of workers in the Constitution, legislation and labour laws.</li> <li>• <b>Legislation</b> Oman has amended its Labour Law in 2006 by a Royal Decree (74/2006) and (112/2006). The 2003 Labour Law, the Statute on the establishment of associations and the Civil Service Law for the establishment of workers’ committees in the Public Service relate to the principle and right (PR).</li> <li>• <b>Regulations</b> <b>2015 AR:</b> According to GFOTU: On 7 September 2014, Ministerial Decision no. 249/2014 was issued, amending certain provisions of the Ministerial Decision no. 570/2012, and extending the competence of trade unions by stipulating that they shall “represent their members and defend their interests before judicial bodies”. This decision was issued after a number of judicial rulings had been delivered on the inadmissibility of lawsuits brought by labour unions on the grounds that unions lack legal capacity. This led GFOTU to submit a proposal, backed by documentation, to amend the decision and remedy the legislative shortcomings, in coordination with the competent bodies. The amendment was a breakthrough, allowing union representatives to represent members before the competent judicial bodies. <b>2014 AR:</b> According to the Government: A Ministerial Decision (MD 570/2012) concerning the establishment, functioning and registration of trade unions was issued in 2012. <b>2012 AR:</b> According to the Government: A Ministerial Decision has been issued in early 2010 to establish a National Social Dialogue Committee, based on Ministerial Order No. 59/2010 concerning the establishment, functioning and system of registration of trade unions and trade union federations. <b>2008 AR:</b> The Government indicated that Ministerial Decisions No. 294/2006 and 17/2007 were issued on the regulation of collective bargaining, peaceful strike and closure. It added that Ministerial Decision No.24/2007 was also issued relating to the establishment of trade unions and the General Federation of Oman Trade Unions (GFOTU). The Government noted that all draft decrees and decisions had been sent to the ILO Norms Department for comments and subsequently issued in accordance with international labour standards. <b>2007 AR:</b> Two Ministerial Decrees (No. 135/2004 and No. 136/2004) relate to the composition of workers’ committees and committees for employers of enterprises. Sultan Decree No. 8/80 (1982) provides for service regulations in the Public Service, including the establishment of workers’ committees and the settlement of disputes.</li> </ul>
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		<b>Main legal provisions</b>	<p><b>2008 AR:</b> The Royal Decree No. 74/2006 issued on 8 July 2006 together with a Ministerial Decision No.24/2007 on the formation, functioning and registration system of the labour unions and labour associations. Moreover, ministerial Decision No.24/2007 was issued relating to the establishment of trade unions and the GFOTU.</p> <p><b>2007 AR:</b> The amendment of Decrees No. 135/2004 and 136/2004 to comply with the Royal Decree 74/2006 and Ministerial Decision No. 294/2006 on Regulation of collective bargaining, peaceful strike and closure was issued on 29 October 2006.</p> <p>(i) Section 80 of the Basic Statute; (ii) the Statute on the establishment of associations; (iii) the Labour Law (No. 35/2003); (iv) the Civil Service Law for the establishment of a staff committee for workers in the Public Service; (v) two Ministerial Decrees (No. 135/2004 and No. 136/2004) relating to the composition of workers' committees and employers of enterprises employing 50 workers or more.</p>		
		<b>Judicial decisions</b>	<b>NIL.</b>		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<p><b>2007 AR:</b> According to the Government: Government approval to conclude collective agreements is not required since the amendment of the Labour Law.</p> <p><b>2003-2005 ARs:</b> Prior government authorization is necessary to operate employers' organizations and conclude collective agreements. All categories of employers can set up their organizations.</p>	
			<b>For Workers</b>	<p><b>2007 AR:</b> There is no more restriction on the right to form trade unions or to conclude collective bargaining since the amendment of the Labour Law.</p> <p><b>2002-2005 ARs:</b> Prior government authorization is necessary to operate workers' organizations (Law No.35/2003 and two Ministerial Decrees (No. 135/2004 and No. 136/2004). Freedom of Association (FOA) can be exercised by all workers in the public service; medical professionals; teachers; agricultural workers; workers engaged in domestic work; workers in export processing zones (EPZs) or enterprises/industries with EPZ status; migrant workers; workers of all ages; and workers in the informal economy.</p> <p>However, it cannot be exercised by categories of workers subject to the formation of committees and associations (Ministerial Decree No. 135/2004 for the establishment of labour committees in private sector companies, in line with sections 108-109-110 of the Labour Law No. 35/2003).</p>	

			<p><b>Special attention to particular situations</b></p>	<p><b>2015 AR:</b> The Government indicated that the current focus is on all sectors and all workers; however possible future focus might be given to the oil and gas industry.</p> <p><b>2008 AR:</b> The GFOTU indicated that it has been working with NGOs on promoting women participation in trade unions and even to establish a union for working women in Oman.</p> <p><b>2005 AR:</b> According to the Government: Women.</p> <p><b>2003 AR:</b> According to the Government: People with disabilities and persons with special needs.</p>
			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2014 AR:</b> According to the GFOTU: Between 2009 and 2013 the number of registered trade unions increased from approximately 40 to 200 in Oman.</p> <p><b>2012 AR:</b> The Government indicated that it was planning to collect further data on the PR under the Labour Market Information Programme of the DWCP for Oman.</p> <p><b>2007 AR:</b> According to the Government: the Directorate of Inspection collects information and data on the PR.</p> <p>According to the Government: There is a lack of information and data on the PR.</p>
		<p><b>At international level</b></p>	<p>According to the Government: There are no particular restrictions on the international affiliation of employers' and workers' organizations.</p>	

<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2012 AR:</b> According to the Government: Some 60 new labour inspectors have been appointed including 10 females.</p> <p><b>2009 AR:</b> According to the Government: Some 90 new labour inspectors have been trained on the principle and right and a Labour Inspection Guide has been edited and printed.</p> <p><b>2008 AR:</b> According to the Government: Ministerial Decision No.24/2007 was issued relating to the establishment of trade unions and the GFOTU.</p> <p><b>2000-2005 ARs:</b> According to the Government:</p> <ul style="list-style-type: none"> <li>- The Labour Law has legalized the right to establish trade unions, and the committees only register themselves at the Ministry of Labour after being formed. The establishment of joint committees of employers and workers in enterprises with significant workforces can play a monitoring and defensive role in relation to the PR.</li> <li>- The Ministry of Civil Service settles labour disputes concerning workers in the civil service, in accordance with the Service Regulations promulgated by Sultan Decree No. 8/80 (1982). These regulations provide for the establishment of Workers' Committees to deal with personnel questions and the right to submit complaints.</li> <li>- Inspection/monitoring mechanisms have been implemented.</li> <li>- The PR is enforced through law, collective agreements, free dispute settlement procedures and tripartite consultations at all levels.</li> <li>- In instances where the Government finds that this PR has not been respected, tripartite discussions free dispute settlement procedures are held by the social partners. Measures are taken to ensure respect for this PR.</li> </ul>
<p><b>Involvement of the social partners</b></p>	<p><b>2014 AR:</b> According to the GFOTU: Social dialogue is ongoing and a tripartite assessment of the ratification of C.87 and C.98 is being conducted to determine steps forward in the ratification process.</p> <p><b>2013 AR:</b> The Government indicated that amendments to labour laws during late 2011 were carried out in discussion with the social partners.</p> <p>The OCCI and the GFOTU indicated that a harmonious tripartite dialogue has been going on to improve working conditions in Oman.</p> <p><b>2012 AR:</b> According to the Government: The Government, the employers' and workers' organizations have been working together as a tripartite body, through the Social Dialogue Committee, to seek successful agreements and solve peacefully and through social dialogue the numerous strikes that were organized in the country.</p> <p>According to the GFOTU there is currently a good situation for social dialogue in the country. The creation of the tripartite Social Dialogue Committee has further helped create and strengthen social dialogue.</p> <p><b>2009 AR:</b> According to the OCCI: Tripartite committees have been established in Oman.</p> <p><b>2001-2001 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in: (i) training and awareness programmes; (ii) decision-making process; (iii) improving labour market conditions; and (iv) promoting career development.</p>



	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: several promotional activities took place on the PR including: a) Workshop on Solving Labour Disputes and Workshop on International Labour Standards were held in May and July 2015, respectively. b) Training of trainers of labour inspectors (10-19 November 2012); c) Training course on negotiation skills and dispute settlement (23-24 March 2013); and d) GCC workshop on labour inspection, in cooperation with ILO (27-29 September 2013). OCCI indicated that it has been involved in various social dialogue and awareness raising activities</p> <p>GFOTU reported that it has implemented several courses and job training sessions aimed at encouraging workers to form unions and labour federations, as well as others aimed at educating workers in collective bargaining mechanisms designed to improve the terms and conditions of work and obtain privileges. It also indicated that there has been coordination with the Oman Chamber of Commerce and Industry on organizing an annual seminar on prospects for cooperation, which produced a number of recommendations to strengthen aspects of collective bargaining, and a number of awareness-raising and training programmes and activities have been organized by joint efforts of the tripartite partners and separately. Furthermore, social dialogue and high-level negotiation on amending the Labour Act and social security have taken place.</p> <p><b>2014 AR:</b> According to the Government: The following promotional activities have been conducted in the course of the last year: (i) Training of labour inspector trainers; (ii) Tripartite training courses on negotiation skills and dispute settlement; (iii) A Gulf Cooperation Council (GCC) workshop on labour inspection held in Oman; and (iv) An officer of the Ministry of Labour participated in the ILO/TURIN Pre-Conference Course on International Labour Standards held in May-June 2013 where issues concerning the PR were addressed. Moreover, a DWCP is being developed in Oman in close cooperation with ILO.</p> <p>According to the GFOTU: Activities to promote freedom of association and the right to collective bargaining, including awareness raising activities and training of trainers at the national and local levels, have been conducted. The GFOTU continues to undertake activities to strengthen the trade union movement in the country, and is currently in the process of preparing for its first Congress to be convened.</p> <p><b>2012 AR:</b> The Government indicated that an official of the Ministry of Labour had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards in May-June 2011 where issues concerning the PR were addressed. Also, National tripartite workshops on awareness raising on the PR and the right to form trade unions in particular are carried out on a regular basis. Moreover, the GFOTU is carrying out such type of workshop on a regular basis. The Government is also building up a working relationship culture between employers and workers.</p> <p>The GFOTU: An ongoing collaboration between GFOTU and the Government pressures the Government to finalize the ratification process of C.87 and C.98. The numbers of trade unions are constantly increasing in Oman, and the GFOTU are seriously engaging with the Government and employers' representatives in social dialogue and collective bargaining. The GFOTU has so far signed several organizational based collective agreements. When C.87 and C.98 have been ratified, the next priority will be to reach collective agreements on a sectoral basis, initially targeting the oil and petroleum industry.</p> <p><b>2009 AR:</b> According to the Government: Some 90 new labour inspectors have been trained on the principle and right and a Labour Inspection Guide has been edited and printed.</p>
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		<p><b>2008 AR:</b> The Government indicated that several tripartite seminars and trainings have been organized in collaboration with ILO, in particular the 5<sup>th</sup> ILO/Gulf Cooperation Council (GCC) Regional Seminar on the ILO Declaration and International Labour Standards in Oman. Moreover, training programmes are being undertaken jointly with USAID in order to enhance the efficiency of manpower. It also added that a labour inspection had been undertaken and several training programmes for workers will be organized in 2007 in conjunction with ILO, such as the tripartite workshop on dispute settlement scheduled for the 20 June 2007.</p> <p>The GFOTU indicated that it has been working with ILO this year to implement a project on the creation of trade unions and to finalize the constitution of the General Federation of Oman Trade Unions. It has furthermore been working with NGOs on promoting women participation in trade unions and even to establish a union for working women in Oman. The GFOTU also participated as a social partner in number of tripartite activities organized by the Arab Labour Organization (ALO).</p> <p><b>2007 AR:</b> According to the Government: A few seminars were organized to make social partners about their rights and obligations as stated in the amendment. Moreover, tripartite activities were organized in Oman with the support of the Arab Labour Organization (ALO).</p> <p>The Government, the OCCI and the MOWC referred to their participation in the Fourth ILO Gulf Cooperation Council (GCC) Regional Workshop on the ILO Declaration and International Labour Standards held in Kuwait City in April 2006.</p> <p><b>2005 AR:</b> The Government reported on frequent training and awareness-raising activities on the 2003 Labour Law, participation in programmes and symposia of training conferences, and publication of a series of public information pamphlets including on labour disputes.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: The Ministry of Labour conducts awareness sessions on labour law to establishments in the private sector. In 2014, it conducted 587 awareness sessions.</p> <p>GFOTU indicated that a number of labour unions have been successful in achieving gains for workers through negotiation, and several unions have been able to form sector-based federations and to unite their negotiating efforts. According to GFOTU, the number of collective labour settlements and agreements increased from 60 in 2010 to 197 in 2014, totaling 458 over the five year period.</p> <p><b>2014 AR:</b> According to the GFOTU: Rapid progress has been made in the establishment of trade unions in the country. Between 2009 and 2013 the number of registered trade unions increased from approximately 40 to 200 in Oman. Initiatives by the GFOTU are focused on realizing collective bargaining between the newly established trade unions and the employers. The GFOTU continues to undertake activities to strengthen the trade union movement in the country, and is currently in the process of preparing for its first Congress to be convened.</p> <p><b>2013 AR:</b> According to the Government, the OCCI and the GFOTU: A tripartite sectoral committee has been established in Oman to negotiate collective bargaining agreements.</p> <p>According to the OCCI: The OCCI supports the ratification of C.87 and C.98 by Oman. The implementation of the PR will take time as the working population needs to understand how to use more efficiently the (Fundamental Principles and Rights at Work (FPRW), especially with regard to collective bargaining. For example, developing tripartite discussions have helped improved considerably working conditions of all workers by reducing working days from six to five and increasing the minimum wages by 70 per cent. The on-going tripartite discussions will help better implement and realize the PR in the country in a near future</p> <p><b>2012 AR:</b> According to the Government: A Decent Work Country Programme is being developed in Oman in cooperation with the ILO. It is at its final stage and the implementation process is expected to start in September 2011. This DWCP includes several sub programmes to promote and enhance the PR in Oman. Moreover, in its steps to building up a labour relation culture between employers and workers, the Government is since 2010 using the term “employer” (<i>sahab amal</i>) instead of sponsor (<i>kafeel</i>). Moreover, A Ministerial Decision has been issued in early 2010 to establish a National Social Dialogue Committee, based on Ministerial Order No. 59/2010 concerning the establishment, functioning and system of registration of trade unions and trade union federations</p>	
		<p><b>2009 AR:</b> According to the OCCI: Tripartite committees have been established in Oman.</p> <p><b>2007 AR:</b> According to the Government: After the amendment of the Labour Law, the Joint Committees have become trade unions and the Main Omani Workers’ Committee is renamed into the Omani General Labour Federation. Moreover, trade unions have been established in 40 companies.</p> <p><b>2006 AR:</b> According to the Government: Under the 2003 Labour Law, 23 Workers’ Committees have been established in 23 companies and they have elected a Main Omani Workers’ Committee.</p> <p><b>2004-2005 ARs:</b> According to the Government: The new Labour Law in 2003 and the establishment of committees in each organization.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2007 AR:</b> The OCCI mentioned its lack of capacity building and training on the ILO Declaration and its follow-up.</p>



		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> GFOTU reported that there are two major challenges: a) there are no penalties to deter the practices of certain employers, designed to hinder the formation of trade unions or deprive workers of the right to engage in union activity, and b) additionally, the judicial bodies in the Sultanate are unfamiliar with union activity and, in consequence, are not finely attuned to actions and incidents designed to deprive workers of the right to engage in union activity and which are referred to the judiciary as lawsuits brought by union members. This results in cases being dismissed on the grounds that no crime has been committed or for insufficient evidence.</p> <p><b>2014 AR:</b> According to the GFOTU: The trade union movement is still at an early stage of its organization in Oman. Due to this, negotiation skills need to be strengthened and awareness on the FPRW need to be raised.</p> <p><b>2013 AR:</b> According to the GFOTU: The culture of trade unionism, union members' awareness raising on the Declaration's follow-up and negotiation skills need to be strengthened in Oman.</p> <p><b>2012 AR:</b> According to the GFOTU: The GFOTU does not see any remaining challenges nor any legal obstacles to the finalization of the ratification process. Only formalities are remaining.</p> <p><b>2009 AR:</b> The ITUC reiterated its observations made under the 2008 AR concerning Oman, in particular: (i) restrictions on forming trade unions (at least 25 employees, despite the size of the enterprise); (ii) legal monopoly by a single trade union confederation (the General Federation of the Sultanate of Oman – GFOTU); and (iii) restrictions on the right to strike (with a three-week notice).</p>
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			<p><b>2008 AR:</b> The GFOTU indicated the following challenges: (i) promoting the culture of trade unionism in Oman between workers and employers still needs to be strengthened; (ii) capacity building and training of workers and trade unions members on the Declaration Follow-up is lacking in Oman; (iii) tripartite discussion in all work related issues has not yet been applied; (iv) trade union leadership nationally and internationally is still lacking; (v) skills for collective bargaining amongst trade union members should be raised and (vi) the participation and involvement of women in the trade union activities is still weak.</p> <p>According to the ITUC: (i) a decree promulgated on 8 July 2006 grants workers the right to form trade unions however the reference to the “General Federation of the Sultanate of Oman” implies a monopoly with a single trade union federation; (ii) a decree of 31 October 2006 authorizes collective bargaining and peaceful strike action by workers if it is supported by an absolute majority of the workforce; and (iii) half of Oman’s workers are migrant workers and they represent a cheap and vulnerable source of labour.</p> <p><b>2007 AR:</b> The MOWC also mentioned its lack of capacity building and training on the ILO Declaration and its follow-up.</p> <p>According to the ICFTU: The law still does not recognise the right to form unions and to bargain collectively; (ii) strikes are not prohibited anymore but the right to strike is not clearly recognized.</p> <p><b>2006 AR:</b> According to the Main Omani Workers’ Committee: Oman and countries of the Gulf Cooperation Council (GCC) need some time to organize themselves and adapt their structures progressively to freedom of association and the effective recognition of the right to collective bargaining.</p> <p>The ICFTU raised the following challenges: (i) the Labour Law, 2003, does not allow workers to form trade unions but they can form representational committees; (ii) the Labour law does not apply to members of the armed forces, security and government personnel, or domestic workers; (iii) the right to collective bargaining is still not recognised under the new law; (iv) the joint labour-management committees do not appear to be effective.</p> <p><b>2000-2005 ARs:</b> The ICFTU raised the following challenges: (i) trade union rights are being violated; (ii) the Government’s position on strikes is not clear; (iii) there is a binding arbitration for solving labour disputes; (iv) there is no collective bargaining and (v) joint labour-management committees are not efficient.</p>
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	<p><b>According to the Government</b></p>	<p><b>2014-2015 ARs:</b> According to the Government: Challenges are related to ensuring the implementation of the DWCP.</p> <p><b>2013 AR:</b> According to the Government: OCCI would need further technical assistance to strengthen its negotiation capacities and awareness raising on fundamental principles and rights at work, in particular through the DWCP.</p> <p><b>2012 AR:</b> According to the Government: There is a lack of public awareness on the importance of the PR, as well as the trade unions' role in promoting it.</p> <p><b>2010-2011 ARs:</b> According to the Government: The main national challenges to the realization of the PR in the country are as follows: (i) lack of compliance of national labour laws to the PR; (ii) lack of capacity building of the tripartite partners; and (iii) social practices.</p> <p><b>2009 AR:</b> According to the Government: There is a need to recruit more labour inspectors to strengthen the labour inspection services.</p> <p><b>2008 AR:</b> The Government reiterated the same challenges mentioned in the 2007 and 2005 ARs.</p> <p><b>2007 AR:</b> According to the Government: Lack of capacity of employers' and workers' organizations to understand their obligations, especially concerning collective bargaining.</p> <p><b>2003-2005 ARs:</b> According to the Government: The main difficulties encountered in realizing the PR in Oman are as follows: (i) lack of public awareness and/or support; (ii) social and economic circumstances; and (iii) lack of capacity of workers' organizations.</p> <p><b>2005 AR:</b> In response to the ICFTU's observations, the Government made the following comments: In the 2003 Labour Law, the Civil Service Law and the Laws on employment in the armed forces deal with issues related to employment and workers' rights in relation to the PR. The 2003 Labour Law does not mention prohibition of strikes and any punishment in case of strike. In addition, chapter VIII (sections 104-107 of the 2003 Labour Law) deals with solving labour disputes. As regard collective bargaining, the establishment of representative committees will give incentive to workers to discuss issues related to employment with employers and the Government to achieve collective bargaining requirements.</p> <p><b>2002 AR:</b> In response to the ICFTU's observations, the Government made the following comments: Authorization is provided to establish associations for workers and employers in enterprises employing 50 workers or more. It is looking forward to enforce the new Labour Code in 2004, in line with the PR. The Labour Law does not determine wages and salaries, but only provides for the minimum wage, by virtue of Ministerial Order No.222/98. In the private sector, wages are determined by both parties, and contracts should be in conformity with the Labour Laws and the Directives of the Government in this regard. Furthermore, the Sultanate enjoys benefits that do not justify strikes - which can be detrimental to the country.</p>
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TECHNICAL COOPERATION	Request	
		<p><b>2015 AR:</b> The Government requested ILO technical cooperation to build the capacity of the Government through the DWCP. OCCI indicated that technical assistance to build capacity and consolidate awareness related to the Conventions is required.</p> <p>GFOTU requested ILO technical cooperation to reinforce their institutional capacity, improve the culture of trade unionism in Oman and strengthen their skills in terms of negotiation. In addition, GFOTU indicated the need for undertaking scrutiny of pertinent national legislation, comparing it with the relevant Arab and international principles and conventions and putting forward the necessary observations which, if adopted, will help to strengthen the right to organize, union freedoms and collective bargaining.</p> <p><b>2014 AR:</b> The Government requested ILO technical cooperation to build the capacity of the Government through the DWCP. The GFOTU requested continuous ILO technical cooperation through the DWCP, along with targeted capacity building activities for trade union leaders.</p> <p><b>2013 AR:</b> The Government requested ILO's technical support for a better implementation of the DWCP.</p> <p>According to the GFOTU: ILO's technical support is needed to: (i) raise the culture of trade unionism; (ii) strengthen union membership's awareness raising on the Declaration and its follow-up, and; (iii) strengthen trade unions' negotiation skills.</p> <p><b>2010-2012 ARs:</b> The Government of Oman requested ILO's technical cooperation in the following areas: (i) training of 60 new labour inspectors on the PR; (ii) strengthening the capacity of tripartite partners and the National Social Dialogue Committee; (iii) public awareness raising campaign on the PR; (iv) training of trainers courses; and (v) ILO's expertise to support the DWCP implementation in Oman.</p> <p>The GFOTU requested the ILO to support the government in taking the necessary steps in order to finalize the ratification processes. It further requested the continuation of the ongoing ILO support within the Decent Work Programme, in which the Federation was fully involved.</p> <p><b>2009 AR:</b> According to the Government: The ILO should maintain and strengthen its technical support with the introduction of a training component on the use of the Labour Inspection Guide. Moreover, the ILO Decent Work Country Programme should be continued.</p> <p>According to the OCCI: The ILO's support is needed to train officials on labour-related issues.</p> <p><b>2008 AR:</b> According to the Government: ILO technical assistance has been provided in carrying out seminars and training and it hopes that it will be sustained.</p> <p>The GFOTU requested ILO technical assistance for the capacity building of trade union members in Oman. Furthermore, field visits and best practices from other international federation of trade union are needed.</p> <p><b>2007 AR:</b> According to the Government, the OCCI and the MOWC: ILO technical cooperation would be needed to organize a national tripartite workshop on International Labour Standards and the ILO Declaration. Moreover, employers' and workers' organizations need special training on their roles in the Declaration Follow-up.</p> <p><b>2006 AR:</b> According to the Main Omani Workers' Committee: A need for technical cooperation to facilitate the realization of the PR exists in establishing Workers' Committees and raising awareness on the role of the Workers' Committees in promoting the principle and right and other fundamental principles and rights at work in line with the 1998 ILO Declaration.</p> <p><b>2005 AR:</b> According to the Government: There is a need for technical cooperation to facilitate the realization of the PR in the following areas, in order of priority: 1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the principle; 2) strengthening data collection and capacity for statistical analysis; 3) strengthening tripartite social dialogue and 4) sharing of experiences across countries/regions.</p> <p><b>2002 AR:</b> The Government stated that the assistance of the ILO and the Arab Labour Organization (ALO) were needed in carrying out studies to support the organization and development of the labour force in the country.</p>



	<p><b>Offer</b></p>	<p>ILO, GCC, ALO.</p> <p><b>2007 AR:</b> According to the Government: A continuous dialogue is being held between Oman and the ILO. In this respect, a team of ILO experts visited Oman in April 2006, and a report on the Labour Law amendment was prepared. The ALO has supported some tripartite activities in Oman.</p> <p><b>2006 AR:</b> According to the Government: The Plan of Joint Activities 2004-05 concluded between the Council of Ministers of Labour and Social Affairs in the GCC States and its Executive Bureau and the ILO includes the fundamental principles and rights at work as a top priority.</p>
<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries, such as the Gulf States (as well as China and new member States, in particular in the South Pacific), had made important efforts during this process. However, according to them, more needed to be done. The IDEAs welcomed the efforts made by Oman (new regulations on collective bargaining and the right to strike) in implementing the principle and right and asked Oman (and other countries) to complete its legal review process to remove the obstacles to ratification of C.87 and C.98. They drew, however, the attention to the practice in some countries where only one official trade union is allowed, including Oman, and recalled in this regard the following: “the right to official recognition is an essential aspect of the right to organize as it allows employers’ and workers’ organizations to be in a position to play their roles efficiently. Furthermore, any government intervention in employers’ and workers’ organizations’ internal affairs (right to establish and join organizations of their own choosing, without distinction whatsoever and without previous authorization, right to draw up internal constitutions and rules, right to elect their representatives in full freedom, etc.) constitutes interference in the functioning of these organizations, which is a denial of the principle and right”. The IDEAs finally acknowledged the high number of promotional activities concerning the PR in the Gulf States (and some other countries), and encouraged the Office to maintain its efforts to support these activities (cf. paragraphs 12, 33, 34 and 36 of the 2008 AR Introduction – ILO: GB.301/3).</p> <p><b>2006 AR:</b> The IDEAs observed the following: “It is important to note that the majority of workers in some Gulf States are migrant workers. Therefore, while we note that certain measures have been reported relating to this principle [...] we stress that the principle should be given full effect as regards all the workers present in these countries, including migrant workers, if these countries are to progress meaningfully in this area” (cf. paragraph 45 of the 2006 AR Introduction – ILO: GB.295/5).</p> <p><b>2005 AR:</b> The IDEAs listed Oman among the countries where progress was being made under the Annual Review on the promotion of freedom of association and the effective recognition of the right to collective bargaining (paragraph 12 of the 2005 Annual Review Introduction). Furthermore, the ILO Declaration Expert-Advisers noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (GCC) (cf. paragraph 148 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs stated that they were encouraged by the continuing steps taken by countries of the Gulf Cooperation Council (GCC) in relation to this PR, but noted that there was a long way to go and much to do. They further indicated that the Gulf Cooperation Council States were providing more information on the PR, but not enough on the other three PRs. This would help to illustrate the link between all four PRs. The IDEAs also wished that the positive measures taken by countries in the Gulf Cooperation Council (GCC) be expanded upon (cf. paragraphs 29 and 84 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2003 AR:</b> The IDEAs commended Oman for its continuing dialogue with the Office (cf. paragraph 4 of the 2003 AR Introduction – ILO: GB.286/4).</p> <p><b>2002 AR:</b> The IDEAs recommended that, with a view to a more in-depth discussion of certain aspects of the Introduction, the Governing Body invite clarifications from Oman in relation to the continuation of steps undertaken in the country, in cooperation with the Office, concerning the principle of freedom of association and effective recognition of the right to collective bargaining. Furthermore, they acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the Government (cf. paragraphs 41 (b) and 82 of the 2002 AR Introduction – ILO: GB.283/3/1).</p> <p><b>2001 AR:</b> The IDEAs hoped that the Governments of Oman would continue a dialogue with the Office regarding the ways in which the PR could be achieved (paragraph 77 of the 2001 Annual Review Introduction). They also recommended to the governing body that further information be requested from the Government of Oman in relation to efforts made to promote the principle and right (cf. paragraph 30 (b) (ii) of the 2001 Annual Review Introduction – ILO: GB.280/3/1).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2014-2015) <sup>2</sup>: REPUBLIC OF PALAU**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, for the first time under the 2014 Annual Review (AR). Palau joined ILO in May 2012.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>		
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>		
	<b>Workers' organizations</b>		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Palau has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No.98) (C.98).</b>
		<b>Ratification intention</b>	<b>Under consideration for both C.87 and C.98</b> <b>2015 AR:</b> According to the Government: Ratification of both C.87 and C.98 are under consideration. <b>2014 AR:</b> The Government has requested ILO technical assistance to help it consider ratification of all fundamental Conventions, including C.87 and C.98.
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES,</b> According to the Government: The Fundamental Rights are spelled out in Article IV of the Constitution of Palau, 1979.
		<b>Policy, legislation and/or regulations</b>	
		<b>Basic legal provisions</b>	

<sup>2</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



		<b>Judicial decisions</b>	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>
			<b>For Workers</b>
			<b>Special attention to particular situations</b>
			<b>Information/ Data collection and dissemination</b>
		<b>At international level</b>	
	<b>Monitoring, enforcement and sanctions mechanisms</b>		
	<b>Involvement of the social partners</b>		
	<b>Promotional activities</b>	<b>2015 AR:</b> According to the Government: With the help of ILO, a gap analysis is being undertaken benchmarking labour laws, policies and practices for ILO's eight fundamental Conventions, in consultation with the social partners.	
	<b>Special initiatives/Progress</b>		
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	
		<b>Workers' organizations</b>	
	<b>According to the Government</b>		
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<b>2014–2015 ARs:</b> According to the Government: Given that Palau is a new member State, the Government wishes to request ILO technical assistance for: (i) better understanding and reporting on the Fundamental Principles and Rights at Work (FPRW), and (ii) reviewing its national legislation to assess compliance with ILO fundamental Conventions on freedom of association and the right to collective bargaining (C.87 and C.98).	
	<b>Offer</b>		
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	NIL		



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>





**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>3</sup>: QATAR**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, but no change reports for the 2001, 2004, 2009-2011 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Qatar Chamber of Commerce and Industry (QCCI), the Qatar Petroleum Workers' Committee (QPWC) and the General Union of Workers of Qatar (GUWQ) through consultations and communication of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> Observations by the QCCI. <b>2007 AR:</b> Observations by the QCCI.	
	<b>Workers' organizations</b>	<b>2009 AR:</b> Observations by the International Trade Union Confederation (ITUC). <b>2008 AR:</b> Observations by the QPWC. Observations by the TUC. <b>2007 AR:</b> Observations by the QPWC. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the QPWC. Observations by the ICFTU. <b>2005 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Qatar has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87), nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>

<sup>3</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



		<p><b>Ratification intention</b></p>	<p><b>YES, since 2002, for C.87 and C.98.</b></p> <p><b>2012, 2014 and 2015 ARs:</b> According to the Government: There have been no developments in the ratification processes of C.87 and C.98.</p> <p>The QCCI supported ratification of C.87 and C.98, and considered that these instruments would secure the rights and liabilities of the social partners equally.</p> <p><b>2012 AR:</b> According to the Government: There have been no developments in the ratification processes of C.87 and C.98.</p> <p>The QCCI supported ratification of C.87 and C.98, and considered that these instruments would secure the rights and liabilities of the social partners equally.</p> <p><b>2007 AR:</b> The Government stated that it was looking forward to reaching the legal and practical level that would allow the ratification of both Conventions. Accordingly, it is cooperating with the ILO for the realization of the ILO Declaration.</p> <p><b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2001), the Government intended to ratify C.87 and C.98.</p>
<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>		<p><b>Constitution</b></p>	<p><b>NIL.</b></p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li> <p><b>Legislation:</b></p> <p>The Labour Code was adopted by Law No. 14 (2004), which entered into force on 6 January 2005. Chapters 12, 13 and 14 provide for the setting up of workers’ organizations, the Confederation of Workers of Qatar and for the right to collective bargaining as well as the right for joint committees, joint agreements and the collective settlement of disputes. Law No. 12 (2004) on Associations and Private Institutions was also adopted.</p> <p>The new Labour Code, and in particular part XII, also grants workers the right to form certain associations in establishments not employing less than hundred workers (section 116), which are not called trade unions, but workers committees. Section 118 of the law provided also that “The Workers’ Organizations shall assume the taking care of the interests of their members and protection of their rights and their representation in all matters related to the affairs of the work.”</p> <p><b>2003 AR:</b> According to the Government: Legal reform is implemented in order to realize the principle and right (PR).</p> </li> <li> <p><b>Regulations:</b></p> <p><b>2012 AR:</b> According to the QCCI: There is one national collective agreement in place, which has been approved by the Government. This agreement is now being implemented. Employers and workers now need to comply with the provisions of this national collective agreement (i.e., rules on rights and obligations, notice period, etc.).</p> </li> </ul>
		<p><b>Basic legal provisions</b></p>	<p>(i) The Labour Code: Law No. 14 (2004) (Chapters 12, 13 and 14); (ii) the Law No. 12 (2004) on the Associations and Private Institutions; and (iii) the Law on Societies.</p>



		<b>Judicial decisions</b>	<b>NIL.</b>	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<p><b>2012 AR:</b> According to the QCCI: Freedom of association and the effective recognition of the right to collective bargaining are already exercised in the country, in accordance with the national legislation.</p> <p><b>2005 AR:</b> The legislation has changed since the adoption of the new Labour Code in January 2005.</p> <p>Prior government authorization is necessary to establish employers' organizations but not to conclude collective agreements. The PR can be exercised by all categories of employers.</p> <p><b>2003-2004 ARs:</b> Freedom of association (FOA) cannot be exercised at enterprise, sector/industry, national and international levels by all categories of employers. The right to collective bargaining at enterprise level can be exercised by all categories of employers.</p>
			<b>For Workers</b>	<p><b>2006 AR:</b> Legislation has been elaborated to regulate the creation of unions at enterprise level in both the private and public sectors. Ministerial decrees have been issued providing for the preliminary terms and procedures for the setting up of workers' organizations.</p> <p><b>2005 AR:</b> Prior government authorization is necessary to establish workers' organizations but not to conclude collective agreements. Workers can exercise the PR at enterprise, sector/industry levels. The PR can be exercised by the following categories of persons: medical professionals, teachers, workers in export processing zones (EPZs) or enterprises/industries with EPZs status, migrant workers and workers of all age.</p> <p><b>2003-2004 ARs:</b> Prior government approval is necessary to exercise the PR. FOA cannot be exercised at enterprise, sector/industry, national and international levels by all categories of workers. The right to collective bargaining at enterprise level can be exercised by the following categories of persons: (i) medical professionals; (ii) teachers; workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (iii) migrant workers; and (iv) workers of all ages. However, it cannot be exercised by all workers in the public service, agricultural workers, workers engaged in domestic work, and in the informal economy.</p>
			<b>Special attention to particular situations</b>	<b>NIL.</b>



			<b>Information/ Data collection and dissemination</b>	According to the Government: Lack of information and data.
		<b>At international level</b>	<p><b>2006 AR:</b> According to the Government: FOA can be exercised at the international level. The Confederation of the Workers of Qatar can join any international organization active in the sphere of workers' organizations (article 123).</p> <p><b>2000-2005 ARs:</b> According to the Government: FOA and the right to collective bargaining cannot be exercised at international level.</p>	
	<b>Monitoring, enforcement and sanctions mechanisms</b>		<p><b>2015 AR:</b> According to the Government: According to the organizational structure of the Ministry of Labour, adopted pursuant to Emiri Decree no. 29 (2014); three departments have been created: Department of employment; Department of government relations, and Department of labour inspection. These departments will strengthen the protection and observance of workers' rights.</p> <p><b>2005 AR:</b> According to the Government: The new Labour Code (2004) contains detailed provisions to enforce the PR and provides for sanction in cases of breach. Moreover, additional civil, administrative and penal sanctions exist.</p>	
	<b>Involvement of the social partners</b>		<p><b>2012 AR:</b> According to the Government: There is a continuous dialogue and cooperation between the Ministry of Labour and Social Affairs and the employers' and workers' organizations on all matters concerning labour legislation and decisions taken by international and regional labour organizations.</p> <p><b>2007 AR:</b> The Government stated that progress had been made especially thanks to the improvement of industrial relations and the increasing dialogue between employers and workers.</p> <p><b>2002 AR:</b> According to the Government: The Labour Code allows for the setting up of consultative committees composed of employers' and workers' representatives, with a view to promoting cooperation between them.</p>	



	<p><b>Promotional activities</b></p>	<p><b>2013-2014 ARs:</b> The Government indicated that two officials of the Ministry of Labour and Social Affairs had participated in May-June 2012 and 2013 in the ILO/TURIN Pre-Conference Course on International Labour Standards where issues concerning the PR had been discussed.</p> <p><b>2012 AR:</b> The Government indicated that an official of the Ministry of Labour and Social Affairs had participated in May-June 2011 in the ILO/TURIN Pre-Conference Course on International Labour Standards where issues concerning the PR had been discussed.</p> <p>According to the QCCI: There is one national collective agreement in place, which has been approved by the government as well as by the ILO. This agreement is now being implemented. Employers now need to comply with the rules, restrictions and obligations outlined in the national collective agreement. This agreement has a legal status and gives both employers and workers terms which they need to comply with, e.g. notice period for employment contracts.</p> <p><b>2008 AR:</b> According to the Government: The Labour Department participated in a conference held in Tunis, in February 2007, concerning trade union freedoms and rights in the Arab world. This conference was jointly held by the Arab Labour Organization and the ILO.</p> <p>The Government and the QPWC also indicated that they have participated in the 5<sup>th</sup> ILO/Gulf Cooperation Council (GCC) Regional Seminar on the ILO Declaration and International Labour Standards in Oman.</p> <p><b>2007 AR:</b> According to the Government: (i) Various occasions and events are seized to present the Declaration and related Conventions well-known; and (ii) officials working in the field of international relations and labour standards have participated in courses, seminars and symposia on the Declaration and International Labour Standards. In 2006, the Government participated in the ILO/Gulf Cooperation Council (GCC) Fourth regional workshop on the Declaration and its follow-up which was held in the framework of cooperation between the International Labour Office and the Executive Bureau of the Ministers of Labour and Social Affairs in. A female official in the Department of Labour has been sent to Geneva to attend a course on Standards at ILO headquarters.</p> <p>The QCCI and the QPWC referred to their participation in the ILO/Gulf Cooperation Council (GCC) Fourth Regional Workshop on the ILO Declaration and International Labour Standards held in Kuwait City in April 2006.</p> <p><b>2006 AR:</b> According to the Government: A promotional manual for migrant workers in Qatar has been prepared.</p> <p><b>2003-2005 ARs:</b> According to Government: Awareness-raising activities are envisaged.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2012 AR:</b> According to the QCCI: Social dialogue has recently started to be exercised in the country. The Government is becoming more transparent and involve the social partners in this process.</p> <p><b>2008 AR:</b> According to the Government: A labour relations service has been established in the Labour Department of the Ministry of Civil Service Affairs and Housing. It is expected that this service will contribute to enhancing dialogue and cooperation with workers, employers, workers' committees and joint committees in enterprises.</p> <p><b>2007 AR:</b> According to the Government: Progress has been made especially thanks to the improvement of industrial relations and the increasing dialogue between employers and workers. The new Labour Code is a qualitative move in relation to the principle and right. For the first time it contains a specific chapter under the heading "Workers' Organizations" concerning the provisions governing the establishment of workers' committees at enterprise, sectorial and national levels. Other chapters address collective bargaining, collective agreements and collective disputes. Article 127 of this Labour Code provides that the scope of collective bargaining and collective agreements shall embrace any matters relating to work. Moreover, the Law on Societies and Private Associations was promulgated in 2004. The second chapter of this law contains specific provisions concerning the organization rules for the establishment and functioning of professional associations. Indeed, a number of such associations have been already established as those of journalists, engineers, lawyers and physicians.</p> <p><b>2006 AR:</b> According to the Qatar Petroleum Workers' Committee: The Workers' Committees are being progressively established.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2007 AR:</b> According to the QCCI: Lack of social dialogue on the PR. The QCCI considered that tripartite discussions should be organized with a view to understand better how to respect, promote and realize the ILO Declaration in Qatar.</p>



		<p><b>Workers' organizations</b></p>	<p><b>2009 AR:</b> The ITUC reiterated the observations it made under the 2008 AR concerning Qatar, in particular as regards: (i) restrictions on the right to join union on government workers and non-Qatari nationals, but also concerning the minimum number of 100 members to form a workers' committee, and that the only trade union allowed is the General Union of Workers of Qatar (GUWQ); (ii) the right to collective bargaining is heavily curtailed by Government's control over the rules and procedures for bargaining; (iii) severe limitations and obstacles make it extremely difficult to go on strike within the law, and civil servants and domestic workers cannot strike; and (iv) repeated strikes have been organized in Qatar.</p> <p><b>2008 AR:</b> The ITUC raised the following additional challenges: (i) the law allows trade unions to carry out collective bargaining, but that right is heavily curtailed by the government's control over the rules and procedures for bargaining; (ii) the right to strike is still restricted; and (iii) most migrant workers are employed in the private and semi-private sectors, where they often fall victim to abuse from their employers.</p> <p><b>2007 AR:</b> According to the QPWC: Lack of social dialogue on the PR. The QPWC also supported the view that tripartite discussions should be organized with a view to a better understanding on how to respect, promote and realize the ILO Declaration in Qatar.</p> <p><b>2006-2007 ARs:</b> The ICFTU raised the following challenges: (i) the 2004 Labour Code allows for the formation of free trade unions but only for Qatari nationals (one quarter of the labour force) and is restricted; (ii) unions and the right to collective bargaining were still banned in Qatar in 2004; (iii) the right to strike is recognised, but is very difficult to exercise within the new law (mostly because of the compulsory arbitration by the labour department prior to any strike action) or is restricted for categories of workers such as domestic workers and civil servants.</p> <p><b>2000-2005 ARs:</b> According to the ICFTU: (i) even though workers' committee can be set up, trade unions do not exist in Qatar; (ii) collective bargaining is prohibited and the employers generally set wages; (iii) the right to strike is restricted (domestic workers are denied this right).</p>
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	<p><b>According to the Government</b></p>	<p><b>2013 AR:</b> The Government indicated that employment conditions would vary at enterprise level.</p> <p><b>2009 AR:</b> In response to the ITUC’s observations, the Government indicated the following: (i) Restriction on the right to form or join unions: The standing Constitution of the State of Qatar establishes the essential foundations of the society, embodies the popular participation in decision-making and guarantees rights and freedoms. Under articles 44, 45 and 47, chapter III of the Constitution, concerning the General Rights and Duties, the right of assembly, freedom to establish societies, and freedom of expression, scientific research, press, printing and publishing are assured. The Constitution also establishes new rules regulating the relationship between workers and employers, based on social justice. The Constitution guarantees as well freedom of expression and association as two essential rights that give workers’ organizations total freedom to work. The State of Qatar has taken many practical and executive steps in order to permit the establishment of workers’ organizations. The New Labour Law issued by Law No. 14 of 2004, recognizes in Part XII the right of workers to establish with total freedom their associations in the enterprises where they work. It authorizes workers working in an enterprise to form a workers’ committee, and authorizes the workers’ committees in the enterprises engaged in one trade or industry or similar or interrelated trades or industries to form a general committee from amongst themselves to be named the General Committee for the Workers of the trade or industry. It also authorizes the general committees of the workers of the various trades and industries to form amongst themselves a general union to be named the General Union of the Workers of Qatar. To implement this right, the Minister of Civil Service Affairs and Housing issued Circular No. 10 of 2006, concerning the development of models of workers’ organizations statutes in order to pave the way for workers to submit applications for the establishment of their organizations mentioned above. This Circular guarantees also the right of non-Qatari workers to adhere to the workers’ committee. The Ministry provides the necessary support and guidance for workers to enable them to exercise the right to organize; (ii) Restriction on the right to bargain collectively: The Labour Law gives employers and workers the right to establish joint committees which shall deal with the study and discussion of all matters related to the work in the enterprise. The workers’ committee, if there is one in the enterprise, shall assume the nomination of the workers’ representatives in the joint committee from amongst its members. If there is no workers’ committee in the enterprise, the workers therein shall nominate their representatives in the joint committee through direct free election (section 125). The Labour Law gives employers and workers also the right to conduct collective negotiation and conclude joint agreements on all matters related to work (section 127); (iii) Restrictions on the right to strike: The Labour Law provides also in article 120 for the workers’ right to go on strike if amicable settlement of the dispute between them and the employer becomes impossible, provided that three-fourths of the members of the General Committee of the workers of the trade or industry agree to go on strike. This condition concerns the strike vote and does not contradict article 3 of the Convention No. 87. In addition, it does not consider the majority as a hindrance to the exercise of the right to strike; and (iv) Trade unions’ rights in practice/repeated strikes: A body was established in the Labour Department, called “the Labour Inspection Body”. This body inspects enterprises and private institutions on a regular basis and without prior notification in order to supervise the application of laws and decisions concerning labour and the protection of the workers’ rights, including supervising the extent to which the companies respect the timeliness of the payment of wages in accordance with the law. The body detects all contraventions against any male or female worker and refers them to the competent authorities. The Labour Relations Section of the Labour Department also examines all the workers’ claims submitted to it and tries to settle them amicably. If the amicable settlement proves impossible, the section refers the claim in question to the competent court to settle it through the ad hoc workers’ services in that court. It is worth noting that the strike rate has decreased remarkably since the role of the Labour Inspection Body and the regular supervision of the housing and wages have been strengthened. The Labour Department has also a hotline to receive workers claims.</p>
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		<p><b>2007 AR:</b> The Government acknowledged the lack of social dialogue on the PR and mentioned that tripartite discussions should be organized with a view to better understanding how to respect, promote and realize the ILO Declaration in Qatar.</p> <p>In a late response to the ICFTU’s observations, the Government indicated that the Labour Code provides for the workers’ organizations’ right to bargain collectively and conclude joint agreements on labour related matters. In the absence of an enterprise workers’ committee, the workers shall select their representative to the Joint Committee through free and direct elections (section 125).</p> <p><b>2005 AR:</b> According to the Government: The new draft Labour Code has helped to overcome challenges in realizing the PR.</p> <p><b>2003 AR:</b> According to the Government: The main difficulties encountered in Qatar in the realization of the PR are related to the social and economic circumstances and legal provisions. Moreover, the established laws in the country do not deal with the question of freedom of association. The vast majority of the labour force is precarious, being composed of immigrant employees with different nationalities and languages.</p> <p><b>2004 AR:</b> In response to the ICFTU’s observations, the Government made the following comments: (i) The new Labour Code provides that joint committees may be formed in view of negotiating and concluding collective agreements; (ii) wages are determined by an agreement between the employer and the worker; (iii) section 120 of the new Labour Law allows workers to strike if amicable settlement of the dispute, by conciliation or arbitration, between them and the employer becomes impossible, in accordance with the provisions of the Labour Law.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2014–2015 ARs:</b> The Government indicated that ILO technical cooperation may be required in the future, depending on technical cooperation needs yet to be identified.</p> <p><b>2012 AR:</b> According to the Government: There is no need for any other targeted technical cooperation as there is an ongoing collaboration between the Ministry of Labour and Social Affairs and ILO Regional Office for Arab States on labour and social issues.</p> <p>The QCCI requested for ILO technical guidance on ratification process and the need to involve the social partners in this process.</p> <p><b>2008 AR:</b> The QPWC reiterated the same request mentioned in the 2007 AR.</p> <p><b>2007 AR:</b> According to the Government, the QCCI and the QPWC, ILO technical cooperation is needed to promote a better understanding of the ILO Declaration in Qatar.</p> <p><b>2006 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Qatar exist in the following areas, in order of priority: (1) strengthening data collection and capacity for statistical analysis; (2) in case of establishment of trade unions, there will be a need for awareness raising and training. Moreover, the Government would appreciate continued technical cooperation with the ILO in following up and implementing the Declaration on Fundamental Principles and Rights at Work, including the PR.</p> <p><b>2006 AR:</b> According to the Qatar Petroleum Workers’ Committee: Once workers’ committees are generalized in the country, the ILO technical cooperation would be needed on freedom of association and other fundamental principles and rights at work.</p> <p><b>2003 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Qatar exist in the following areas, in order of priority: (1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; (2) strengthening data collection and capacity for statistical analysis; and (3) legal reform (labour law and other relevant legislation). And, in case of establishment of trade unions, there will be a need for awareness raising and training. The Government would appreciate continued technical cooperation with the ILO in following up and realizing the Declaration on Fundamental Principles and Rights at Work, including the PR.</p>





	<b>Offer</b>	ILO, GCC.
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries, such as the Gulf States (as well as China and new member States, in particular in the South Pacific), had made important efforts during this process. However, according to them, more needed to be done. The IDEAs also encouraged Qatar to initiate the necessary labour law reform to remove the obstacles to ratification of C.87 and C.98. They acknowledged the high number of promotional activities concerning the PR in the Gulf States (and some other countries), and encouraged the Office to maintain its efforts to support these activities. Finally, the IDEAs noted that restrictions on the right to organize of certain categories of workers in Qatar (and some other countries), such as migrant workers, domestic workers, agricultural workers and workers in the informal economy, were not compatible with the realization of this principle and right” (cf. paragraphs 12, 32 and 38 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs listed Qatar among the countries that have been indicating their intention to ratify C.87 and C.98 for several years, with no indication that progress has been made. They also noted with interest that some progress had been achieved in the Gulf States regarding the right of workers and employers to organize freely and voluntarily, without being subjected to control by their governments (cf. paragraphs 33 and 36 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The IDEAs listed Qatar among the countries where progress was being made under the Annual review in the promotion of freedom of association and the effective recognition of the right to collective bargaining. Furthermore, the ILO Declaration Expert-Advisers noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (cf. paragraphs 12 and 148 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs stated that they were encouraged by the continuing steps taken by countries of the Gulf Cooperation Council (GCC) in relation to this PR, but noted that there was a long way to go and much to do. They further indicated that the Gulf Cooperation Council States were providing more information on the PR, but not enough on the other three PRs. This would help to illustrate the link between all four PRs. The IDEAs also wished that the positive measures taken by countries in the Gulf Cooperation Council (GCC) be expanded upon (cf. paragraphs 29 and 84 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2003 AR:</b> The IDEAs commended Qatar for its continuing dialogue with the Office (paragraph 4 of the 2003 Annual Review Introduction). In light of requests Myanmar for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, the IDEAs called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field (cf. paragraph 74 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p> <p><b>2002 AR:</b> The IDEAs recommended that, with a view to a more in-depth discussion of certain aspects of the Introduction, the Governing Body invite clarifications from Qatar in relation to the continuation of steps undertaken in the country, in cooperation with the Office, concerning the principle of freedom of association and effective recognition of the right to collective bargaining. Furthermore, they acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the Government (cf. paragraphs 41 (b) and 82 of the 2002 Annual Review Introduction – ILO: GB.283/3/1).</p> <p><b>2001 AR:</b> The IDEAs hoped that the Government of Qatar would continue a dialogue with the Office regarding the ways in which the PR could be achieved They also recommended to the governing body that further information be requested from the Government of Qatar in relation to efforts made to promote the principle and right (cf. paragraphs 30 (b) (ii) and 37 of the 2001 Annual Review Introduction – ILO: GB.280/3/1).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015) <sup>1</sup>: SAUDI ARABIA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , except for the 2003 Annual Review (AR). No change reports under the 2009 and 2010 ARs.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Employer representative of the Council of Saudi Chambers of Commerce and Industry (SCCI), Jeddah Chamber of Commerce and Industry (JCCI), the Chairman of the Aramco Workers' Committee (AWC) and the Chairman of the Saudi Telecom Workers' Committee (STWC) through communication of Government's reports. In 2010-2011 the STWC was replaced by the National Workers' Committee (NWC). There are 26 Committees under the NWC, organized by company level. The NWC aims for its future structure to be organized by sector. The Constituent Committee of the Union of Workers' Committees (CCUWC) provided opinion in 2015.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2015 AR:</b> Observations by the SCCI.</p> <p><b>2014 AR:</b> Observations by the SCCI.</p> <p><b>2013 AR:</b> Observations by the JCCI.</p> <p><b>2012 AR:</b> Observations by the JCCI.</p> <p><b>2010 AR:</b> Observations by the SCCI.</p> <p><b>2008 AR:</b> Observations by the SCCI.</p> <p><b>2007 AR:</b> Observations by the SCCI.</p>

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations by the CCUWC  <b>2014 AR:</b> Observations by the NWC.  <b>2014 AR:</b> Observations by the NWC.  <b>2013 AR:</b> Observations by the NWC.  <b>2012 AR:</b> Observations by the NWC.  <b>2009 AR:</b> Observations by the International Trade Union Confederation (ITUC).  <b>2008 AR:</b> Observations by the STWC.  <b>2007 AR:</b> Observations by the AWC.          Observations by the STWC.  <b>2006 AR:</b> Observations by the AWC.          Observations by the STWC.          Observations by the International Confederation of Free Trade Unions (ICFTU).  <b>2005 AR:</b> Observations by the ICFTU.  <b>2004 AR:</b> Observations by the ICFTU.  <b>2003 AR:</b> Observations by the ICFTU.  <b>2002 AR:</b> Observations by the ICFTU.  <b>2001 AR:</b> Observations by the ICFTU.  <b>2000 AR:</b> Observations by the ICFTU.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Saudi Arabia has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b></p>



		<p><b>Ratification intention</b></p>	<p><b>NO intention to ratify for both C.87 and 98 (since 2007).</b></p> <p><b>2015 AR:</b> The Government reiterated that there is no current intention to ratify conventions C.87 and C.98. NWC reiterated its support for the ratification of C.87 and C.98.</p> <p><b>2014 AR:</b> The Government indicated that its position in the ratification process had not changed, but that tripartite discussions concerning C.87 and C.98 had taken place. The SCCI indicated that the ratification of C.87 and C.98 had been under tripartite discussion. The NWC reiterated its support for the ratification of C.87 and C.98.</p> <p><b>2013 AR:</b> The Government reported that it had currently no intention to ratify C.87 and C.98. According to the JCCI: As under the 2012 AR, the JCCI supports the ratification of C.87 and C.98. However, the modernisation of the different institutions in the country will require some time for the realization and implementation of the PR in the country. The NWC reiterated its support for the ratification of C.87 and C.98 and indicated that no progress had been made concerning the ratification processes over the last year.</p> <p><b>2012 AR:</b> The Government indicated that it had no intention to ratify C.87 and C.98. The JCCI expressed support for progressive ratification of C.87 and C.98. The NWC expressed strong support for the ratification of C.87 and C.98 and emphasized that it is their main priority and ambition to succeed with ratification of the two conventions.</p> <p><b>2011 AR:</b> The Government expressed that it had no intention to ratify now C87 and C.98.</p> <p><b>2008 AR:</b> The Government indicated that is had no intention at this time to ratify C.87 and C.98. The SCCI and the STWU expressed their support for the ratification of C.87 and C.98.</p> <p><b>2000 AR:</b> The Government stated that it was examining the possibility to ratify the remaining fundamental Conventions.</p>
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	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Constitution</b>	<b>YES</b> , according to the Government: The Constitution of the Kingdom of Saudi Arabia, represented by the Sharia (Islamic rules), pursues the same objectives as those of freedom of association and collective bargaining.		
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation:</b> The Labour laws relate to the principle and right (PR). <b>2012 AR:</b> According to the Government and the NWC: Amendments of the labour laws are under way.</li> <li>• <b>Regulations:</b> Decree No. 12 dated 2 April 2001 approving rules for the establishment of labour committees at the enterprise level relate to the PR. <b>2013 AR:</b> The JCCI indicated that following tripartite consultations, the Government had put in place many new regulations to better realize and implement the PR in the country.</li> </ul>		
		<b>Basic legal provisions</b>	(i) Constitution of the Kingdom of Saudi Arabia (Islamic Sharia); (ii) Labour laws and (iii) Decree No. 12 dated 2 April 2001 approving rules for the establishment of labour committees at the enterprise level.		
		<b>Judicial decisions</b>	<b>NIL.</b>		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<b>NIL.</b>	
			<b>For Workers</b>	<b>NIL.</b>	
			<b>Special attention to particular situations</b>	<b>NIL</b>	
<b>Information/ Data collection and dissemination</b>			<b>NIL.</b>		
<b>At international level</b>		<b>NIL.</b>			



	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2004 AR:</b> According to the Government: Decree No. 12 dated 2 April 2001 opens the possibility of establishing one labour committee in each enterprise, consisting of Saudi workers employed in the enterprise.</p> <p><b>2001 AR:</b> According to the Government: The <i>Shura</i> Council (the Consultative Council) had recently approved a proposal on a mechanism for workers' organizations, which suits the conditions and particularities of the Kingdom of Saudi Arabia.</p> <p><b>2000 AR:</b> According to the Government: In the case of a conflict between an employer and a worker on a specific subject, the Labour Inspector plays the role of an intermediary providing advice and guidance and trying to bring about an amicable settlement of the dispute. The settlement is therefore consolidated and the Labour Inspector supervises its application.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2015 AR:</b> JCCI indicated that tripartite meetings on general matters take place every 3 months but they carry out additional meeting with the government and their members on C.87 and C.98.</p> <p>NWC mentioned its participation in tripartite consultations.</p> <p><b>2014 AR:</b> According to the Government: The social partners are involved in continuous discussions concerning the PR.</p> <p>The SCCI indicated that discussions concerning C.87 and C.98 had taken place between the tripartite partners in collaboration with ILO.</p> <p>The NWC indicated its participation in tripartite consultations on C.87 and C.98.</p> <p><b>2013 AR:</b> According to the NWC: The NWC needs to gain the trust from the Government and the employers' organizations so as to be regarded as a legitimate partner in a tripartite and social dialogue context that can benefit workers, the economy and the country as a whole.</p> <p><b>2012 AR:</b> According to the Government: The Government now considers social dialogue as a priority, and social partners are involved in the discussion on social issues.</p> <p>According to the JCCI: A social dialogue meeting was held at the ILC on June 13, 2011 between tripartite partners and ILO.</p> <p>According to the NWC: Amendments of the labour laws are on the way. Both the employers' and workers' representatives have given their inputs in the amendment process. According to the NWC, this was the first time that social dialogue was practiced in the country. In the view of the NWC this serves as proof that there is political will from the Government's side, and that the employers are open to dialogue and collaboration. The Government and employers' representatives have recognized the NWC, and the NWC aims to become an equal partner within the system of tripartism in a near future.</p> <p><b>2004 AR:</b> According to the Government: Information meetings were held to familiarize workers and employers with the fundamental principles and rights at work, and the role of the workers' committees in enterprises in this regard.</p>



	<p><b>Promotional activities</b></p>	<p><b>2014 AR:</b> The Government indicated that an officer of the Ministry of Labour had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards held in May-June 2013 where issues concerning the PR were addressed. NWC indicated that it had carried out capacity building activities for workers and their representatives.</p> <p><b>2013 AR:</b> According to the NWC: Aside from continuing the long-term activities reported under the 2012 AR, the NWC is focusing on improving the credibility in their role as workers' representatives, aiming at establishing the NWC as a legitimate actor within the tripartism and being recognized by the general public as having a central role on the labour market.</p> <p><b>2012 AR:</b> According to the NWC: The NWC has recently initiated capacity building activities for workers, supported by the ILO. As the trade union movement in the country is very young, the workers and their leaders do not have sufficient knowledge about workers' rights and trade union activities. The NWC has ambitious goals in terms of improving employment conditions and creating decent work opportunities. The current priority for the NWC is to build a strong foundation and create favourable conditions for the new trade union movement that is developing in the country.</p> <p><b>2010 AR:</b> According to the SCCI: The following measures have been implemented or are envisaged to promote the PR: (i) awareness raising campaign to inform the workers on the PR; (ii) creation of a special department for migrant workers; (iii) debates between the stakeholders on the implementation of the PR.</p> <p><b>2007 AR:</b> According to the Government: Some activities were organized to promote the ILO Declaration and the development of workers' committees all over the country. Moreover, the Government took part in workshops on small and medium enterprises (SMEs) held in Oman in 2006.</p> <p>The Government, the SCCI and the AWC mentioned their participation in the ILO/Gulf Cooperation Council (GCC) on the Declaration Follow-up organized in Kuwait City in April 2006.</p> <p>According to AWC: Some progress has been made in the establishment of workers' committees in Saudi Arabia.</p> <p>According to STWC: The number of workers' committees has slightly increased, but the STWC is working on the establishment of additional ones.</p> <p><b>2004-2005 ARs:</b> According to the Government: Several information meetings on the role of workers' committees in enterprises were held in different regions, and the convening of a seminar on social dialogue is being discussed with the ILO.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2013 AR:</b> According to the JCCI: Social dialogue and collective bargaining have been considerably improved in Saudi Arabia since the establishment of the first National Workers' Committee. Another successful initiative is the establishment of a National Dialogue Centre where citizens are invited to express their ideas to the Government on various subjects including the PR. Following tripartite consultations, the Government has put in place many new regulations to better realize and implement the PR in the country.</p> <p><b>2012 AR:</b> According to the Government: The Government believes in social dialogue, which it considers as a priority and is organised in the country with the full involvement of the employers' and workers' organizations.</p> <p>According to the JCCI: At the initiative of the new Minister of Labour, the first national Labour Committee was created. Following the social dialogue meeting held at the ILC, the South African model for social dialogue will be adopted. The Government together with Employers and workers will be making gradual transition by involving in national dialogue with NGOs, academia, experts and/or religious groups. At the initiative of the Government, enterprises with over 100 employees have a Labour Committee which all together form a National Committee with a mandatory quota for women.</p> <p>According to the NWC: There has recently been a tremendous change in the Government's position in terms of labour relations and the approach to organizations representing the interests of workers. The Government now supports the creation of trade unions as equal partners in the labour relations. Thus, the situation of Saudi Arabia is unique as a trade union movement is about to be created, expressing great optimism about the future of the trade union movement in Saudi Arabia.</p> <p><b>2006 AR:</b> The Government indicated that it is closely monitoring the creation of labour committees in enterprises. Recently, a number of committees were established in several enterprises and a number of other enterprises are setting up new labour committees.</p> <p>According to the ICFTU: Four workers' committees were established in 2004. A draft Bill revising the Labour Law was sent to the Council of Ministers for adoption in September 2004; it would also cover domestic workers.</p> <p><b>2005 AR:</b> According to the Government: The setting up of several workers' committees in a number of establishments, and two committees chairpersons have participated for the first time in the 92<sup>nd</sup> Session of the International Labour Conference held in June 2004. The Government expects to establish more committees in the future.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2013 AR:</b> According to the JCCI: The main difficulties in the realization of the PR in the country are the lack of responsible government institutions and conservative values contradicting the PR.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2014 AR:</b> According to the NWC: The main challenges are the lack of capacity of workers' organizations and lack of awareness on the PR among workers.</p> <p><b>2013 AR:</b> According to the NWC: The Government has been so far supportive in the creation of the National Workers' Committee, and the employers' organizations do not seem to oppose to the activities undertaken by the NWC. Due to the early stage of its organization, NWC capacity and the knowledge among the workers' representatives need to be built up before putting pressure on the Government to ratify C.87 and C.98.</p> <p><b>2012 AR:</b> According to the NWC: The most urging matter is to create the right conditions in the country so as to make it realistic to start implementation once the conventions have been ratified. Secondly, the Government cannot ratify until an organization of workers and their representatives has been established, in line with international standards. Due to lack of organization, workers and</p>

			<p>their representatives are not an equal partner in the labour relations. The NWC has recently been created and is at a very early stage in its organization and operations.</p> <p><b>2009 AR:</b> The ITUC reiterated the observations it made under the 2008 AR concerning Saudi Arabia, in particular as regards: (i) the absence of trade union rights – the new Labour Code does not grant the right to organize, bargain collective or strikes; (ii) restrictions to form a workers’ committee (a minimum number of 100 members) the activities of which are heavily circumscribed (they can only make recommendations on improving working conditions, health and safety standards, and increasing productivity); (iii) the scope of collective associations (taxi drivers, computer experts, economists and engineers) is very limited; (iv) a proposal to set up a workers’ rights panel was rejected; and (v) despite the ban on strikes, there have been occasional work stoppages in recent years usually to protest against non-payment of wages.</p> <p><b>2007-2008 ARs:</b> The ICFTU and the ITUC raised the following additional challenges: The 2005 labour law still does not give workers the right to organise, bargain or strike, the law still only allows for workers’ committees. Moreover, the revised Labour Code, which entered into force in April 2006, does not grant workers the right to bargain collectively. It was furthermore drafted without any input from workers’ representatives. Wages are fixed by employers, based on the nature of work and the nationality of the worker. Therefore, Saudi and western workers are paid at least 30 to 50 per cent more than other foreign workers.</p> <p><b>2006 AR:</b> Observations by the Aramco Workers’ Committee (AWC): (i) the establishment of workers’ committees is supported by the Government, but some enterprises are very slow in establishing these committees; (ii) there is also a need to share experience on the development of freedom of association (FOA) and other fundamental principles and rights at work (FPRW) with unions of other countries.</p> <ul style="list-style-type: none"> <li>– Observations by the Saudi Telecom Workers’ Committee (STWC): (i) there is a need to speed up the process of establishment of workers’ committees in enterprises where they do not exist; (ii) there is also a need to educate these committees on FOA issues and other FPRW and the STWC is supporting this process.</li> <li>– The ICFTU raised the following additional challenges: (i) in spite of positive developments, such as the creation of workers’ committees, trade unions and strikes are banned.</li> </ul> <p><b>2005-2006 ARs:</b> Observations by the ICFTU: (i) only one committee can be formed in each qualifying enterprise and it must have between three and nine members; (ii) only Saudi workers may be members of a workers’ committee, and these workers must be older than 25 years and have worked for more than two years at the same enterprise; (iii) the main tasks of these committees are limited; (iv) the law allows the administrative dissolution of workers’ committees.</p> <p><b>2000-2002 ARs:</b> The ICFTU raised the following challenges: (i) trade unions and strikes are banned by royal decree; (ii) collective bargaining is forbidden; (iii) anyone trying to form a union can be sacked, jailed, or in the case of migrant workers, expelled from the country; (iv) there are no mechanisms to promote the aims set out in the Sharia.</p>



	<p><b>According to the Government</b></p>	<p><b>2012 AR:</b> According to the Government: In response to the NWC's comments, the Government wishes to emphasize that Workers' Committees now are considered as trade unions and enjoy similar competences and authorities. They are consulted on a regular basis on all matters concerning workers' professional interests and their opinions are taken into consideration in all social issues. Moreover, Workers' Committees and employers' organizations are treated on equal footing.</p> <p><b>2009 AR:</b> In response to the ITUC's observations, the Government noted the following: (i) ITUC's observations are repeated ones, and the Government had previously submitted its view on them; and (ii) the Government is making firm steps to set up a general national committee for workers' committees. It does not want to jump these steps in order to have the work organized and to realize the required targets in accordance with international labour standards.</p> <p><b>2008 AR:</b> In response to the ITUC's observations, the Government indicated the following: The Government was taking steady steps so that the workers' committees can fully play their role. The Ministry of Labour has already established a working group to visit a number of large cities in the Kingdom in order to make these committees known and sensitize workers on the importance and the need for total independence of these committees. It also held a number of meetings with several workers for this purpose. Procedures for the establishment of a national workers' committee are thus taking place in a steady and regular way with a view to reaching the committee's goals. Moreover, a number of professional groups and bodies fulfil the role of those committees and contribute to that process, such as the: (i) Saudi Economics Association; (ii) Saudi Journalists Association; (iii) Saudi Society of Certified Accountants; (iv) Saudi Commission for Health Specializations; and (v) Saudi Engineers Organization. Furthermore, no one can be dismissed, imprisoned or deported without a rightful reason. The workers' committees are simply a first step towards the creation of workers' organizations. Finally, migrant workers have the right to elect the members of the workers' committees and to submit any suggestion, point of view or complaint to the committee members. Section 11 of the Rules for the Creation of the Workers' Committees gives the Minister the right to dissolve a workers' committee only when it commits a serious violation to the provisions of these rules or offends the public security of the country, on condition that a decision in this respect is issued by the Supreme Authority for the Settlement of Labour Conflicts, as provided for in the labour regulations. Finally, it indicated that the Labour Code does not provide for any distinction on the basis of gender, religion, race or nationality. The wages in the private sector are determined according to the supply and demand rule and to the worker's competencies, capacities and experience. The wage is furthermore fixed on agreement between the worker and the employer before the arrival of the foreign worker in the Kingdom. As regards domestic workers, their conditions in the country lacked accuracy since section 7 of the Labour Code provides that the Ministry shall set, in coordination with the competent bodies, regulations concerning domestic workers and the likes to determine the relationship with their employers and the rights and obligations of both parties. In this regard, draft statutory regulations concerning domestic workers were submitted to the competent bodies for adoption. A copy of these regulations will be sent to the ILO upon their promulgation.</p>
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		<p><b>2006 AR:</b> In response to the observations by the AWC and the STWC, the Government made the following comments: (i) The Government has requested the organization of a regional seminar on Social Dialogue and the Role of Workers' Committees in Enterprises; (ii) there is a need to promote Workers' Committees; (iii) the Ministry of Labour has set up a working group to visit a number of large cities in the Kingdom in order to make these committees known and sensitize workers on the importance and the need for total independence of these committees; 13 enterprises Workers' Committees have been established in 2005, and a further 7 are in the process of formation.</p> <p>In response to the ICFTU's observations, the Government observed that: (i) the rules governing the creation of Workers' Committees provide that a Minister may only dissolve a Committee if it commits a serious violation of the rules or undermines national security; (ii) the new Labour Code provides that the Ministry shall establish special rules for domestic workers; (iii) several bodies and professional associations have been set up such as the Journalist Association's Council or the Saudi Engineer's Council; (iv) the Ministry of Labour is monitoring these cases of work suspension due to protests over wage increase.</p> <p><b>2005 AR:</b> In response to the ICFTU's observations, the Government observed that: (i) four committees have been constituted to date; another four committees are being formed and the establishment of other committees is also expected.</p> <p><b>2000-2001 ARs:</b> In response to ICFTU's observations, the Government made the following comments: (i) there is no applicable Royal Decree that prohibits the establishment of trade unions; (ii) the Islamic Sharia (the Constitution of the Kingdom) guarantees the achievement of objectives that go beyond those pursued by trade unions.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> NWC reiterated the request it made under the previous review.</p> <p><b>2014 AR:</b> According to the Government: The Government is in the process of developing a system for data collection of labour market statistics, including wage statistics which would be essential in collective bargaining practices. ILO expertise and technical cooperation would be needed in this regard. Technical assistance would also be needed to strengthen labour inspection.</p> <p>According to the NWC: ILO technical cooperation is needed to: (i) raise public awareness on the FPRW and sensitize workers about their rights; and (ii) support the NWC in its construction of a trade union movement, both in general terms and more specifically by conducting capacity building workshops.</p> <p><b>2013 AR:</b> The JCCI indicated that ILO technical cooperation is needed to: (i) strengthen the capacity of stakeholders; (ii) strengthen social dialogue; and (iii) training for tripartite partners.</p> <p>The NWC restated the requests made under the 2012 AR, and emphasized a particular need for sensitization on the PR to build the capacity of the workers' organizations and the importance of sharing lessons and learning from other countries' experiences. The NWC also underlined the crucial need for public awareness raising in order to improve the status and credibility of workers' organizations in the society.</p> <p><b>2012 AR:</b> According to the Government and the JCCI: ILO technical cooperation is needed to strengthen social dialogue. The NWC requested the ILO: (i) to provide technical support in creating social dialogue in the country; (ii) to support the NWC in its construction of a trade union movement, both in general terms and more specifically by conducting capacity building workshops; (iii) to support the NWC in their advocacy towards the Government; and (iv) to support a general awareness raising campaign in the country to sensitize workers about their rights. The NWC also wished to learn from experiences in other countries, in order to avoid mistakes and to move forward in a successful manner. The NWC emphasized that it is key for them to gain the right knowledge and move in the right direction as these early formative moments will set the conditions under which the trade union movement will operate.</p> <p><b>2008 AR:</b> The Government and the SCCI reiterated the same request mentioned in the 2007 AR.</p> <p>The STWC reiterated the same requests mentioned in the 2007 AR.</p> <p><b>2007 AR:</b> The Government, the SCCI and the AWC mentioned the need for ILO technical cooperation to promote the Declaration principles and rights in the country.</p> <p>According to the STWC: There is a need for workers' education to increase awareness among workers and the importance of workers' organizations and their role in improving working conditions. This step is fundamental to develop freedom of association and collective bargaining in Saudi Arabia and ILO should provide adequate training in this respect.</p> <p>ILO should also train the Government and employers' organizations so that they know how to deal with workers' organizations. This will at the same time decrease resistance to change and give to the Government and employers' organizations more acceptance to deal with workers and their organizations. All this process will help develop the capacity building of workers' organizations and their ability to be part of an initial collective bargaining and tripartite process.</p> <p>The AWC supported this view.</p>
	<p><b>Offer</b></p>	<p>ILO and GCC.</p>



**EXPERT-ADVISERS'  
OBSERVATIONS/  
RECOMMENDATIONS**

**2008 AR:** The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries, such as the Gulf States (as well as China and new member States, in particular in the South Pacific), had made important efforts during this process. However, according to them, more needed to be done. The IDEAs were also concerned that the Government of Saudi Arabia (and three other governments) had indicated the current impossibility to ratify C.87 and C.98 without further justification (cf. paragraphs 12 and 29 of the 2008 Annual Review Introduction – ILO: GB.301/3).

**2007 AR:** The IDEAs listed Saudi Arabia among the countries that have been indicating their intention to ratify C.87 and C.98 for several years, with no indication that progress has been made (paragraph 33 of the 2007 AR Introduction). The IDEAs also noted with interest that some progress had been achieved in the Gulf States regarding the right of workers and employers to organize freely and voluntarily, without being subjected to control by their governments (cf. paragraph 36 of the 2007 AR Introduction – ILO GB.298/3).

**2006 AR:** The IDEAs observed the following: “It is important to note that the majority of workers in some Gulf States are migrant workers. Therefore, while we note that certain measures have been reported relating to this principle [...] we stress that the principle should be given full effect as regards all the workers present in these countries, including migrant workers, if these countries are to progress meaningfully in this area” (cf. paragraph 45 of the 2006 Annual Review Introduction – ILO GB.295/5).

**2005 AR:** The IDEAs noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (paragraph 148 of the 2005 Annual Review Introduction). Furthermore, they listed Saudi Arabia among the countries where progress was being made under the Annual Review in the promotion of freedom of association and the effective recognition of the right to collective bargaining (cf. paragraph 12 of the 2005 Annual Review Introduction – ILO GB.292/4).

**2004 AR:** The IDEAs mentioned that they were encouraged by the continuing steps taken by countries of the GCC in relation to this principle and right, but noted that there was a long way to go and much to do. Moreover they observed that the Gulf Cooperation Council States were providing more information on the principle of freedom of association and the effective recognition of the right to collective bargaining, but they considered that it would be useful to receive more information on the other three principles. This would help to illustrate the link among all four principles (cf. paragraph 85 of the 2004 Annual Review Introduction – ILO GB.289/4).

**2003 AR:** The IDEAs commended Saudi Arabia for its continuing dialogue with the Office (cf. paragraph 4 of the 2003 Annual Review Introduction – ILO GB.286/4).

**2002 AR:** The IDEAs acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the Government (cf. paragraph 82 of the 2002 Annual Review Introduction – ILO GB.283/3/1).

**2001 AR:** The IDEAs hoped in particular that the Government of Saudi Arabia would continue a dialogue with the Office regarding the ways in which the principle and right could be achieved (paragraph 77 of the 2001 Annual Review Introduction). They also recommended to the Governing Body that further information be requested from the Government of Saudi Arabia in relation to efforts made to promote the principle and right (cf. paragraph 30 (b) (ii) of the 2001 Annual Review Introduction – ILO GB.280/3/1).



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: SINGAPORE**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000. No change reports under 2011-2015 ARs.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Singapore National Employers' Federation (SNEF), the Singapore National Trade Union Congress (NTUC) through communication of Government reports and tripartite meetings on reporting issues.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the SNEF. <b>2013 AR:</b> Observations by the SNEF. <b>2012 AR:</b> Observations by the SNEF. <b>2009 AR:</b> Observations by the SNEF. <b>2008 AR:</b> Observations by the SNEF. <b>2007 AR:</b> Observations by the SNEF. <b>2006 AR:</b> Observations by the SNEF.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.





	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations by the NTUC.  <b>2014 AR:</b> Observations by the NTUC.  <b>2013 AR:</b> Observations by the NTUC.  <b>2012 AR:</b> Observations by the NTUC.  <b>2010 AR:</b> Observations by the NTUC.  <b>2009 AR:</b> Observations by the NTUC.  Observations by the International Trade Union Confederation (ITUC).  <b>2008 AR:</b> Observations by the ITUC.  <b>2007 AR:</b> Observations by the NTUC.  Observations by the International Confederation of Free Trade Unions (ICFTU).  <b>2006 AR:</b> Observations by the NTUC  Observation by the ICFTU.</p>	<p><b>2005 AR:</b> Observations by the ICFTU.  <b>2002 AR:</b> Observations by the ICFTU.</p>
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Singapore ratified in 1965 the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>NO for C.87.</b>  <b>2015 AR:</b> The Government reiterated that there is no change.  NTUC reiterated its support for the ratification of C.87; however, it indicated that there is a need to change existing national laws to ensure compliance with C.87 and thereby facilitate the ratification of the Convention. It further stated that although national laws are not currently in line with C.87, this does not hinder it from undertaking its activities as well as the formation of new trade unions.  <b>2013-2014 ARs:</b> According to the Government: No change.  The NTUC appealed to the Government of Singapore to consider ratification of C.87.  <b>2012 AR:</b> According to the Government: No change.  The NTUC indicated that it was pleased with the Government of Singapore which had ratified C.98, and would now wish for the Government to also consider ratification of C.87.  <b>2010 AR:</b> According to the Government: Ratifying C.87 and making the required changes of legislation may adversely affect the harmonious state of industrial relations in Singapore. Notwithstanding, the Government would like to reassure ILO that the spirit of C.87 is observed in the national legislation. Therefore, the ILO should rather assess to what extent member States comply with the provisions of C.87, without requiring them to make major changes to existing regulations and systems that have worked well for them.  <b>2009 AR:</b> According to the Government: Although Singapore has not ratified C.87, its law in practice is</p>



			<p>in line with the principle and spirit of this Convention. This includes the right to form and join a trade union, the right to collective bargaining, the free election of union leaders and the protection and well-being of union members. The existing laws which have evolved over the years and are based on the principle of cooperation and partnership, have worked well for Singapore and benefited its economy, employers and workers over the past decade. The Government will then continue to ensure that freedom of association and protection of the right to organize are carried out in line with the principles of this Convention. Concerning ILO's comments and concerns with regard to Singapore's non-intention to ratify C.87, the Government would like to seek ILO's understanding on the relevance of its national trade union laws that have helped prevent and resolve unnecessary industrial disputes which are detrimental to business and interests of workers. These laws which allow businesses and unions work harmoniously to achieve win-win results, have worked well for Singapore and benefited its economy, employers and workers over the past decades. Notwithstanding, the Government would like to assure the ILO that the spirit and principles of C.87 are encapsulated in Singapore's laws and practices, and are closely adhered to.</p> <p>The NTUC expressed its support for the ratification of C.87. It further mentioned that, as had already been noted by the Government under the 2008 AR, some amendments to national laws were required to reflect the country's needs.</p> <p><b>2008 AR:</b> According to the Government: Contrary to the country's current national regulations that require formal registration of trade unions, with prescribed rules on union administration and activities, Convention No. 87 requires a de-regulated approach in the management of trade unions. Under this Convention, trade unions are generally unrestricted in their roles and activities, which is not in line with the national existing laws based on the development of responsible trade unions and enlightened employers. Hence, ratification would require the Government to make major amendments to the laws that have been functioning well and benefited the economy, employers and workers over the past decades. Amending these laws would undermine the harmonious industrial relations and strong tripartite relationship that the country has developed.</p> <p><b>2006 AR:</b> In response to the ICFTU's observations, the Government stated that "Singapore would continue to review ILO Conventions with the view to additional ratifications.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES</b>, according to the Government, although Singapore has not ratified C.87, the principle and right (PR) is enshrined in Singapore's laws.</p>



		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy:</b> Government's prospects: Enhancing cooperative and effective industrial relationships in order to facilitate the realization of the principle and right. Means of action: Mainstreaming tripartite framework.</li> <li>• <b>Legislation:</b> The Trade Unions Act, the Trade Dispute Act, the Criminal Law (Temporary Provisions) (Part III); and the Industrial Relations Act relate to the PR.</li> </ul> <p><b>2014 AR:</b> According to the Government: Following tripartite consultations, the amendments to the Employment Act will be implemented in 2014. The Government and the social partners are also reviewing the Industrial Relations Act, in particular concerning aspects regulating the representation of Professionals, Managers and Executives (PMEs).</p> <p>The NTUC indicated that the Employment Act had been reviewed through tripartite consultation to ensure freedom of association for PMEs.</p> <p><b>2013 AR:</b> According to the Government: The Ministry of Manpower will be reviewing the Employment Act and other employment-related legislations including the Industrial Relations Act.</p>	
		<b>Basic legal provisions</b>	(i) The Constitution; (ii) the Trade Unions Act; (iii) the Trade Disputes Act; (iv) Part III of the Criminal Law (Temporary Provisions); and (v) the Industrial Relations Act.	
		<b>Judicial decisions</b>	<b>NIL.</b>	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<b>2012 AR:</b> According to SNEF: Singapore's labour legislation strongly supports the principles of freedom of association and the effective recognition of the right to collective bargaining. Collective bargaining in Singapore is practised at the highest level with the Government, NTUC and SNEF through various tripartite committees and forums, such as the tripartite National Wages Council (NWC).



			<b>For Workers</b>	<p><b>2012 AR:</b> According to the Government: The Government would like to reassure that the provisions of Convention No. 87 are observed in the national legislation with respect to freedom of association. This is evident from the existence of some 60 trade unions representing employees from different segments of the workforce, both in the private and public sectors.</p> <p>According to NTUC: Workers in Singapore enjoy the right to freedom of association and collective bargaining. Unions are able to negotiate effectively with employers in order to safeguard and advance wages and employment terms.</p> <p><b>2003 AR:</b> Prior government authorization is necessary to operate workers' organizations (the Industrial Relations Act, 1940). Freedom of Association (FOA) can be exercised by employees working in the teaching and medical professions and by foreign workers operating in Singapore. Public sector employees can form or join a trade union, except for those engaged in the security and defence of the country. Workers cannot exercise FOA under 16 years of age.</p>
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			<p><b>Special attention to particular situations</b></p>	<p><b>2014 AR:</b> According to the SNEF: Options for trade union representation of SMEs are being explored through tripartite collaboration.</p> <p>According to the NTUC: Special attention is given to organizing and representing the interest of SMEs. The NTUC envisions increasing the number of activities targeting SMEs, including providing career guidance in order to attract this group of workers to join the union.</p>
			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> The Government reported that the NTUC has 805,000 members as of July 2014, about 15 per cent of which are migrant workers.</p> <p><b>2014 AR:</b> According to the NTUC: As of August 2013, the NTUC had 770,000 members. An estimated 20 per cent of the NTUC members are migrant workers. The NTUC continues to see steady growth of members made up of SMEs. The SME member base has grown from 130,000 in 2010, to 160,000 in 2012, to some 200,000 SMEs union members in 2013; representing approximately 20 per cent of the one million strong SME labour force in the country. In the first seven months of 2013, the NTUC established trade unions in 62 companies where there had been no prior trade union representation. This can be compared to the total of 75 companies for the whole of 2012.</p> <p><b>2013 AR:</b> According to the NTUC: The NTUC aims to reach as many people as possible so that more members and their families can benefit from the initiatives and services offered by the Labour Movement (LM). Today, with 700,000 members, the LM will be rolling out more initiatives to serve the varying needs of members at different life stages as it moves closer to 1 million members by 2015. NTUC has seen steady growth of members of Professionals, Managers and Executives (SMEs). SME member base has grown strongly from 130,000 in 2010 to over 160,000 in 2012.</p> <p><b>2012 AR:</b> According to the Government: Some 60 trade unions exist in Singapore, representing employees from both the private and public sectors.</p> <p>According to the NTUC: The NTUC has 650,000 members as of September 2011 (compared with 500,000 in Aug 2007), about 18 per cent of which are migrant workers. The NTUC continues to build its vision to be an all-inclusive labour movement, serving the needs of members at different life stages, aiming to organise 1 million members by 2015.</p> <p><b>2009 AR:</b> According to the NTUC: The NTUC has 521,705 at May 2008 and about 10 per cent of them are migrant workers.</p> <p><b>2001 AR:</b> According to the Government: There is a lack of information and data on the PR.</p>
		<p><b>At international level</b></p>	<p><b>NIL.</b></p>	



	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2005 AR:</b> According to the Government: Any group of seven or more prospective members can establish a union. The establishment of a union is also subject to the approval of the Registrar of Trade Unions, who has the power to refuse or cancel registration under certain conditions, particularly where one trade union already exists for workers in a particular occupation or industry (Trade Unions Act, 1940). The PR is enforced through law, collective agreements and tripartite consultations at all levels.</p> <p>In instances where the PR is not respected (for instance on the issue of termination and dismissal), the Ministry for Manpower has the power to decide on whether the termination is substantiate or not, after an inquiry conducted by the Commissioner for Labour. It may order reinstatement if the employer is found to have terminated the employee’s service without just cause. The Minister may award compensation to the affected worker if reinstatement is considered to be undesirable and could affect labour relations at the workplace (sections 17(2)(b) and 17(2)(e) of the Industrial Relations Act).</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2014 AR:</b> According to the Government: Laws are being revised through tripartite consultations. This includes the finalized amendments to the Employment Act and the ongoing revision of the Industrial Relations Act, in particular concerning aspects regulating the representation of PMEs.</p> <p>The SNEF indicated its strong commitment to tripartism and its regular participation in social dialogue.</p> <p>The NTUC indicated its regular participation in tripartite consultations.</p> <p><b>2013 AR:</b> According to the Government: The Ministry of Manpower will be reviewing the Employment Act and other employment-related legislations including the Industrial Relations Act in close consultation with the tripartite partners to ensure that any amendment to be made would take into account the interest of both workers and employers.</p> <p><b>2012 AR:</b> According to the Government: Singapore has enjoyed strong tripartite relations over the past few decades.</p> <p>According to SNEF: Collective bargaining in Singapore is practised at the highest level with the Government, NTUC and SNEF through various tripartite committees and forums, such as the tripartite National Wages Council (NWC).</p> <p><b>2009 AR:</b> According to the Government: National laws which allow businesses and unions work harmoniously to achieve win-win results, have worked well for Singapore and benefited its economy, employers and workers over the past decades.</p> <p>According the SNEF: The strong relationship between the Government, NTUC and SNEF provides guidelines in many areas while leaving management and unions to freely conduct collective bargaining at company level.</p> <p><b>2008 AR:</b> According to the SNEF: The close collaboration among the tripartite partners has helped to promote and implement programmes of national importance such as: (i) enhancing productivity and competitiveness of the economy; (ii) facilitating the employability of older workers and (iii) improving the work-life harmony of workers.</p> <p><b>2006 AR:</b> According to the Government: In addition to the National Wage Council, tripartite taskforces have been formed to tackle policy issues such as older workers or job re-creation efforts.</p> <p>The SNEF indicated that tripartite cooperation was well established through consultation and collaboration on various economic and social issues such as policy formulation and review or dispute settlement.</p> <p><b>2000-2004 ARs:</b> According to the Government: Employers’ and workers’ organizations have been involved in: (i) tripartite consultations on industrial relations; (ii) the formulation and implementation of wage policies and wage guidelines; (iii) the review of labour laws and promotion of good employment practices; (iv) the improvement of productivity and skill development of workers.</p>



	<b>Promotional activities</b>	<p><b>2015 AR:</b> The Government indicated that the NTUC U Associate programme was launched in March 2011 to reach out and serve more PMEs. The Singapore Professional Golfers' Association (SPGA) joined the Labour Movement as the 9th NTUC U Associate in 2014. This is the first time a sports association has come on board the U Associate Programme to bring NTUC's wide range of benefits and advocacy to its members</p> <p><b>2014 AR:</b> The NTUC indicated that it had organized tripartite meetings on the FPRW.</p> <p><b>2013 AR:</b> According to NTUC: The NTUC is engaging PMEs through new channels such as U Associate and Union Professional Chapters. The U Associate Programme is designed to enable professional bodies, institutions and alumnus clubs to join NTUC and enjoy NTUC privileges such as professional development subsidies under the Union Training Assistance Programme, workplace advisory services, as well as NTUC FairPrice_grocery rebates and LinkPoints.</p> <p><b>2012 AR:</b> According to the Government: The Government aims, through the promotion of freedom of association and the right to collective bargaining, to create a harmonious state of industrial relations in Singapore that will benefit its economy, employers and workers. Under NTUC's vision to be an all-inclusive labour movement, membership has grown particularly with the launch of Professional Chapters to engage and attract PMEs (professionals, managers and executives) as members.</p> <p>According to the NTUC: In March 2011, the NTUC launched a new initiative, the U Associate programme, which enables associations to join NTUC en-masse, allowing members to tap into its benefits.</p> <p><b>2009 AR:</b> According to the NTUC: A tripartite committee has been set up and labour meetings were organized.</p> <p><b>2006 AR:</b> The National Trades Union Congress mentioned that it was increasing its efforts to enforce the right to organise and reach 1 million members by 2015. Training courses to union leaders are also conducted.</p> <p><b>2000-2004 ARs:</b> The Government reported on frequent training of workers to promote skill development and productivity and collective bargaining.</p>
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<p><b>Special initiatives/Progress</b></p>	<p><b>2014 AR:</b> Accordingly to the NTUC: A joint initiative by the NTUC and the SNEF aims at ensuring the FPRW, including freedom of association, for migrant workers. The Migrant Workers' Centre (MWC) has been established and provides assistance to migrant workers in cases of workplace disputes and other labour related issues.</p> <p><b>2012 AR:</b> According to the Government: Special initiatives have been undertaken in light of the increasing proportion of professionals, managers and executives (PMEs) in the Singapore workforce. As a result of Singapore's better-educated population and growing economic volatility, the number of employment disputes involving PME is expected to grow. In January 2010, after consultation with the tripartite partners, the Government decided to set up a dispute resolution mechanism for PMEs. The new mechanism involves (i) adjudication of disputes (e.g. over salary) between PMEs and their employers and (ii) tripartite mediation to help PME union members and their employers resolve their employment disputes amicably. This mechanism came in effect in February 2011. With this new mechanism, instituted under Singapore's Industrial Relations Act (IR Act), eligible PME union members in unionised companies can seek full or limited representation from their trade unions to resolve their individual employment disputes with employers. In addition, PMEs earning up to \$2,500 have recourse to adjudication on salary claims as well as mediation through the Government's Executive Mediation Unit. As part of the new mechanism, PME union members working in non-unionised companies earning up to \$4,500 will now also have access to the new tripartite mediation process to resolve their employment disputes with employers. The new tripartite mediation will leverage on the strong tripartite partnership between the Singapore Ministry of Manpower (MOM), the Singapore National Employers Federation (SNEF) and the Singapore National Trades Union Congress (NTUC), which has played an important part in fostering harmonious workplace relations in Singapore. The tripartite mediation aims to resolve the most common employment disputes between PME union members and their employers, which preciously have been dealt with in the civil court. Under this new mechanism, MOM leads the tripartite mediation sessions to help the employer and the PME union member concerned to resolve the employment dispute. The employer and the PME are each assisted by a tripartite mediation advisor, who will help the respective parties to facilitate an amicable settlement. With the inputs and assistance of experienced tripartite mediation advisors, tripartite mediation can help to bring about an amicable and expeditious settlement without incurring significant costs for the parties involved. To facilitate mediation and settlement, the tripartite mediation process includes compulsory attendance for both PME and the employer. Repeated nonattendance by the PME and employer will result in the case being struck off for the PME or penalties for the employer under the IR Act.</p>
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	<p><b>2010 AR:</b> According to the NTUC: The NTUC Migrant Workers' Forum (MWF) has become bipartite with the participation of the SNEF. Its objectives are as follows: (i) provide humanitarian assistance to migrant workers; (ii) promote fair employment practices towards migrant workers; (iii) educate migrant workers on their employment rights; and (iv) facilitate harmonious co-existence between local Singaporeans and migrant workers.</p> <p><b>2009 AR:</b> According to the NTUC: The NTUC has also set up the NTUC MWF in 2003 with the following objectives: (i) raise awareness of union assistance to migrant workers in Singapore; (ii) advocate for better measures and/or undertake initiatives to protect the interests and well-being of migrant workers in Singapore; and (iii) establish cooperative unions and collaboration with interested parties.</p> <p><b>2007 AR:</b> According to the Government: Union membership figures stand at 450,000 in 2005. The Ministry of Manpower noted from the National Trades Union Congress reports that about 30 per cent of unionised companies have included a clause in their collective agreements to allow employment of older workers beyond the retirement age of 62 years old. Moreover, a new union for workers operating in private educational institutions was set up in March 2006 and has a potential of 50,000 members.</p> <p>The NTUC indicated that it had set up a Unit for Contract Workers to help address the concerns of a growing number of contract workers although the overall number vis-à-vis permanent employees is still small. A new union for employees working in private educational institutions was set up in March 2006, with a potential of 50,000 members.</p> <p><b>2006 AR:</b> According to the Government: The fact that unions have widened their membership from about 314,000 in 2000 to 443,000 in 2004 can be regarded as a successful example in the realization of the PR.</p> <p><b>2003 AR:</b> According to the Government: Special initiatives have been taken through training of officials, the promotion of workers' productivity and the increase in the number of trade unions.</p>
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<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2007 AR:</b> No particular challenges have been raised in the SNEF's observations.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> According to NTUC: the challenge related to the ratification of C.87 has been the need to change existing national laws to ensure compliance with the requirements of C.87.</p> <p><b>2014 AR:</b> According to the NTUC: Difficulties in the ratification process of C.87 are mainly related to legal incompatibilities. The Government views some provisions, such as giving the Registrar of Trade Unions powers to check union accounts, as not an encumbrance but necessary to protect the interest and welfare of ordinary workers as they pay union subscriptions.</p> <p><b>2012 AR:</b> No change in report.</p> <p><b>2009 AR:</b> According to the NTUC: Although the issue of ratification of C.87 was discussed in the country, the Government further needs to consider it as a priority.</p> <p><b>2007-2009 ARs:</b> According to the ICFTU and the ITUC: (i) the Labour law is outdated; (ii) the right to form unions is recognized but Parliament may impose restrictions on the formation of a union on the ground of security, public order or morality; (iv) excessive powers of the Registrar of Trade Union; (iii) prohibition of government employees from joining or forming trade unions; (iv) interference in trade unions affairs such as restrictions of trade unions on the right to elect their officers under the Trade Union Act or control over trade unions finances; (v) there is no effective recognition of freedom of association for migrant workers.</p> <p><b>2002 and 2005-2006 ARs:</b> The ICFTU raised the following challenges: (i) excessive powers of the Registrar of Trade Union; (ii) prohibition of government employees from joining or forming trade unions; (iii) no enforcement of binding arbitration; (iv) restrictions on the right to strike and prohibition of strike in essential services (water, gas, electricity); (v) restrictions of trade unions on the right to elect their officers under the Trade Union Act; (vi) prohibition of citizens with criminal record and migrant workers to work for a trade union; (vii) investigations of union finances; (viii) increased representation for executives; (ix) restrictions on the formation of union on the grounds of security, public order or morality.</p>



<p><b>According to the Government</b></p>	<p><b>2012 AR:</b> According to the Government: In Singapore, labour relations are conducted on a national basis which has brought about harmonious labour management relations, fostered strong tripartite relationships, and in turn contributed to economic growth, job creation and the improvement of social well-being of workers. The Government of Singapore believes that ratifying Convention No. 87 may present certain challenges to Singapore’s harmonious industrial relations.</p> <p><b>2009 ARs:</b> In response to the ICFTU’s observations, the Government mentioned the following: (i) foreign and migrant workers’ rights: Trade union officers and trustees, whether local or foreign, are democratically elected by their members to represent their interests. However, under section (30) of the Trade Unions Act, trade union officers who are not Singapore citizens are required to seek approval from the Minister of Manpower before assuming responsibilities. In fact, many of the unions have foreign workers as their members, particularly in industries where there are large numbers of foreign workers; (ii) relevance of Singapore’s laws: The Government reiterates that Singapore’s laws continue to be relevant for our country and has helped to prevent and resolve industrial disputes which are detrimental to businesses and the interests of workers. These laws which allow businesses and unions to work harmoniously to achieve win-win results, have worked well for Singapore and benefited our economy, employers and workers over the past decades. Hence, there is no need to amend national laws; and (iii) the Government trusts that the ILO assesses Singapore’s performance objectively in respect of freedom of association and collective bargaining, taking into account its harmonious labour management relations fostered by strong tripartite relationship as well as our proven track record in enhancing the economic and social well-being of its workers.</p>
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		<p><b>2008 AR:</b> The Government indicated that in contrast to Singapore’s current national regulations, which requires formal registration of trade unions, with prescribed rules on union administration and activities, C.87 requires a de-regulated approach in the management of trade unions. Under this Convention, trade unions are generally unrestricted in their roles and activities, which is not in line with the national existing laws based on the development of responsible trade unions and enlightened employers. Hence, ratification would require the Government to make major amendments to the laws, which have been functioning well and benefited the economy, employers and workers over the past decades. Amending these laws would undermine the harmonious industrial relations and strong tripartite relationship that the country has developed.</p> <p><b>2006 and 2007 ARs:</b> In response to the ICFTU’s observations, the Government reported the following (i) Trade union leaders in Singapore are democratically elected and if they fail to be accountable for their decisions, they can be voted out by their members; (ii) restrictions on trade unions’ activities only apply to persons who are criminally convicted and foreigners whose stay is transient in nature; (iii) Singapore’s laws continue to be relevant for the country and have helped to prevent and resolve unnecessary industrial disputes which are detrimental to business and workers’ interests; (iv) workers’ fundamental rights in respect of the PR are enshrined in national laws; (v) Singapore has closely worked with the ILO in promoting constructive industrial relations, workers’ rights, occupational safety and health and training and skills. In response to the ICFTU’s observations for the 2002 and 2005 ARs, the Government observed that government employees were allowed to form and join trade unions.</p> <p><b>2002 AR:</b> In response to the ICFTU’s observations, the Government made the following comments: (i) The purpose of the union registration is to confer on registered trade unions certain rights, immunities and privileges, not to exercise control. Refusal for a registration of a trade union by the Registrar can help limit the proliferation of trade unions and strengthen solidarity of the labour movement; (ii) a decision to carry out strike action must be supported by the majority of union members; (iii) restrictions on the rights of trade unions to appoint their officials cover persons convicted of serious criminal offences; (iv) restrictions on expenditure of union funds prevent the union funds from being used as contributions to a political party or for a political purpose. In conclusion, the Government stated that the objectives of the Trade Union Act are to ensure fair elections and proper management of the union for the benefits of union members.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<b>NIL.</b>
	<b>Offer</b>	<b>NIL.</b>



<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that the Government of Singapore (and another country) reported that it did not intend to ratify C.87, given that, according to the Government, ratification would require it to make major amendments to the laws, which would undermine the harmonious industrial relations and strong tripartite relationship that the country has developed. In this regard, the IDEAs recalled that the following: “Under the 1998 ILO Declaration, every member State even if it has not ratified the fundamental conventions, has an obligation rising from the very fact of membership in the Organization, to respect, promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those conventions. Freedom of association is the essence of the ILO and it is clear that its absence deprives employers and workers of their right to participate in and benefit from the national economy and to contribute to respect for human right and democracy”. Therefore, they urged the Government of Singapore to work jointly with the Office in giving effect to this principle and right. The IDEAs also listed Singapore among the countries where some unions are subject to government’s interference or influence, and recalled in this regard the following: “(...) the right to official recognition is an essential aspect of the right to organize as it allows employers’ and workers’ organizations to be in a position to play their roles efficiently. Furthermore, any government intervention in employers’ and workers’ organizations’ internal affairs (right to establish and join organizations of their own choosing, without distinction whatsoever and without previous authorization, right to draw up internal constitutions and rules, right to elect their representatives in full freedom, etc.) constitutes interference in the functioning of these organizations, which is a denial of the principle and right”. Finally, the IDEAs noted that restrictions on the right to organise of certain categories of workers in Singapore (and some other countries), such as migrant workers, were not compatible with the realization of this principle and right (cf. paragraphs 27, 28 and 36 of the 2008 AR Introduction – ILO: GB.301/3).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2013-2015)<sup>1</sup>: SOUTH SUDAN**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, for the first time under the 2013 Annual Review (AR). South Sudan joined the ILO in 2012	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the employers' organizations (the Employers' Association of South Sudan - EASS and the South Sudan Employers' Association - SSEA) and workers' organizations (the South Sudan Workers' Trade Union Federation - SSWTUF) by means of consultation and communication of a copy of the government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by EASS. <b>2014 AR:</b> Observations by SSEA. <b>2013 AR:</b> Observations by SSEA	
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by SSWTUF. <b>2014 AR:</b> Observations by SSWTUF. <b>2013 AR:</b> Observations by SSWTUF	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>South Sudan ratified in 2012 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and the Protection of the Right to Organise Convention. 1948 (No. 87) (C.87).</b>

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.

		<p><b>Ratification intention</b></p>	<p><b>YES, for C.87. 2015 –</b></p> <p><b>2015 AR:</b> According to the Government: the process of ratification is ongoing. However, political issues and adoption of national labour laws are likely to delay the ratification process.</p> <p>EASS agrees with the Government’s position while indicating that the National Labour Bill is still at its 3<sup>rd</sup> reading at Parliament.</p> <p>SSWTUF reiterated its support for the ratification of C.87, while asking the Government to speed up the process.</p> <p><b>2014 AR:</b> The Government indicated that the ratification process of C.87 had been initiated in May 2013.</p> <p>The SSEA expressed its support for the ratification of C.87.</p> <p>The SSWTUF expressed its support for the ratification of C.87.</p> <p><b>2013 AR:</b> The Government indicated that a First Tripartite Resolution was adopted in May 2011 in cooperation with ILO. This Resolution calls for ratification of all ILO core Conventions by State succession, except for C.87 to be ratified through a normal process as it was not ratified by Sudan.</p> <p>The SSEA and the SSTUF confirmed their support to this tripartite resolution including ratification for C.87 and C.98. The SSEA mentioned that it was enjoying freedom of association. The SSTUF indicated that ratification is possible as unions are independently carrying out their mission in the country.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES,</b> the Transitional Constitution of the Republic of the South Sudan, 2011, Article 25 (1), provides in particular that the right to peaceful assembly is recognised and guaranteed; every person shall have the right to freedom of association with others, including the right to form or join political parties, associations and trade unions for the protection of his or her interests. Article 24 of the same text provides for freedom of expression and media.</p>

		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> </ul> <p>The South Sudan Development Plan 2011-2013 aims at realising freedom, equality, peace and prosperity for all.</p> <ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p>The Labour Bill, 2012, section 9 (i) (Freedom of Association) provides that “All Workers and Employers, without distinction whatsoever, shall have the right to establish and, only to the rules of Trade Union or Employers Organisations concerned, to join Trade Unions or Employers’ Organisations of their own choosing, without previous authorisation.” However, chapters IX (Trade unions and employers’ organisations) and X (Collective bargaining) of the same Bill deal with registration procedures for employers’ and workers’ organisations and collective agreements that are compulsory and subject to appeal before the Labour Courts in case of refusal. The Workers’ Trade Union Federation Bill No.62, May 2012, Chapter VII, also provides for registration conditions concerning the establishment of trade unions.</p> <p><b>2015 AR:</b> SSWTUF indicated that the Workers’ Trade Union Act No.62 has been adopted in 2014.</p> <p><b>2014 AR:</b> According to the Government: The Transitional Constitution (2011) is currently being reviewed by the tripartite partners with a view to to ensure compliance with the PR.</p> <ul style="list-style-type: none"> <li>• <b>Regulations</b></li> </ul> <p>Upon adoption of the Labour Bill, 2012, and the Workers’ Trade Union Federation Bill, 2012, the Ministry of Labour shall establish the related regulations in cooperation with other technical ministries and the employers’ and workers’ organisations. It expects ILO technical support in this process.</p>
		<b>Basic legal provisions</b>	(i) The Transitional Constitution, 2011, Articles 24 and 25; (ii) The Labour Bill, 2012, section, 9 and chapters IX and X, and; (iii) the Workers’ Trade Union Federation Act No.62 of 2 May 2014, Chapters II, IV and VII, in particular.
		<b>Judicial decisions</b>	NIL
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b> <p><b>2013 AR:</b> Government authorization or approval is not required to establish an employers’ organization, nor to conclude collective agreements. However, the registration of an employers’ organisation or of a collective agreement is necessary with the Office of the Under Secretary of Labour and the Registrar, respectively, and subject to appeal before the Labour Court.</p> <p>The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry and national levels for all categories of employers.</p>



			<p><b>For Workers</b></p>	<p><b>2013 AR:</b> Government authorization or approval is not required to establish a worker’s organization, nor to conclude collective agreements. However, the registration of an employers’ organisation or of a collective agreement is necessary with the Office of the Under Secretary of Labour and the Registrar, respectively, and subject to appeal before the Labour Court.</p> <p>The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry and national levels for all workers in the public service and all other categories of workers that have reached the minimum age for admission to employment or work (14 years).</p>
			<p><b>Special attention to particular situations</b></p>	<p><b>YES,</b> women workers in accordance with the Transitional Constitution, 2011, Article 16 (4) promotes women participation in public life and their representation in the legislative and executive organs by at least 25% as an affirmative action to redress imbalances created by history, customs and traditions. This principle also applies to women’s participation and representation in trade unions.</p> <p><b>2014 AR:</b> According to the Government: Special attention is given to ensure the FPRW for vulnerable groups on the labour market, including women, disabled, and young workers.</p> <p>The SSWTUF indicated that special attention was envisaged to ensure the FPRW for women.</p>
			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2014 AR:</b> The SSWTUF indicated that it had 27 affiliated trade unions covering the ten states of South Sudan.</p> <p><b>2013 AR:</b> The SSEA mentioned that it had 25 members among companies and private training institutions. It hopes to extend the scope of its membership in the near future.</p> <p>The SSWTUF indicated that statistics on the number of their members are not yet available as they are being prepared.</p>
		<p><b>At international level</b></p>	<p>According to the Government: The principle and right (PR) is recognized at international level for employers’ and workers’ organizations.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2013 AR:</b> According to the Government: The Labour Inspectorate is in charge of monitoring, enforcing and providing sanctions in case of infringement to the legal provisions concerning the PR. In these instances, legal, administrative, or civil sanctions are envisaged under the Labour Bill, 2012 and the Workers’ Trade Union Federation Bill, 2012. Under Section 132 of the Labour Bill, 2012, proceeding of offences under this Act may be instigated by the Labour Inspectorate, with the approval of the Under Secretary of Labour (Section 132.1). Following consultation with registered Trade Unions and Employers’ Organisations and upon advice from the Council, the Minister shall issue regulations establishing the penalties that may be imposed by the Labour Court upon the finding of an offence under this Act (Section 132.2).</p>		
	<p><b>Involvement of the social partners</b></p>	<p><b>2014–2015 ARs:</b> The SSEA reported that social dialogue had been established in the country and that the ratification of C.87 enjoyed tripartite support.</p> <p>The SSWTUF indicated its participation in social dialogue.</p> <p><b>2013 AR:</b> The Government indicated that the employers’ and the workers’ organisations had been involved in the current labour law process as well as in the formulation of the DWCP (including issues on the fundamental principles and rights at work), in cooperation with ILO.</p>		



	<p><b>Promotional activities</b></p>	<p><b>2014–2015 ARs:</b> According to the SSWTUF: The SSWTUF has held seminars on freedom of association at national level, and organized promotional events such as the 2013 May Day celebration which was attended by the tripartite parties and the ILO. Awareness raising activities have also been carried out through the media.</p> <p><b>2013 AR:</b> According to the Government: Government senior officials participated in several ILO/TURIN courses where issues regarding the PR were addressed among others. Furthermore, two national tripartite workshops on decent work and the ILO Declaration and on reporting issues were organised in May 2011 and November 2012 in Juba, respectively, with ILO technical support.</p> <p>The SSEA and the SSTUF confirmed their participation in the tripartite activities.</p>				
	<p><b>Special initiatives/Progress</b></p>	<p><b>2013 AR:</b> According to the Government: On May 1<sup>st</sup>, 2010, the Government published its International Labour Day Aspirations (<u>Annex No. 4</u>) which included the following objectives: (i) ensure that labour laws protect rights at workplace; (ii) respect workers' rights; (iii) promote decent work for all workers; (iv) encourage good labour relations; (v) reduce conflict through negotiation and conciliation; (vi) encourage gender equality at work; (vii) combat discrimination at work, and; (ix) eliminate the worst forms of child labour. Moreover, in May 2011, the Government and the employers' and workers' organisations adopted a first Tripartite Resolution 2011 in cooperation with ILO (<u>Annex No.5</u>). This resolution calls for ratification of ILO Core Conventions through State succession, except for C.87 to be ratified through a normal process as it was not ratified by Sudan. Moreover, the Government has drafted its first Labour Bill, 2012 and the Workers' Trade Union Federation Bills, 2012 in cooperation with the employers' and workers' organisations and with ILO technical support so as to ensure full compliance with ILO Core Conventions and other relevant instruments before final adoption by Parliament.</p>				
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<table border="1"> <tr> <td data-bbox="786 746 1081 957"> <p><b>Employers' organizations</b></p> </td> <td data-bbox="1081 746 2098 957"> <p><b>2015 AR:</b> According to the EASS: stability and security issues are the main challenges.</p> <p><b>2014 AR:</b> According to the SSEA: As the country is a new nation and no extensive manufacturing industries have been established yet, it is likely that challenges related to the industrial relations system, including freedom of association and the right to collective bargaining, which have not yet been identified may arise.</p> <p><b>2013 AR:</b> According to the SSEA: Security problems in the country are a challenge to business development without abroad.</p> </td> </tr> <tr> <td data-bbox="786 957 1081 1161"> <p><b>Workers' organizations</b></p> </td> <td data-bbox="1081 957 2098 1161"> <p><b>2014–2015 ARs:</b> According to the SSWTUF: The following challenges have been identified: (i) lack of financial resources hampering the development of the trade union movement and limiting the SSWTUF's ability to promote the realization of the PR; and (ii) lack of capacity of workers' organizations.</p> <p><b>2013 AR:</b> According to the SSWTUF: Understanding of English Language as the new official language of South Sudan (instead of Arabic) is a challenge to public awareness raising on the PR. Lack of equipment and resources are also a challenge to trade unions.</p> </td> </tr> </table>	<p><b>Employers' organizations</b></p>	<p><b>2015 AR:</b> According to the EASS: stability and security issues are the main challenges.</p> <p><b>2014 AR:</b> According to the SSEA: As the country is a new nation and no extensive manufacturing industries have been established yet, it is likely that challenges related to the industrial relations system, including freedom of association and the right to collective bargaining, which have not yet been identified may arise.</p> <p><b>2013 AR:</b> According to the SSEA: Security problems in the country are a challenge to business development without abroad.</p>	<p><b>Workers' organizations</b></p>	<p><b>2014–2015 ARs:</b> According to the SSWTUF: The following challenges have been identified: (i) lack of financial resources hampering the development of the trade union movement and limiting the SSWTUF's ability to promote the realization of the PR; and (ii) lack of capacity of workers' organizations.</p> <p><b>2013 AR:</b> According to the SSWTUF: Understanding of English Language as the new official language of South Sudan (instead of Arabic) is a challenge to public awareness raising on the PR. Lack of equipment and resources are also a challenge to trade unions.</p>
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	<p><b>Workers' organizations</b></p>	<p><b>2014–2015 ARs:</b> According to the SSWTUF: The following challenges have been identified: (i) lack of financial resources hampering the development of the trade union movement and limiting the SSWTUF's ability to promote the realization of the PR; and (ii) lack of capacity of workers' organizations.</p> <p><b>2013 AR:</b> According to the SSWTUF: Understanding of English Language as the new official language of South Sudan (instead of Arabic) is a challenge to public awareness raising on the PR. Lack of equipment and resources are also a challenge to trade unions.</p>				
<p><b>According to the Government</b></p>	<p><b>2014–2015 ARs:</b> According to the Government: The following challenges exist in the realization of the PR: (i) lack of understanding of the implications and importance of C.87 by the tripartite partners.</p> <p><b>2013 AR:</b> The Government mentioned the following challenges concerning the realization of the PR in South Sudan: (i) Lack of public awareness and/or support; (ii) lack of capacity and resources of responsible government institutions; (iii) lack of capacity of employers' and workers' organizations; and (iv) inadequate of social dialogue on the PR.</p>					



<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: ILO is welcome to meet Parliamentarians and explain the importance of the FPRW so as to speed up the adoption of Labour Bill and ratification of C.87. Moreover, the draft Decent Work Country Programme (DWCP) needs to be swiftly finalized by the ILO and implemented.</p> <p>According to EASS: ILO technical cooperation is needed in terms of capacity building for employers' and workers' organizations on the PR and the content of C.87.</p> <p>SSWTUF restated the need for ILO technical assistance to build the capacity of workers' organizations at national and local levels. It further requested that tripartite workshops be organized at national involving state tripartite actors.</p> <p><b>2014 AR:</b> According to the Government: ILO technical cooperation is needed in the following areas: (i) capacity building for responsible government institutions; (ii) capacity building for workers' and employers' organizations; (iii) sensitization on the content and implications of C.87 for the tripartite partners; (iv) public awareness raising on the PR; and (v) training of labour inspectors and other officials responsible for labour law enforcement.</p> <p>The SSEA requested for ILO technical cooperation to be continuous and to provide targeted training for the members of the Labour Advisory Council to ensure its sound establishment and well-functioning operation.</p> <p>The SSWTUF requested ILO technical cooperation to build the capacity of workers' organizations at national and local levels. SSWTUF representatives specifically wished to participate in training activities on the FPRW in the ILO/TURIN Centre.</p> <p><b>2013 AR:</b> According to the Government, the SSEA and the SSTUF: There is a need for ILO technical cooperation to facilitate the realization of this PR in South Sudan, in particular in the following areas, in order of priority: (1) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; legal reform (labour law and other relevant legislation); (2) strengthening data collection and capacity for statistical analysis;); developing labour market policies that promote equality of opportunity; developing policies regarding equal remuneration, and; (3) sharing of experiences (best-practices) across countries/regions; training of other officials (e.g. police, judiciary, social workers, teachers). The Government also requested a special ILO assistance for the realisation of the Decent Work Country Programme.</p> <p>The SSEA further mentioned the need for ILO assistance in experience sharing and managerial skills and negotiation techniques.</p> <p>The SSTUF further requested special training on leadership capacity building, on international standards and contribution to reporting, but also and dissemination and awareness raising of the Workers' Trade Federation Bill once adopted.</p>
	<p><b>Offer</b></p>	<p>ILO (Decent Work Country Programme exercise; and Assistance in fulfilling reporting obligations to ILO, including under the Declaration's Annual Review.</p>
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p>NIL</p>	
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>		<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> In November 2012, the Governing Body approved the Plan of Action presented by the Office in the First Recurrent Item Report, 2012.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, the International Labour Conference discussed the First Recurrent Item Report on the Fundamental Principles and Rights at Work presented by the Office under the Social Justice Declaration, 2008.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link:  
[http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf)



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: SUDAN**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2000 Annual Review (AR).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Sudan Businessmen and Employers' Federation (SBEF), the Sudanese Chamber of Industries Association (SCIA) and the Sudan Workers' Trade Union Federation (SWTUF) by means of consultations and communication of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2015 AR:</b> Observations by the SBEF. Observations by the SCIA.</p> <p><b>2014 AR:</b> Observations by the SCIA.</p> <p><b>2013 AR:</b> Observations by the SCIA.</p> <p><b>2012 AR:</b> Observations by the SBEF.</p> <p><b>2011 AR:</b> Observations by the SBEF.</p> <p><b>2010 AR:</b> Observations by the SBEF.</p> <p><b>2009 AR:</b> Observations by the SBEF.</p> <p><b>2008 AR:</b> Observations by the SBEF.</p> <p><b>2007 AR:</b> Observations by the SBEF.</p> <p><b>2001 AR:</b> Observations by the SBEF.</p>

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<p><b>Workers' organizations</b></p>		<p><b>2015 AR:</b> Observations by the SWTUF.  <b>2014 AR:</b> Observations by the SWTUF.  <b>2013 AR:</b> Observations by the SWTUF.  <b>2011 AR:</b> Observations by the SWTUF.  <b>2011 AR:</b> Observations by the SWTUF.  <b>2010 AR:</b> Observations by the SWTUF.  <b>2009 AR:</b> Observations by the SWTUF.          Observations by the International Trade Union Confederation (ITUC).  <b>2008 AR:</b> Observations by the SWTUF.          Observations by the ITUC.  <b>2007 AR:</b> Observations by the SWTUF.          Observations by the International Confederation of Free Trade Unions (ICFTU).  <b>2006 AR:</b> Observations by the SWTUF.          Observations by the ICFTU.  <b>2005 AR:</b> Observations by the SWTUF.          Observation by the ICFTU.  <b>2002 AR:</b> Observations by the ICFTU.  <b>2001 AR:</b> Observations by the ICFTU.</p>
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Sudan ratified in 1957 the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and the Protection of the Right to Organize Convention 1948 (No. 87) (C.87).</b></p>

		<p><b>Ratification intention</b></p>	<p><b>Under consideration, since 2002, for C.87.</b></p> <p><b>2015 AR:</b> The Government, SBEF, SCIA and SWTUF reiterated their support for the ratification of C.87. They indicated that following ILO Mission in October 2014 and meeting with Parliamentarians, ratification of C.87 should be discussed through tripartite consultations before submission to Ministry of Justice, Cabinet and Parliament.</p> <p>According to SBEF: An Action Plan has been designed on implementation of labour standards which has been signed by the Minister of Labour. It covers all 16 States. The 1997 Labour Law is still under negotiation since 2004 but reached a final draft now.</p> <p><b>2014 AR:</b> The Government indicated that social dialogue needs to be strengthened to allow the tripartite partners to reach common ground and move forward in the ratification process of C.87.</p> <p>The SCIA indicated that while it supports the International Organisation of Employers (IOE)'s position concerning the right to strike, it sees no obstacles to the ratification of C.87 by Sudan.</p> <p>The SWTUF expressed its strong support for the ratification of C.87 and indicated that no progress had been made in the ratification process over the last year.</p> <p><b>2013 AR:</b> According to the Government: Tripartite discussions concerning the ratification of C.87 are ongoing and progressing.</p> <p>According to the SCIA: Ratification of C.87 is still being discussed by tripartite partners.</p> <p>The SWTUF expressed its strong support for the ratification of C.87 and indicated that the ratification process had not made any progress over the last year.</p> <p><b>2011 AR:</b> According to the Government, Ratification of C.87 is being considered and is still under discussion by tripartite partners. ILO technical support is needed for freedom of association issues.</p> <p>The SBEF and the SWTUF expressed their support for the ratification of C.87 by Sudan.</p> <p><b>2011 AR:</b> According to the Government, the draft Labour Code has been finalized, but ILO technical input is being requested. Ratification of C.87 will be considered at the end of this process.</p> <p>The SBEF and the SWTUF expressed their hope that tripartite discussion on the ratification of C.87 by Sudan would take place soon.</p> <p><b>2010 AR:</b> The Government reiterated its last year statement and indicated that a tripartite committee had been set up to draft a new labour Code.</p> <p>The SWTUF and the SBEF pointed out that a tripartite committee had been set up to review the labour law and that a new draft of labour laws had been submitted to the cabinet for approval.</p> <p><b>2009 AR:</b> According to the Government: Sudan is in a transitional period following the Comprehensive Peace Agreement (CPA). After the ongoing revision of constitutional and civil laws, ratification of C.87 will be considered.</p> <p>SWTUF reiterated its support for the ratification of C.87 by Sudan.</p>
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			<p><b>2008 AR:</b> The Government indicated that labour laws were being revised to allow ratification of C.87 by Sudan.</p> <p>The SBEF and the SWTUF supported the ratification of C.87 by Sudan.</p> <p><b>2007 AR:</b> According to the Government: After the CPA, an interim committee was adopted in December 2005, which caters for basic freedoms, including the right to organize. Accordingly, all Sudanese laws are being revised. Ratification will be possible after the adoption of new laws.</p> <p>The SWTUF supported the ratification of C.87 by Sudan.</p> <p><b>2006 AR:</b> According to the Government: Ratification of C.87 is under consideration.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001), the Government intended to ratify C.87.</p>
<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>		<p><b>YES.</b></p> <p>The 1998 Constitution (article 26) provides for freedom of assembly and association for cultural, social, economic, professional or trade union purposes in accordance with the law.</p> <p><b>2006 AR:</b> According to the Government: An Interim Constitution that covers all human rights including the right to organize is being drafted, following the Comprehensive Peace Agreement.</p>
	<p><b>Policy, legislation and/or regulations</b></p>		<ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2015 AR:</b> The Government indicated that the labour law revision process will take into account the provisions of fundamental Conventions including C.87.</p> <p>According to SBEF: The Labour Act and the Social Security Act are both under revision but they are heavily interdependent. The Social Security Act will be submitted to the Parliament in 2015 summer. There is also a need to legalize the tripartite committee as there is no legal mention of it in the laws.</p> <p><b>2014 AR:</b> The SCIA indicated that the new draft labour law was expected to be finalised and submitted to Parliament before the end of 2013.</p> <p><b>2013 AR:</b> According to the Government: Following tripartite consultations, a new draft law has been presented to the Cabinet for approval. These legal changes are expected to facilitate the ratification of C.87.</p> <p><b>2011 AR:</b> The Government provided a copy of the new Act on Trade Union, 2010.</p> <p><b>2008 AR:</b> According to the Government: The Public Service Act, 1995 has been revised in May 2007 by the Parliament after tripartite consultations.</p> <p><b>2006 AR:</b> According to the Government: The Labour Law, 1997 has been revised by a tripartite committee. A tripartite body has also been set up to revise the Public Service Act, 1995.</p>
	<p><b>Basic legal provisions</b></p>		<p>(i) The 1998 Constitution (article 26); (ii) The Trade Union Act; (iii) The Labour Law, 1997, and (iv) The Public Service Act, 1998.</p>
	<p><b>Judicial decisions</b></p>		<p><b>NIL.</b></p>





	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2001-2003 ARs:</b> No prior government authorization is needed to establish employers' organizations (section 33 of the Trade Union Act, 2001). Freedom of association can be exercised at enterprise, sector/industry and international levels by all categories of employers.
			<b>For Workers</b>	<b>2013 AR:</b> According to the SWTUF: Freedom of association is ensured by national legislation and practiced in the country through a strong trade union movement. <b>2001-2003 ARs:</b> The Government authorization/approval is required to establish workers' organizations. Freedom of association can be exercised at enterprise, sector/industry and international levels by the following categories of persons: (i) all workers in the public service; (ii) medical professionals; (iii) teachers; agricultural workers; (iv) workers engaged in domestic work; (v) workers in export processing zones (EPZs) or enterprises/industries with EPZ status; migrant workers; workers in the informal economy. Diplomats, judges, and legal advisors of the Attorney general, national security forces and domestic servants cannot exercise freedom of association (section 3 of the Labour Law, 1997).
			<b>Special attention to particular situations</b>	<b>2014 AR:</b> According to the SCIA: Special attention is given to promote formal employment and the FPRW. <b>2013 AR:</b> According to the SWTUF: In light of the private sector in general being more difficult in terms in realizing freedom of association, two affiliates of the SWTUF had given special attention to the engineering and electricity industries, as well as the food industry. These industries represent specifically challenging cases within the private sector. <b>2003 AR:</b> According to the Government: Special attention has been given to some specific industries/sectors.
			<b>Information/ Data collection and dissemination</b>	<b>2013 AR:</b> The SWTUF reported that it had approximately 44,000 members. <b>2001 AR:</b> According to the Government: There is an annual report on collective bargaining and settlement of disputes. The Higher Council for Wages publishes periodical reports.
			<b>At international level</b>	According to the Government: There are no particular restrictions for the international affiliation of employers' or workers' organizations.

<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2003 AR:</b> According to the Government: The SWTUF and the Attorney General have joint jurisdiction over instances where the principle and right (PR) has not been respected. In cases where the right to collective bargaining has not been respected, the problem is solved through special judicial procedures.</p> <p><b>2001 AR:</b> According to the Government: In case of the violation of the PR, the measures adopted are as follows: (i) labour inspection and complaints procedures (which are also available to employers’ and workers’ organizations); (ii) penal sanctions; (iii) sentences by judicial courts; (iv) enforcement of article 34 of the Constitution which provides that every aggrieved person who has exhausted the means of submitting grievance and complaints to the executive and administrative organs shall have the right of access to the Constitutional Court to protect their freedom, sanctities and rights. The Constitutional Court may, according to due process, exercise the power to annul any law or order that contravenes the Constitution, in order to restore the right to the aggrieved person or to compensate him/her for damage sustained.</p>
<p><b>Involvement of the social partners</b></p>	<p><b>2015 AR:</b> According to the Government, SBEF, SCIA and SWTUF: In October 2014, a Tripartite Memorandum of Understanding has been signed and the National Committee on International Labour Standards has been launched in cooperation with ILO.</p> <p>According to the SWTUF: There were general elections in April 2015 and the new Minister of Labour is yet to be appointed. Tripartite meetings therefore have been stopped around February 2015.</p> <p>According to the SBEF: Most negotiations happen in the Negotiation Council established at the end of 2014 in which 9 employers and 9 trade unions are members. A Memorandum of Understanding was also signed between trade unions, employers and the Ministry of Social Affairs to discuss the situation of about 30,000 workers who lost their job after 452 various employers stopped working and are now left without social protection</p> <p><b>2014 AR:</b> According to the Government: Tripartite consultations on freedom of association are ongoing.</p> <p>According to the SCIA: Tripartite bodies have been established at national and provincial levels and consultations concerning freedom of association are ongoing. Furthermore, the social partners participated in the drafting of the new labour law.</p> <p>The SWTUF indicated that tripartite consultations on the ratification of C.87 were ongoing and that social dialogue was well-functioning through a number of tripartite bodies, such as the Higher Council of Wages.</p> <p><b>2013 AR:</b> The Government indicated that the drafting of a new law had been a tripartite process where the social partners were included for consultation.</p> <p>The SCIA indicated that tripartite consultations were carried out on issues related to freedom of association.</p> <p>According to the SWTUF: Social dialogue is fully practiced in the country, partly through the Higher Council of Wages, which consists of two experts, three members of government, three employers’ and three workers’ representatives, as well as three representatives from the military and the police force respectively. Furthermore, there is full workers’ representation in all government owned companies’ trust funds, such as the pension, social security and insurance funds. There is full workers’ representation in all committees appointed by legislators related to labour legislation and workers’ rights. The one exception where there had been no workers’ representatives was in the preparation of the law regulating the conditions of migrant workers.</p> <p><b>2012 AR:</b> According to the Government: There is tripartite consultation on freedom of association issues.</p> <p><b>2007 AR:</b> According to the Government: The Minister of Labour is engaged in revising the labour laws in cooperation with the social partners.</p> <p>The SBEF mentioned its participation in the labour law review process that should ensure the right to organize in Sudan.</p> <p>According to SWTUF: Employers’ and workers’ organizations participated in the labour law revision process, which should</p>



		<p>ensure the right to organize.</p> <p><b>2006 AR:</b> According to the Government: Tripartite committees have revised the Labour Law, 1997 and the Public Service Act, 1995.</p> <p>According to the SWTUF: Following the Ouagadougou African Unit (AU) Summit in September 2004, the SWTUF participated in the tripartite Committees to revise the Labour Law, 1997 and the Public Service Act, 1995. The President of the SWTUF is also a member of the Drafting Committee of the Interim Constitution.</p> <p><b>2001 AR:</b> According to the Government: Social partners participated on an equal footing in the reform of the Trade Union Act, 1992 to promote and apply the PR.</p>
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	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: A training of trainers for labour inspectors was held in May 2015 in the Labour Inspection Centre. The Government also indicated that it had organized in 2014 two tripartite workshops on International Labour Standards, including C.87 and on labour inspection, in cooperation with the ILO. Moreover, a senior government official and a SWTUF representative have actively participated in the TURIN May Course on International Labour Standards where C.87 was presented and discussed.</p> <p>According to the SWTUF: The Labour Law is now agreed upon and is waiting for parliamentary adoption. The workers have a “Labour Academy” where regular trainings are held.</p> <p><b>2014 AR:</b> The Government mentioned that a tripartite workshop with the support of the ILO had taken place in 2013, with a view to promote the ratification of C.87.</p> <p>The SCIA indicated that it was in the process of conducting a joint study with the IOE on the informal economy and the interaction between the economies in the different provinces in Sudan, with a view to promote formal employment and the FPRW.</p> <p>According to the SWTUF: The SWTUF has conducted workshops and training activities promoting C.87 for trade union members and leaders, and joint workshops to share experiences on trade union organization and financing with trade unions from Egypt and Malaysia. The SWTUF participated in the tripartite workshop, held in 2013, with a view to promote ratification of C.87.</p> <p><b>2013 AR:</b> The Government indicated that tripartite workshops on the FPRW, with a view to promote the ratification of C.87, had taken place in 2012.</p> <p>The SCIA indicated that the Minister of Labour had organized promotional activities on the PR, in cooperation with the employers’ and workers’ organizations.</p> <p>According to the SWTUF: The SWTUF continuously conducts training activities for workers at the SWTUF owned Workers’ Training Academy and carries out a broad range of media outreach, such as a weekly page being published in three separate news papers for public awareness raising on workers’ rights. The SWTUF owns a printing press allowing them to perform widespread distribution. The SWTUF indicated plans of starting a local radio channel to serve as an additional tool in its promotional activities. Additionally, the STWUF reported that a workers’ owned bank provides unions and workers with financial support and microfinance programs for workers. The tripartite workshop mentioned in the 2012 AR had successfully been carried out in the end of 2011.</p> <p><b>2012 AR:</b> According to the Government, the SBEF and the SWTUF: A tripartite workshop on international labour standards and the Declaration is planned to take place in Khartoum in end of 2011 or in 2012, in cooperation with ILO.</p> <p><b>2011 AR:</b> The Government, the SBEF and the SWTUF referred to the first tripartite workshop organized in Khartoum in August 2010 on international labour standards, the declarations and reporting issues. According to them, this successful workshop proved to be a valuable tripartite capacity building exercise on ILO fundamental Conventions, the Declaration and other standards and social dialogue issues, including their relevance to decent work as a response to the ongoing crisis. It will also allow them to prepare better quality reports.</p> <p><b>2009 AR:</b> According to the SWTUF: Tripartite activities were organized for Members of Parliament who have a stake in trade union activities. In addition, workshop and seminars were held for trade union members concerning the PR.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government, SBEF, SCIA and SWTUF: in October 2014, a National Advisory Committee on Labour Standards (national and international) has been launched with ILO support and the participation of social partners and related ministries. Moreover, a Tripartite Memorandum of Understanding has been signed including ratification of C.87. This MoU was witnessed by the ILO.</p> <p><b>2013 AR:</b> The SWTUF indicated that a union bank was helping promote the principle and right through the development of microfinance programmes for trade unions and workers.</p> <p><b>2011 AR:</b> According to the Government: The new Act on Trade Unions adopted in 2010 makes progress in promoting freedom of association.</p> <p><b>2009 AR:</b> The According to the SWTUF: Tripartite activities were organized for Members of Parliament who have a stake in trade union activities. In addition, workshop and seminars were held for trade union members concerning the PR.</p> <p><b>2008 AR:</b> According to the SWTUF: Series of workshops were held to organize workers in the informal economy. As a result of this activity, many unions have been established in the informal economy (taxi drivers, bakeries, handicrafts, etc.)</p> <p><b>2007 AR:</b> According to SWTUF: Trade union elections and congress were held in April 2006. Moreover, women's participation in the trade union movement is promoted and they currently represent 25 per cent in many trade unions.</p> <p><b>2006 AR:</b> According to the Government: (i) an interim Constitution covering all human rights including the right to organize, is being drafted; and (ii) tripartite committees have revised the Labour Law, 1997 and are revising the Public Service, 1995 Act in the spirit of the PR.</p> <p><b>2003 AR:</b> According to the Government: In the public sector, collective bargaining concerning specific benefits have been carried out at sector and enterprise levels.</p>



<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2015 AR:</b> According to SBEF and SCIA: employers of the informal economy need guidance and support to organize and integrate into the formal economy. SBEF further indicated that the lack of political will for ratification and the new situation created by the separation of two independent states are critical challenges.</p> <p><b>2014 AR:</b> According to the SCIA: Freedom of association is fully enjoyed in Sudan and there are no obstacles to the ratification of C.87.</p> <p><b>2012 AR:</b> According to the SBEF: The political transitional situation in Khartoum is delaying the ratification process.</p> <p><b>2011 AR:</b> The SBEF reiterated that employers in the informal sector, particularly in the agricultural sector, would need to register so as to be organized for furthering and defending their interests.</p> <p><b>2010 AR:</b> The SWTUF and the SBEF and raised the following challenges: (i) political stability with the coming elections; (ii) capacity building for employers' organizations to convince entrepreneurs from the informal sector, particularly in the agricultural sector, to register; and (iii) undertake legal reforms in the 26 states of Sudan to achieve the realisation and implementation of the PR.</p> <p><b>2008 AR:</b> According to the SWTUF and the SBEF: The spirit of tripartism and social dialogue is lacking in Southern Sudan. According to the SBEF, the implementation of the right to organize in the informal economy is a major challenge in Sudan as this sector contributes to more than 70 per cent of the national income and more than 60 per cent of the workforce.</p>
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		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> SWTUF expressed satisfaction as regards the employers' new position in favour of ratification of C.87 and hoped that the Government would speed up this process. Furthermore, it expressed concern on the need to speed up the labour law reform process and make the new laws applied in practice.</p> <p><b>2014 AR:</b> According to the SWTUF: The ratification process of C.87 is hampered by the employers' reluctance to ratify and the Government's passivity in the process. Challenges in realizing freedom of association are more evident in the private sector, and in particular among foreign investors. While domestic investors tend to be more cooperative, cases where foreign investors actively obstruct workers' organization have been reported. Furthermore, increasing privatization is adding to the challenge, as private investors in general are more reluctant to permit freedom of association. Confrontations between trade unions and newly privatized companies in the sugar industries have taken place. Claims made by the trade unions have been successful and resulted in a parliamentary decision that privatization of companies should be consulted with the social partners and need to enjoy tripartite support.</p> <p><b>2013 AR:</b> According to the SWTUF: Difficulties seriously hampering the ratification process of C.87 are related to the unwillingness by the employers and the lack of interest from the Government's side to ratify C.87. The private sector is in general more difficult in terms in realizing freedom of association. Two affiliates of the SWTUF have been targeting the engineering and electricity industries of the private sector, as well as the food industry. These industries represent specifically challenging cases within the private sector in terms of ensuring the provisions of C.87. Small enterprises are also a major challenge due to difficulties in organizing workers. The crisis which has deepened following political instability and rise in petrol prices have obstructed the unions' collective bargaining attempts and postponed demands of wage increases.</p> <p><b>2012 AR:</b> According to the SWTUF: The political transitional situation in Khartoum is delaying the ratification process.</p>
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			<p><b>2011 AR:</b> The SWTUF mentioned the need to undertake legal reforms and capacity building in the 26 states of Sudan to achieve a better implementation of the PR in the country.</p> <p><b>2010 AR:</b> The SWTUF and the SBEF raised the following challenges: (i) political stability with the coming elections; (ii) capacity building for employers' organisation to convince entrepreneurs from the informal sector to register themselves particularly in the agricultural sector; and (iii) undertake legal reforms in the 26 states of Sudan to achieve the realisation of the PR.</p> <p><b>2007-2009 ARs:</b> According to the ICFTU and the ITUC: (i) the current Labour Code that came into effect in December 2000 continues to deny trade union freedoms and reinforces Government control over trade unions; (ii) the General Registrar has extensive power on trade unions' elections; (iii) trade unions that operate outside the state-controlled the SWUTF live in constant fear; (iv) in the same vein, the Trade Union Act, 1992, establishes a trade union monopoly controlled by the Government; (v) since the adoption of the Trade Union Act, 1992, strikes have been outlawed.</p> <p><b>2008 AR:</b> According to the SWTUF and the SBEF: The spirit of tripartism and social dialogue is lacking in Southern Sudan. In addition, several strikes were organized by trade unions in the bank, health and education sectors. The problems were solved after tripartite negotiations and agreements on wage increase in these sectors. In the States of Kordofan, Blue Nile and Equatorial, successful agreements on wages and allowances were also concluded after strikes.</p> <p><b>2001 AR:</b> According to the ICFTU: Since 1989, there are no democratic trade unions in Sudan.</p>
	<p><b>According to the Government</b></p>		<p><b>2015 AR:</b> According to the Government: Labour inspection is weak, but the Government hopes that the ILO technical assistance on labour inspection provided in May 2014 in Khartoum would contribute to strengthening the capacity of labour inspectors.</p> <p><b>2014 AR:</b> The Government indicated that there is a need for the tripartite partners to reach a consolidated approach towards the ratification of C.87.</p> <p><b>2013 AR:</b> According to the Government: The main difficulty in realizing and implementing the PR in the country is the lack of consensus between the employers and workers on the new draft law. Following the objections by both parties, the Government has withdrawn the new draft law from the cabinet and will make new amendments before a resubmission to the social partners' for discussions and consultations.</p> <p><b>2012 AR:</b> According to the Government: The political transitional situation in Khartoum is delaying the ratification process.</p> <p><b>2010 AR:</b> According to the Government: The Government raised the following challenges: (i) amending the labour laws and accommodate every stakeholder in Sudan; (ii) political and social stability; (iii) better understanding of the ILO's labour standards by the tripartite partners; and (iv) visa problem to attend training session organised by ILO outside the African region.</p> <p><b>2008 AR:</b> The Government supports the view of the SBEF concerning the challenges on the implementation of the right to organize in the informal economy.</p> <p><b>2003 AR:</b> According to the Government: The main difficulties encountered in Sudan in realizing the PR are as follows: (i) social and economic circumstances; (ii) political situation; (iii) prevailing employment practices; and (iv) legal provisions.</p>



<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> The Government, SBEF, SCIA and SWTUF urged ILO to provide technical assistance for the implementation of the Tripartite MoU of October 2014, including the strengthening of the National Advisory Committee on Labour Standards, labour inspection and tripartite partners as well as the ratification of C.87 and its full application in the informal economy. The Government further stressed that there is a need for more workshops and capacity-building activities especially for the Cabinet, Parliament and Ministry of Justice.</p> <p><b>2014 AR:</b> According to the Government: ILO technical cooperation is crucial to enable the tripartite partners to move ahead with the ratification of C.87. There is particularly a need for training to increase the legal literacy of the tripartite partners, strengthen social dialogue and to enhance the commitment towards the ratification of C.87 by all tripartite partners.</p> <p>The SCIA requested ILO technical cooperation to provide legal training to the employers and build the capacity of the employers' organizations.</p> <p>The SWTUF requested ILO technical cooperation to build the capacity of the Government and provide expertise on how to enable the country to move forward in the ratification process of C.87.</p> <p><b>2013 AR:</b> The Government reiterated the same demand for ILO's technical support as under the 2012 AR.</p> <p>The SCIA requested ILO technical cooperation to assess employers' needs and build their capacity.</p> <p>The SWTUF requested ILO technical cooperation to provide training of trainers focused on the FPRW. ILO support would also be needed in order to strengthen the capacity of workers' organizations and sensitize their representatives on the implication of their role. Further technical cooperation should focus on small enterprises in which the workers remain difficult to organize.</p> <p><b>2012 AR:</b> The Government expected that ILO technical support to the tripartite workshop on international labour standards and the Declaration would be provided as soon as possible.</p> <p>According to the SBEF and the SWTUF: There is a need for technical cooperation for capacity building programmes on international labour standards, especially on FOA for each of the 48 states of Sudan + 8 programmes in Khartoum for a total of 56 programmes in Sudan.</p> <p><b>2011 AR:</b> According to the Government, the SBEF and the SWTUF: There is a need for technical cooperation to facilitate the realization of the PR in the following areas: (i) further capacity building of the tripartite partners, particularly for the responsible government institutions; (ii) Revision of the laws of the 26 states of Sudan; (iii) training by ILO of the responsible institutions of the 26 states; (iv) reinforcement of the social dialogue; and (v) brainstorming with national stakeholders and ILO's experts on the best modus operandi to implement and realize the PR in Sudan.</p> <p><b>2010 AR:</b> According to the Government, the SBEF and the SWTUF: There is a need for technical cooperation to facilitate the realization of the PR in the following areas: (i) capacity building of the tripartite partners, particularly for the responsible government institutions; (ii) reorganization of the laws of the 26 states of Sudan; (iii) training by ILO of the responsible institutions of the 26 states; (iv) reinforcement of the social dialogue; (v) brainstorming with national stakeholders and ILO's experts on the best modus operandi to implement and realize the PR in Sudan. The SWTUF further indicated its readiness to provide logistical support to facilitate ILO's training activities for workers in Sudan.</p> <p><b>2009 AR:</b> The Government, the SBEF and the SWTUF indicated that the ILO's technical cooperation was needed to strengthen tripartism and social dialogue.</p> <p><b>2008 AR:</b> The Government requested the ILO's assistance to strengthen the federal and state governments' capacity to realize the PR.</p> <p>The SBEF requested the ILO's support to strengthen its capacity on freedom of association issues.</p> <p>The SWTUF requests the ILO's technical cooperation to strengthen tripartism and social dialogue in Southern Sudan. In addition, ILO technical cooperation was requested in 2006 on the ILO Declaration Follow-up.</p>
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		<p><b>2007 AR:</b> The Government reiterated its request for ILO technical cooperation to organize a national tripartite workshop with a view to raising awareness-raising activities on the PR.</p> <p>According to the SBEF: The ILO's technical cooperation would be necessary especially in training and capacity building for employers' organizations.</p> <p>According to the SWTUF: Capacity building is really needed for trade unions in Southern Sudan.</p> <p><b>2006 AR:</b> According to the Government: The ILO's technical support to Sudan should be strengthened to promote and realize the PR, with a particular focus on freedom on association.</p> <p>The SWTUF requested the ILO's support for the organization of training courses and workshops for trade unionists in Sudan, with a special emphasis on war-affected areas.</p> <p><b>2005 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Sudan exist in the following areas: (i) awareness rising on the PR; (ii) capacity building of labour administration and social partners.</p> <p>According to the SWTUF: ILO technical cooperation would be necessary especially in raising awareness on the PR.</p>
	<p><b>Offer</b></p>	<p><b>2011 AR:</b> ILO (First Tripartite National Workshop on international labour standards, ILO Declarations and Report Writing organized in August 2010).</p> <p><b>2005 AR:</b> According to the Government: In 2004, a number of activities were organized by the SWTUF in cooperation with the ILO, the Organization of African Trade Union Unity (OATUU) and Arab countries.</p>
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) encouraged Sudan (and few other governments) to complete its legal review process to remove the obstacles to ratification of C.87. They also acknowledged the high number of promotional activities concerning the PR in Sudan (and some other countries), and encouraged the Office to maintain its efforts to support these activities. However, they listed Sudan among the countries where some unions were subject to government's interference or influence, and recalled in this regard the following: "the right to official recognition is an essential aspect of the right to organize as it allows employers' and workers' organizations to be in a position to play their roles efficiently. Furthermore, any government intervention in employers' and workers' organizations' internal affairs (right to establish and join organizations of their own choosing, without distinction whatsoever and without previous authorization, right to draw up internal constitutions and rules, right to elect their representatives in full freedom, etc.) constitutes interference in the functioning of these organizations, which is a denial of the principle and right" (cf. paragraphs 32, 35 and 36 of the 2008 AR Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs listed Sudan among the countries that had been indicating their intention to ratify C.87 for several years, with no indication that progress had been made (cf. paragraph 33 of the 2007 AR Introduction – ILO: GB.298/3).</p> <p><b>2003 AR:</b> The IDEAs were encouraged to see the Government of Sudan pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help (cf. paragraph 73 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>2</sup>: THAILAND**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2000 Annual Review (AR).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' (Employers' Confederation of Thai Trade and Industry (ECONTHAI) and the Employers' Confederation of Thailand (ECOT)) and workers' organizations (the National Congress of Thai Labour (NCTL), the State Enterprise Workers' Federation of Thailand (SEWFOT), the State Enterprises Workers' Relations Confederation (SERC), the Confederation of Thai Labour (CTL) and the Thai Trade Union Congress (TTUC); and workers' representatives of the Aeronautical Radio of Thailand Ltd. (AEROTHAI)), through communication of government reports and tripartite meetings on reporting issues.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2015 AR:</b> Observations by the SEWFOT. Observations by the ECOT.</p> <p><b>2012 AR:</b> Observations by the ECOT.</p> <p><b>2010 AR:</b> Observations by ECONTHAI.</p> <p><b>2008 AR:</b> Observations by ECONTHAI comprised of 22 affiliates.</p> <p><b>2007 AR:</b> Observations by ECOT.</p> <p><b>2004 AR:</b> Observations by ECONTHAI.</p> <p><b>2003 AR:</b> Observations by ECOT.</p>

<sup>2</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<b>Workers' organizations</b>	<p><b>2015 AR:</b> Observations by the SEWFOT.</p> <p><b>2014 AR:</b> Observations by the SEWFOT.</p> <p><b>2013 AR:</b> Observations by the AEROTHAI. Observations by the NCTL. Observations by the SEWFOT.</p> <p><b>2012 AR:</b> Observations by the NCTL, the SERC, the CTL and the TTUC.</p> <p><b>2011 AR:</b> Observations by the NCTL.</p> <p><b>2010 AR:</b> Observations by the NCTL. Observations by the SEWFOT.</p> <p><b>2009 AR:</b> Observations by the NCTL. Observations by the International Trade Union Confederation (ITUC).</p> <p><b>2008 AR:</b> Observations by the NCTL. Observations by the ITUC.</p> <p><b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).</p> <p><b>2006 AR:</b> Observations by the ICFTU.</p> <p><b>2004 AR:</b> Observations by the NCTL.</p> <p><b>2003 AR:</b> Observations by the NCTL.</p> <p><b>2002 AR:</b> Observations by the ICFTU.</p> <p><b>2001 AR:</b> Observations by the ICFTU.</p> <p><b>2000 AR:</b> Observations by the ICFTU.</p>
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<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	Thailand has ratified neither the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) (C.87), nor the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98).
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		<p><b>Ratification intention</b></p>	<p><b>YES, in process since 2013, for C.87 and C.98.</b></p> <p><b>2015 AR:</b> According to the Government: the ratification process for C.87 and C.98 has been pursued under the procedures of the National Council for Peace and Order (NCPO) through organizing a meeting on 30th July, 2014 to discuss on the ratification of the Conventions with the offices concerned. As a result, the meeting agreed to continue proceeding with the ratification. Once all the procedures are completed, the Government will promptly inform the ILO. However, the Government indicated that, although it still intends to ratify both Conventions, the new interim constitution requires prior harmonization. Two relevant acts (Labour Relations Act and State Enterprise Labour Relation Law) have been modified but were taken back from the Cabinet to the tripartite meetings again.</p> <p>According to ECOT: the current political situation makes it difficult to support the ratification of C. 87. However, although ratification of C.98 can be supported, political stability must first be restored and Parliament re-established.</p> <p>SEWFOT is hopeful that ratification will happen in the next 2 years but expressed concern over the situation in the informal sector.</p> <p><b>2014 AR:</b> According to the Government: With a view to possible ratification of C.87 and C.98, legal amendments to the Labour Relations Act B.E. 2518 (1975) and the State Enterprises Labour Relations Act B.E. 2543 (2000) have been proposed and are currently being considered by the Council of States. These legal amendments aim to bring the national legislation in conformity with the provisions of C.87 and C.98.</p> <p>The SEWFOT expressed its strong support for the ratification of C.87 and C.98, indicating that it had been pushing the Government to move forward in the ratification process.</p> <p><b>2013 AR:</b> According to the Government: With a view to possible ratification of C.87 and C.98, legal amendments to the Labour Relations Act B.E. 2518 (1975) and the State Enterprises Labour Relations Act B.E. 2543 (2000) have been proposed and are currently being considered by the Council of States. These legal amendments aim to bring the national legislation in conformity with the provisions of C.87 and C.98.</p> <p>The AEROTHAI expressed its strong support for the ratification of C.87 and C.98.</p> <p><b>2012 AR:</b> According to the Government: Due to current political change, the Government’s position concerning the remaining non-ratified core conventions, including C.87 and C.98, will be communicated to the ILO in the near future.</p> <p>According to the ECOT: The Government is in the process of ratifying C.87 and C.98. A proposal of ratification has been presented to Parliament; decision is pending due to elections in July 2011. The ECOT has expressed its reservation to the ratification of C.87 and C.98.</p> <p>The NCTL, the SERC, the CTL and the TTUC expressed their strong support for the ratification of C.87 and C.98. According to them, the proposed ratification of C.87 and 98 has been approved without reservation by the Cabinet, as the conventions were not found to be in contradiction with the Constitution. The proposal for ratification is now back at the Ministry of Labour. Additionally, a decision has been taken by the Parliament to amend the labour law according to the Conventions, as the old labour legislation is not in line with C.87 and C.98.</p>
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			<p><b>2011 AR:</b> The Government indicated that it was preparing draft amendments to the Labour Relations Act and the State Enterprise Labour Relations Act, which will include the principle and right (PR). These amendments will be submitted to Cabinet for preliminary approval before its submission to Parliament for final approval.</p> <p>The NCTL expressed its full support for the ratification of C.87 and C.98 and urged the Government to speed up the process.</p> <p><b>2010 AR:</b> The Government reiterated the ratification commitment it had made under the 2009 AR. The ECONTHAI indicated its full support for the ratification of C.87 and C.98 by Thailand.</p> <p>The NCTL and the SEWFOT expressed its full support for the ratification of C.87 and C.98 and urged the Government to speed up the process.</p> <p><b>2009 AR:</b> According to the Government: The Government has appointed a working group to prepare draft amendments to nationals with a view to ensuring compliance with the provisions of C.87 and C.98.</p> <p>The NCTL reiterated its support for the ratification of C.87 and C.98 as the principle and right is promoted in the new national Constitution B.E 2550 (2007).</p> <p><b>2008 AR:</b> ECONTHAI supported the ratification of C.87 and C.98 and indicated that a tripartite meeting had been set up.</p> <p>The NCTL also indicated its support for the ratification of C.87 and C.98.</p> <p><b>2007 AR:</b> According to the Government: The survey for ratification of C.87 and C.98 has been completed. However, ILO technical cooperation would be needed to ensure compliance of national labour laws with the provisions of C.87 and C.98.</p> <p>The ECOT stated that ratification of C.87 and C.98 should be considered following national labour law review and tripartite consultations.</p> <p><b>2004 AR:</b> The Government, through the Department of Labour Protection and Welfare (DLPW), stated that a budget had been allocated to study the readiness of Thailand to ratify C.87 and C.98.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government intended to ratify C.87 and C.98.</p> <p><b>2001 AR:</b> The Government indicated that it had undertaken to review national legislation and practices in respect of C.87 and C.98, after discussions with ILO experts in the multidisciplinary team (MDT) in Bangkok. It had planned to undertake a study and research in the first quarter of 2001, funded by the ILO on relevant existing national laws and practices.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p><b>2008 AR:</b> According to the Government: A new Constitution (B.E 2550 (2007)) was promulgated in August 24, 2007, which provides freedom for association for all persons including Government and State officials.</p> <p>The Constitution of the Kingdom of Thailand, B.E. 2540 (1997), in chapter 8, sections 199 and 200, provides for freedom of assembly and association, except by virtue of a law specifically enacted for protecting the common interest of the public, maintaining public order or good morals or preventing economic monopoly (section 45).</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> </ul> <p><b>2007 AR:</b> According to the Government: the Department of Labour Protection and Welfare (DLPW) of the Ministry of Labour and Social Welfare has established a policy and procedures to enhance the capacity of the social partners on the principle and right (PR).</p> <p><b>2001 AR:</b> According to the Government: the Department of Labour Protection and Welfare of the Ministry of Labour and Social Welfare has established policy guidelines for labour officers to promote sound industrial relations through: (i) bipartite consultation system in order to prevent labour disputes and labour management committees; (ii) grievance procedures; (iii) effective mechanisms; (iv) tripartite bodies for joint consultations on broad social and economic policies affecting industrial relations; (v) the establishment of employers' and workers' organizations; (vi) training programmes for employers and workers; and (vii) review of industrial relations provisions.</p> <ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p><b>2015 AR:</b> According to the Government: The Council of State has reviewed the draft revisions of the Labour Relations Act B.E.2518 (1975) and the State Enterprise Labour Relations Act B.E.2543 (2000). The draft laws are being submitted to the Cabinet and the National Legislative Assembly for approval.</p> <p><b>2013-2014 ARs:</b> According to the Government: The Department of Labour Protection and Welfare have conducted a revision of the Labour Relations Act B.E. 2518 (1975) and the State Enterprises Labour Relations Act B.E. 2543 (2000), with the aim of developing the labour relations system in compliance with the provisions of C.87 and C.98. The drafts are pending before the Council of State.</p> <p><b>2013 AR:</b> The AEROTHAI indicated that there is a need for legal changes and the introduction of collective agreements as a regulative measure. The NCTL and the SEWFOT shared a detailed report of contradictions that had been identified between the Thai Labor Relation Act and the provisions of C.87 and C.98: (i) different criteria for who is eligible to organize a trade union and a trade union committee; (ii) different principles on trade union association and organization; (iii) the number of trade unions in one company/enterprise; (iv) outsourced/contracted workers are not allowed to be trade union members; (v) the right to manage a trade union without any intervention from the Government; (vi) different regulations concerning the right to strike; (vii) differences in trade union</p>



			<p>protection and the right to collective bargaining.</p> <p><b>2012 AR:</b> According to the NCTL, the SERC, the CTL and the TTUC: A decision has been taken by the Parliament to amend the current labour legislation as it is not in line with C.87 and C.98.</p> <p><b>2011 AR:</b> According to the Government: The Labour Relations Act B.E. 2518 (1975) and the State Enterprise Labour Relations Act B.E.2543 (2000), is in the process of revision, with the aim of developing the national labour relations system in compliance with the PR. In addition, the Civil Servants Act, B.E.2551 (2008) section 43, has been amended to incorporate the provisions of the PR. Civil servants enjoy freedom of association as mentioned in the Constitution, provided that such assembly has no political objectives and does not affect the efficiency of the national administration and the continuity of public services.</p> <p>According to the NCTL: The Royal Decree that allows Thai civil services to form their own union is not enacted, despite the amendments made to the Civil Service Act in 2008.</p> <p><b>2008 AR:</b> According to the NCTL: The new draft Labour Relations Law will guarantee workers' rights in the public and private sectors.</p> <p><b>2007 AR:</b> According to the Government: In 2005, the DLPW set the Code of Practice for Promotion of Labour Relations in Thailand B.E.2548, which was a revision of Code of Practice B.E. 2539, aiming to rectify the Code to be appropriate with changing of current situations to enhance trade unions competitiveness especially in industrial sector.</p> <ul style="list-style-type: none"> <li>- Government's prospects: Harmonize national labour laws with ratified Conventions and ILO fundamental Conventions.</li> <li>- Means of action: Legal reform in process since 2001 in cooperation with the ILO.</li> </ul> <p>The Labour Relations Act, B.E. 2518 (1975); the State Enterprise Labour Relations Act, B.E. 2534 (1991) and its amendment (in 2000); the Establishment of the Labour Court and Labour Court Procedure Act, B.E. 2522 (1979) and the Code of Practice for the Promotion of Labour Relations in Thailand, B.E. 2539 (1996) relate to the PR.</p> <p><b>2002 AR:</b> The Government received assistance from the ILO specialists based in the ILO Regional Office for Asia and the Pacific, in particular in reviewing existing labour relations laws to harmonize them with the PR. The Government, through the Ministry of Labour and Social Welfare, strongly encouraged and invited civil society and social partners to participate actively in strengthening the PR at national and international levels.</p> <p><b>2001-2002 ARs:</b> According to the Government: The country labour laws are being reviewed to incorporate the provisions of ratified Conventions and those of the fundamental principles and rights at work. Human, material and financial resources have been provided to facilitate the realization of the PR and amendments have been made to the Labour Relations Act of 1975 to make it more compatible with the PR.</p>
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		<b>Basic legal provisions</b>	(i) Constitution of the Kingdom of Thailand, B.E. 2540 (1997) (chapter 8, sections 199 and 200); (ii) Labour Relations Act, B.E. 2518 (1975); (iii) State Enterprise Labour Relations Act, B.E. 2534 (1991) and its amendment (in 2000); (iv) Establishment of the Labour Court and Labour Court Procedure Act, B.E. 2522 (1979); (v) Code of Practice for the Promotion of Labour Relations in Thailand, B.E. 2539 (1996); (vi) Civil Service Act, B.E. 2551 (2008), section 43.		
		<b>Judicial decisions</b>	<b>NIL.</b>		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<b>2003 AR:</b> Prior government authorization is necessary to operate employers' organizations (compulsory registration by the Registrar under the Labour Relations Act B.E. 2518, section 55). All categories of employers can set up their organizations.	
		<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Workers</b>	<p><b>2012 AR:</b> According to the Government: All workers in the public sector do not enjoy freedom of association, and civil servants, teachers, university officials, legislative body officials, police officers, public prosecutor, judges, autonomous organization officials, Bangkok Metropolitan officials, provincial administration officials, sub-district administration organization officials, municipal officials, workers of the Bank of Thailand, as well as management in state enterprises cannot exercise the right to collective bargaining.</p> <p><b>2003 AR:</b> Prior government authorization is necessary to operate workers' organizations (compulsory registration by the Registrar under the Labour Law, section 87). Freedom of Association (FOA) can be exercised by medical professionals, teachers, and agricultural workers, workers engaged in domestic work, workers in export processing zones (EPZs) or enterprises/industries with EPZ status, migrant workers, workers of all ages, and workers in the informal economy. The State Enterprise Labour Relations Act B.E. 2543, section 42, contains provisions for the establishment of a State Enterprise Trade Union.</p> <p>However, FOA cannot be exercised by all public servants or workers under the age of 15. Concerning domestic workers, the right to organize and the right to collective bargaining shall be considered as the basis of the legal relations between employers and employees under the labour law.</p>	
			<b>Special attention to particular situations</b>	<b>2013 AR:</b> According to the AEROTHAI: Special attention is given to organizing workers in the private sector, with a view to raise the minimum standards of working conditions and wage levels for the workers worst off in the private sector.	
			<b>Information/ Data collection and dissemination</b>	According to the Government: There is a lack of information and data.	



		<p><b>At international level</b></p>	<p>According to the Government: There are no particular restrictions for the international affiliation of employers' and workers' organizations.</p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2004 AR:</b> According to the Government: Any employer who violates the PR shall be liable to a fine or to imprisonment (section 130 of the Labour Relations Act, B.E. 2518, sections 158 and 159).</p> <p><b>2001-2005 ARs:</b> According to the Government: Inspection/monitoring mechanisms are envisaged to ensure the implementation of the PR. The PR is enforced through law, collective agreements, free dispute settlement procedures and tripartite consultations at all levels.</p>	
	<p><b>Involvement of the social partners</b></p>	<p><b>2013 AR:</b> According to the AEROTHAI: Social dialogue is practiced in terms of negotiations concerning wage levels, social security and welfare issues.</p> <p><b>2012 AR:</b> According to the Government: C.87 and C.98 have previously been under social dialogue.</p> <p>According to the ECOT: Tripartite collaborations took place before the proposal of ratification was presented to Parliament, where ECOT expressed their reservation to the ratification of C.87 and C.98. A good collaboration exists between the ECOT and the trade unions.</p> <p>According to the NCTL, the SERC, the CTL and the TTUC: The Government is currently working closely with the workers' representatives to amend the labour law and finalize the ratification of C.87 and C.98. The employers' representatives have approved the ratification, as it has been approved by Government and social partners in the National Working Group, in which the NCTL, the SERC, the CTL and the TTUC take part.</p> <p><b>2009-2010 ARs:</b> According to the Government: The Government has appointed a working group to prepare draft amendments to national laws with a view to ensuring compliance with the provisions of C.87 and C.98. The ILO has been invited to provide technical support to this group and formulate observations and recommendations on the draft amendment.</p> <p><b>2001-2002 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in the promotion and training on labour relations and in strengthening the PR at both the national and international levels.</p>	

	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: the Ministry of Labour organized five seminars for trade union representatives in both formal and informal sectors, which garnered a total of 541 participants.</p> <p><b>2013 AR:</b> According to the Government: In 2012, the Department of Labour Protection and Welfare conducted training courses for over 250 workers and trade union representatives. It continuously undertakes significant measures to promote and respect the PR by supporting the establishment of trade unions, in line with the Thai Labour Standard (TLS. 8001-2003).</p> <p>According to the AEROTHAI: AEROTHAI has been promoting legal changes to encourage the Government to ensure that the provisions of C.87 and C.98 are incorporated into the national legislation. Trade unions operating within state owned enterprises, in which trade union membership is compulsory, have created better working conditions in comparison to the conditions in the private sector.</p> <p><b>2012 AR:</b> According to the Government: Capacity building for employers’ and workers’ organizations has been conducted covering both freedom of association and the right to collective bargaining, as well as awareness raising and advocacy on the issues.</p> <p>According to the ECOT: In accordance with the Constitution, a public hearing is expected to take place before a final approval to ratify C.87 and C.98 will be given by the Parliament. This might push the completion of the ratification process further ahead.</p> <p><b>2011 AR:</b> According to the Government: Awareness raising campaign and training programmes have been organized.</p> <p><b>2010 AR:</b> According to the NCTL: A working team has been set up to help workers better understand and promote the PR.</p> <p><b>2009 AR:</b> The Government indicated that it had encouraged the establishment of workers’ committees and encouraged workers to form trade unions.</p>
		<p><b>2008 AR:</b> ECONTHAI indicated that it had organized several activities regarding the promotion of the PR including bipartite discussions.</p> <p>According to the NCTL: several activities were carried out within the industrial sectors in order to train the unions. Seminars on collective bargaining are also organized regularly in collaboration with the social security services. The NCTL is moreover participating in the labour law review process regarding the new draft Labour Relations Law and has submitted its comments to the Government.</p> <p><b>2007 AR:</b> According to the Government: The DLPW has established a policy and procedure for preparing the capacity of the social partners by means of organising training courses on the PR. Since Government Fiscal Year 2004, training courses on labour relations have been organized for employers and employees. Number of training courses, 125 and number of trainees 8,365.</p> <p><b>2001-2005 ARs:</b> The Government reported on frequent training of and dissemination of information to government officials and social partners. Awareness-raising initiatives have been implemented in relation to the PR, through the Code of Practice for the Promotion of Labour Relations in Thailand, 1996.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2013 AR:</b> According to the Government: The Department of Labour Protection and Welfare has taken significant measures to promote the establishments voluntarily applying to the requirements 5.1 of the Thai Labour Standard (TLS. 8001-2003) that is “the establishment shall respect the employees’ rights of association to form and join a trade union and also respect the employees’ rights to bargain collectively”. A total of 1,713 establishments have benefited from these measures from fiscal years 2003 to 2012.</p> <p><b>2012 AR:</b> According to the Government: C.87 and C.98 have previously been under social dialogue and presented to the Parliament, the decision of which is pending.</p>



			<p><b>2011 AR:</b> According to the Government: Several measures have been taken to promote the establishments voluntarily applying to the Thai Labour Standards (TLS 8001-2003). Promoting the PR is set in the requirement 5.10 which provides that “the establishments shall respect the workers’ rights of association to form and join a trade union as well as the workers’ rights to bargain collectively”. 1,471 establishments are voluntarily applying the requirements of this standard.</p> <p><b>2009-2010 ARs:</b> According to the Government: The Government has appointed a working group to prepare draft amendments to nationals with a view to ensuring compliance with the provisions of C.87 and C.98. The Ministry of Labour has organized tripartite seminars on these issues where ILO was invited to provide technical support and formulate observations and recommendations on the draft amendment.</p> <p><b>2004 AR:</b> According to the Government: Special initiatives on the PR have been taken through: (i) the revision of existing labour relations laws; (ii) the promotion of a bipartite and tripartite labour relations system; and (iii) the support provided to trade unions, training of employers and workers.</p>
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2010 AR:</b> According to the ECONTHAI: There is a lack of understanding of the PR and international labour standards (ILS) by the tripartite partners.</p> <p><b>2007 AR:</b> According to ECOT: There is a lack of data on the PR.</p> <p><b>2004 AR:</b> According to the ECOT: There is a lack of information and data.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2014 AR:</b> According to the SEWFOT: Legal obstacles are the main challenge to the ratifications of C.87 and C.98. The Government has shown little political will to undertake legal revisions and move ahead with the ratifications, despite workers’ organizations’ efforts to promote the ratifications. Trade unions are operating in state enterprises, but the governmental and private sectors remain challenging for realizing the PR.</p> <p><b>2013 AR:</b> According to the AEROTHAI: Despite efforts to promote the ratifications of C.87 and C.98 and negotiation efforts with the Government, the Government has shown little political will to move ahead with the ratifications. The Government and the employers have taken on a joint position against the ratification of the conventions, due to a problematic common interest between the two parties with several politicians also being employers of large enterprises. Many politicians are due to this situation reluctant to ratify C.87 and C.98, as they believe the ratifications would affect them personally in the sense that it would change the environment in which they are operating in as employers. Furthermore, political instability is hampering both the ratification of C.87 and C.98 as well as the realization of the PR. The political instability has, along with the insecurity in the world economy, created economic instability. Both political and economic instability will have to be stabilized before the Government will be able to focus on labour and social security such as ensuring freedom of association and the right to collective bargaining. Another challenge is that the employers in general do not see their role in the labour relations, and do not see the trade unions as a social partner with which there should be collaboration. The power imbalance between the employers and the trade unions seriously destructs attempts to realize the PR. There is also a lack of legal provisions to protect workers who are being dismissed as a consequence of repression against trade union members. It is in particular challenging to realize the PR in there private sector, where freedom of association and the right to collective bargaining currently is very limited.</p>

			<p><b>2012 AR:</b> According to the NCTL, SERC, CTL and TTUC: Several barriers remain to be overcome in the amendment of the labour law, and hence in the ratification process. The National Working Group needs to overcome some differences of opinion regarding specific sections in the amendment of the labour law. The time frame for finalization and adaptation of the amended labour law depends on how successful the collaboration process in the National Working Group will be. This consultation process should approximately last one year. General elections taking place in July 2011 will need to be taken into account when considering the time frame, as the outcome of the elections may change the ratification prospects.</p> <p><b>2010 AR:</b> The NCTL and SEWFOT raised the following challenges: (i) employers restrained the right to establish trade unions in their enterprises; (ii) freedom of association is restricted in state enterprises; (iii) a little percentage of workers are unionized; (iv) national legislation needs to be amended to merge the state and private unions; (v) inform the employers of the benefit of enjoying freedom of association; and (vi) as a prerequisite to realize implement the PR, the Labour Relation Act needs to be amended.</p> <p><b>2007-2009 ARs:</b> According to the ICFTU and the ITUC: (i) lack of priority given by the Government to labour issues; (ii) labour courts are very slow to handling disputes; (iii) no effective protection against anti-union discrimination; (iv) no union protection in universities; (v) restrictions on trade union rights to have more than two advisers; (vi) limitation of freedom of association in state enterprises; (vii) only a small proportion of workers are unionized; (viii) an estimated 5 per cent of employed workers are covered by collective bargaining agreements; (ix) migrant workers cannot enjoy full freedom of association.</p> <p><b>2008 AR:</b> The NCTL is still concerned about the implementation of the principle of FACB in the police, civil servants and military sectors, particularly regarding their right to strike. It added that 50 per cent of the workers are in the agricultural sector. They are not aware of their rights, particularly their right to organize. Finally, the NCTL indicated that the multinationals operating and investing in Thailand often don't abide by national legislations.</p> <p>The ITUC raised the (following) additional challenges: (i) civil servants are excluded from both the State Enterprise Labour Relations Act (SELRA) and the Labour Relations Act (LRA), and there are clear government regulations saying they cannot form unions; (ii) restrictions on the right to strike in state enterprises, civil servants are denied this right and in the private sector the government may restrict strikes that would "affect national security or cause severe negative repercussions for the population at large"; (iii) the LRA forbids strikes in "essential services", which it defines in broader terms than those set out by the ILO; (iv) labour courts are very slow in handling disputes.</p>
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			<p><b>2006 AR:</b> The ICFTU raised the following additional challenges: (i) there are no specific protections for union founders or committee members; (ii) affiliation between State enterprise unions and private sector labour congresses or federations is restricted by the State Enterprise Labour Relations Act; (iii) a very small proportion of the total workforce is unionised (3.5 per cent in 2002); (iv) an estimated five per cent of employed workers are covered by collective bargaining agreements; (v) workers who do enjoy the right to join a union and collective bargaining are often victims of anti-union harassment; (vi) employers frequently dismiss workers trying to form trade unions; (vii) even where a court has ordered the reinstatement of an illegally fired worker, employers often react by offering substantial severance pay in lieu of reinstatement.</p> <p><b>2000-2005 ARs:</b> The ICFTU raised the following challenges: (i) there is a lack of protection of unions; (ii) restrictions on trade union rights to have advisers; (iii) legal and political barriers in establishing and operating trade unions; (iv) absence of union for civil servants; (v) there are restrictions on the right to strike; (vi) trade union rights are weak under the proposed new law; (vii) there are restriction on FOA in the context of privatization; (viii) there are abuses of legal provisions (such as article 75 of the 1998 Labour Protection Act) to keep trade unionists out of the factory; (ix) labour courts are inefficient; (x) there are restrictions on freedom of association of migrant workers; (xi) decentralized industries are located in border areas, where union density is low or non-existent.</p> <p><b>2005 AR:</b> The NCTL raised the following challenges: (i) there are no major improvement in FOA; (ii) there is a lack of organization of workers in the public service and in the informal sector; (iii) the right to organize is denied to workers that are not employees; and (iv) there is lack of a general union in lieu of enterprise unions.</p> <p><b>2002-2004 ARs:</b> The NCTL raised the following challenges: (i) there are restrictions on the right to establish trade unions; (ii) State enterprise employees in the private sector are banned from joining a federation or a confederation; (iii) the right to establish trade unions is violated; and (iv) there is a need to amend the Labour Relations Act, 1975.</p>
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	<p><b>According to the Government</b></p>	<p><b>2012 AR:</b> According to the Government: Similarly to previous years, the main difficulties encountered with respect to realizing the principle of freedom of association and effective recognition of the right to collective bargaining are related to: (i) lack of public awareness and/or support; (ii) social values and cultural traditions; and (iii) legal provisions.</p> <p><b>2011 AR:</b> The Government indicated that a survey was conducted among government agencies to assess the difficulties of realizing the PR in the country. It further mentioned that the main challenge for the country was to find a different system for workers' representation given the high percentage of migrant workers in the country. This should be carried out without endangering the country's sovereignty.</p> <p><b>2009 AR:</b> The Government stated that it needed to overcome many bureaucratic problems.</p> <p><b>2004-2006 ARs:</b> The Government identified the main difficulties encountered in Thailand in realizing the PR as follows: (i) social values, cultural traditions; (ii) social and economic circumstances; (iii) political situation; (iv) legal provisions; (vi) prevailing employment practices; and concerning collective bargaining, the Government also encounters difficulties related to the lack of capacity of employers' and workers' organizations.</p> <p><b>2004-2005 ARs:</b> In response to the ICFTU's observations, the Government made the following comments: Prior to taking any legal actions, a trade union must be registered under the Labour Relations Act (LRA 1975). The revised draft of the LRA 1975 prohibits unfair labour practices, promotes FOA and provides for collective bargaining and dispute settlement. Furthermore, under section 4 of the LRA 2000 (3<sup>rd</sup> issue), a State enterprise trade union federation can become a member of an employees' organization council. Moreover, the Government has undertaken a survey with a view to ratifying C.87 and C.98. When strikes are prohibited, it happens especially in enterprises of public interest. In addition, tripartite consultations are being envisaged by the Department of Labour Protection and Welfare with a view to revising the LRA. The draft revision of the LRA provides for the protection of the rights to establish trade unions. Moreover, the Constitution, article 30, guarantees equal protection for all. Unfair labour practices are prohibited by LRA 1975.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> The Government requested ILO technical cooperation for experience sharing with ASEAN member countries, ASEAN+3 and ASEAN + 6 concerning the application of C.87, C.98 and other ratified Conventions. SEWFOT requested ILO technical cooperation to strengthen the capacity of workers' organizations and to assist all tripartite members to understand FPRW better.</p> <p><b>2014 AR:</b> The SEWFOT requested ILO technical cooperation to strengthen the capacity of workers' organizations and to support their efforts in promoting the ratification of C.87 and C.98.</p> <p><b>2013 AR:</b> The AEROTHAI requested ILO technical cooperation to strengthen the trade unions in order to support their targeted activities to enhance the working conditions and wage level for workers in the private sector, who are being paid the least and works under the worst conditions.</p> <p><b>2012 AR:</b> According to the Government: The most important technical cooperation needs are: (1) Awareness-raising, legal literacy and advocacy, capacity building of responsible government institutions as well as strengthening the capacity of workers' organizations and tripartite social dialogue in the country; (2) There is a need to improve data collection systems and capacity for statistical analysis, to train other officials such as the police, judiciary, social workers, teachers, and to strengthen the capacity of employers' organizations; and (3) An assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the principle would be needed, along with sharing experiences across countries/regions.</p> <p>The ECOT requested for the ILO to conduct trainings for the business sector so as to sensitize business leaders about the implications of ratifying C.87 and C.98. It further requested the continuation of the ongoing ILO support.</p> <p>The NCTL, the SERC, the CTL and the TTUC also requested the continuation of the ongoing ILO technical cooperation.</p> <p><b>2011 AR:</b> According to the Government: ILO technical cooperation is needed to increase training activities for stakeholders.</p>



		<p>The NCTL requested ILO technical assistance for the elaboration of training programmes for employers' and workers' organizations.</p> <p><b>2010 AR:</b> According to the ECONTHAI: Training session by ILO's expert of the tripartite partners on the ILS is needed.</p> <p>According to the NCTL: There is a need of more information on the PR through explanatory documents to distribute to workers.</p> <p>According to the SEWFOT: Needs for technical cooperation to facilitate the realization of the PR in Thailand exist in the following areas: (i) educate and train the responsible tripartite partners on how to better promote and realise the PR; (ii) strengthening social dialogue; (iii) limitation of coming migrant workers in the country.</p> <p><b>2009 AR:</b> According to the Government: The ongoing ILO programme should be maintained to support Thailand.</p> <p><b>2008 AR:</b> The ECONTHAI requested ILO technical assistance for the elaboration of training programmes.</p> <p>The NCTL also called for the same assistance and added that assistance would be needed on the translation and vulgarization of the PR into the vernacular languages.</p> <p><b>2007 AR:</b> According to the Government: With a view to ratifying C.87 and C.98, ILO technical cooperation is needed to harmonize national labour laws with the provisions of these Conventions.</p> <p>The ECOT requested ILO technical cooperation for awareness-raising activities on the PR.</p> <p><b>2005 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Thailand exist in the following areas, in order of priority: (1) strengthening capacity of workers' organizations; (2) strengthening tripartite social dialogue; (3) awareness-raising, legal literacy and advocacy; (4) strengthening data collection and capacity for statistical analysis; (5) sharing of experiences across countries/regions; legal reform (labour law and other relevant legislation); capacity building of responsible government institutions; training of other officials; assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR.</p> <p><b>2001-2005 ARs:</b> According to the Government: There is a need for further ILO cooperation in terms of capacity building and reporting.</p>
	<p><b>Offer</b></p>	<p><b>NIL.</b></p>



<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) welcomed the inclusion of the principle and right within the Constitution of Thailand. They also acknowledged the high number of promotional activities concerning the realization of the PR in Thailand (and some other countries), and encouraged the Office to maintain its support to these activities. However, they noted that restrictions on the right to organize of certain categories of workers in Thailand, such as migrant workers, workers in the public service and agricultural workers, were not compatible with the realization of this principle and right (cf. paragraphs 33, 35 and 38 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed Thailand among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (cf. paragraph 13 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2003 AR:</b> The IDEAs were encouraged to see the Government of Thailand pointing out the needs in this country to strengthen the capacity building of workers’ and employers’ organizations and that it turned to the ILO for help. In light of requests by Thailand for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field (cf. paragraphs 73 and 74 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2009-2015)<sup>1</sup>: TUVALU**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , for the first time under the 2012 Annual Review (AR), but not under the previous reviews (i.e. 2009-2011 ARs). Tuvalu joined the ILO in 2008.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (the Tuvalu National Private Sector Organization (TNPSO)) and workers' organizations (the Tuvalu Overseas Seafarers' Union (TOSU)) by means of consultation and communication of a copy of the government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> Observations by the TNPSO.	
	<b>Workers' organizations</b>	<b>2012 AR:</b> Observations by the TOSU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Tuvalu has ratified neither the Freedom of Association nor Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>YES, for both C.87 and C.98.</b> <b>2015 AR:</b> According to the Government: The ratification of C.87 and C.98 would be considered in the near future after the revision of related national laws in line with the requirements of the ILO Conventions. <b>2013-2014 ARs:</b> The Government reiterated its intention to ratify all eight core Conventions, including C.87 and C.98, under the currently implemented Decent Work Country Programme (DWCP). <b>2012 AR:</b> According to the Government: Following consultations with TNPSO and TOSU, the Government has expressed its intention to soon ratify C.87 and C.98 and all other fundamental Conventions under the Decent Work Country Programme (DWCP) 2010-2012 currently being

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.

			<p>implemented. This intention was subsequently confirmed during the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010, and during the First National Tripartite Workshop on Tuvalu and ILO held in Funafuti, where a tripartite call was also made for a prompt ratification of the 8 ILO fundamental Conventions by Tuvalu.</p> <p>The TNPSO expressed its full support for the ratification of all ILO fundamental Conventions by Tuvalu, including C.87 and C.98, taking especially into consideration the maritime and fishing industry which is so globalized and so important in Tuvalu.</p> <p>The TOSU supported the ratification of all the 8 ILO fundamental Conventions by Tuvalu, including C.87 and C.98 for the same reasons expressed by TNPSO. It further recalled that the Government had expressed its wish to ratify these fundamental Conventions on three occasions, at least: (i) in the current DWCP; (ii) during the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010, and (iii) during the First National Tripartite Workshop on Tuvalu and ILO held in Funafuti, where a tripartite call was also made for a prompt ratification of these 8 instruments by Tuvalu.</p>	
<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p>YES, the Constitution of Tuvalu, Cap. 1.02 (Revised 2008), provides for freedom of expression (section 24) as well as freedom of assembly and association (section 25).</p>		
	<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Legislation:</b> <ul style="list-style-type: none"> <li>– The Trade Union Act 1946, Cap. 40.64 (Revised 2008), sections 2 and 21;</li> <li>– The Industrial Relations Code 1975, Cap. 40.32 (Revised 2008), section 33(2); and</li> <li>– The Employment Act 1966, Cap. 40.28 (Revised 2008).</li> </ul> </li> </ul> <p><b>2015 AR:</b> According to the Government: The Department of Labour has been reviewing existing labour laws, including the Employment Act of Tuvalu, the Trades Unions Act and the Industrial Relations Code.</p>		
	<p><b>Basic legal provisions</b></p>	<p>(i) the Constitution of Tuvalu, Cap. 1.02 (sections 24 and 25); (ii) the Trade Union Act 1946, Cap. 40.64 (sections 2 and 21); (iii) the Industrial Relations Code 1975, Cap. 40.32 (section 36); and (iv) the Employment Act 1966, Cap. 40.28 (section 33(2)).</p>		
	<p><b>Judicial decisions</b></p>	<p><b>NIL.</b></p>		
<p><b>Exercise of the principle and right</b></p>	<p><b>At national level (enterprise, sector/ industry, national)</b></p>	<p><b>For Employers</b></p>	<p><b>2012 AR:</b> Government authorization or approval is required to establish an employers' organization. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry and national levels for all categories of employers.</p> <p>The TNPSO indicated that unlike in the past, collective bargaining agreements between employers and seafarers are negotiated and concluded at the international level within the International Maritime Employers' Committee where the International Transport Workers' Federation is represented. Then, these agreements apply to Seafarers in Tuvalu.</p>	



			<b>For Workers</b>	<p><b>2012 AR:</b> Government authorization or approval is required to establish a worker's organization and to conclude collective agreements.</p> <p>The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry and national levels for the following categories of workers: (i) all workers in the public service, except police officers that are not considered as workers under the Trade Union Act (section 2(b)); (ii) medical professionals; (iii) teachers; (iv) agricultural workers; (v) workers engaged in domestic work; (vi) workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (vii) migrant workers; and (viii) workers above the age 15 years.</p>
			<b>Special attention to particular situations</b>	<b>NO.</b>
			<b>Information/ Data collection and dissemination</b>	<p><b>2012 AR:</b> The TOSU indicated that it had about 1200 members, but only 300 of them were currently employed, due to recession in maritime activities.</p>
		<b>At international level</b>		<p><b>2012 AR:</b> According to the Government: The principle and right (PR) is recognized at international level for employers' and workers' organizations.</p>
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2012 AR:</b> According to the Government: Specific governmental measures have been implemented to respect, promote and realize freedom of association and the right to collective bargaining in the country (legal reform, inspection and monitoring mechanisms by the Labour Department, civil, penal or administrative sanctions, capacity building of responsible government officials and employers' and workers' organizations, tripartite discussion of issue and awareness raising/advocacy). Further actions on these issues are envisaged together with the training of other officials on the PR.</p>		
	<b>Involvement of the social partners</b>	<p><b>2012 AR:</b> The Government indicated that the TNPSO and the TOSU were involved in the formulation of the DWCP, in cooperation with ILO.</p>		
	<b>Promotional activities</b>	<p><b>2012 AR:</b> According to the Government: The Officer of the Labour Department was trained in the ILO/TURIN May-June 2009 Course on International Labour Standards and the Declaration. Moreover, the Government, the TNPSO and the TOSU participated in the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010 where the fundamental principles and rights have been promoted. Moreover, the new Officer of the Labour Department of the Ministry of Foreign Affairs, Trade, Tourism, Environment and Labour was trained, among others, on the fundamental principles and rights at work and International Labour Standards during ILO's assistance in reporting issues carried out in September 2011. On the same occasion, a first national tripartite workshop on Tuvalu and the ILO was organized where the fundamental principles and rights at work and the Decent Work Country Programme were addressed.</p> <p>The TNSPO and the TOSU confirmed their participation in such activities and indicated that they had been sensitized on the same issues during the September 2011 ILO Mission.</p>		



	<b>Special initiatives/Progress</b>	<b>2012 AR:</b> According to the Government, the TNPSO and TOSU: The reporting exercise and the workshop on Tuvalu and the ILO, supported by the Office were a first successful experience of tripartite activity in Tuvalu. This interesting exercise should continue in the country.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> According to the TNPSO: No problems are being encountered to exercise the PR in the country. However, employers lack capacity building on the PR.
		<b>Workers' organizations</b>	<b>2012 AR:</b> According to the TOSU: There are no major problems to exercise the PR in the country. However, the issue of freedom of association and the right to collective bargaining needs to be further discussed with the Labour Department so as to strengthen the capacity of workers' organizations and the Labour Department officials.
	<b>According to the Government</b>	<p><b>2015 AR:</b> The Government reported that existing labour laws are currently weak and, therefore, employees' rights are easily violated. Furthermore, public awareness on individuals' rights is very limited.</p> <p><b>2012 AR:</b> The Government mentioned the following challenges concerning the realization of the PR in Tuvalu: (i) Lack of public awareness and/or support; (ii) legal provisions; (iii) lack of capacity of responsible government institutions; (iv) lack of capacity of employers' and workers' organizations; and (v) lack of social dialogue on the PR.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> According to the Government: Technical assistance is required to: i) provide capacity building training for government officials, including for the staff of the Labour Department on the various aspects of the ILO Conventions; and ii) deliver public awareness programs aimed at building the knowledge of the public on individuals' rights.</p> <p><b>2013-2014 ARs:</b> The Government reiterated the request for ILO technical support it made under the 2012 AR.</p> <p><b>2012 AR:</b> According to the Government, TNPSO and TOSU: There is a need for ILO technical cooperation to facilitate the realization of this PR in Tuvalu, in particular in the following areas, in order of priority: (1) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; legal reform (labour law and other relevant legislation); (2) strengthening data collection and capacity for statistical analysis; developing labour market policies that promote equality of opportunity; developing policies regarding equal remuneration; and (3) sharing of experiences (best-practices) across countries/regions; training of other officials (e.g. police, judiciary, social workers, teachers).</p> <p>In addition, tripartite partners expressed their appreciation regarding the organization of the First National Tripartite Workshop on Tuvalu and ILO, in September 2011, in cooperation with ILO, but also their hope that this first very interesting and fruitful experience of tripartism and social dialogue in Tuvalu would continue, with ILO support.</p>	
	<b>Offer</b>	ILO: Decent Work Country Programme: Assistance in reporting under the AR; First National Tripartite on Tuvalu) and the ILO.	
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>NIL.</b>		





<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>





**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>1</sup>: UNITED ARAB EMIRATES (UAE)**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2000, 2001 and 2011 Annual Reviews (ARs).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the United Arab Emirates Federation of Chambers of Commerce and Industry (UAEFCCI, which operates as an employers' organization), the United Arab Emirates Coordinating Committee of Professional Associations (UAECCPA, which operates as the representative of workers' organizations) and the United Arab Emirates Coordinating Committee of Professional Bodies (UAECCPB) by means of consultations and communications of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the UAEFCCI. <b>2013 AR:</b> Observations by the UAEFCCI. <b>2009 AR:</b> Observations by the UAEFCCI. <b>2008 AR:</b> Observations by the UAEFCCI. <b>2007 AR:</b> Observations by the UAEFCCI.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



	<p><b>Workers' organizations</b></p>	<p><b>2014 AR:</b> Observations by the UAECCPA.  <b>2013 AR:</b> Observations by the UAECCPA.  <b>2012 AR:</b> Observations by the UAECCPA.  <b>2010 AR:</b> Observations by the UAECCPA.  <b>2009 AR:</b> Observations by the UAECCPB.          Observations by the International Trade Union Confederation (ITUC).  <b>2008 AR:</b> Observations by the UAECCPA.          Observations by the ITUC.  <b>2007 AR:</b> Observations by the UAECCPA.          Observations by the International Confederation of Free Trade Unions (ICFTU).  <b>2006 AR:</b> Observations by the UAECCPA.          Observations by the ICFTU.  <b>2005 AR:</b> Observations by the ICFTU.  <b>2002 AR:</b> Observations by the ICFTU.  <b>2001 AR:</b> Observations by the ICFTU.  <b>2000 AR:</b> Observations by the ICFTU.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>The United Arab Emirates has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87), nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b></p>



		<p><b>Ratification intention</b></p>	<p><b>YES, under consideration 2012, for C.87 and C.98.</b></p> <p><b>2014-2015 ARs:</b> The Government stated that ratification of C.87 and C.98 was postponed for further analysis.</p> <p>The UAEFCCI expressed that it was not against ratification of C.87 and C.98 by the United Arab Emirates, indicating that it did not expect that the two instruments would be ratified in the near future.</p> <p>The UAECCPA expressed its strong support for the ratification of C.87 and C.98, and indicated that while the provisions of C.87 are provided by the Constitution, the provisions of C.98 are not.</p> <p><b>2013 AR:</b> The Government indicated that it was still reviewing ratification possibilities through further analysis.</p> <p>The UAEFCCI mentioned that it was not against ratification of C.87 and C.98 by the United Arab Emirates.</p> <p>The UAECCPA expressed its strong support for the ratification of C.87 and C.98 but insisted that the provisions of these instruments already are provided by the Constitution.</p> <p><b>2012 AR:</b> According to the Government: Given that C.87 and C.98 set a higher level of standards than the national labour legislation, the Government has taken the decision to postpone ratification for the time being, in order to give the matter further consideration. Giving effect to C.87 and C.98 will require the revision and amendment of certain national laws in order to bring them into conformity, and facilitate the adoption of the decision to ratify them at the appropriate time.</p> <p>The UAECCPA reiterated its strong support for the ratification of C.87 and C.98, while emphasizing that the right conditions for implementation of the principle and right (PR) would need to be created in the country before ratifications can take place.</p> <p><b>2010 AR:</b> According to the Government: Ratification of C.87 and C.98 is still being contemplated under the Decent Work Country Programme. However, ILO technical support is needed to find an alternative scheme for workers' representation.</p> <p>The UAECCPA expressed its full support for the ratification of C.87 and C.98 by the United Arab Emirates.</p>
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			<p><b>2009 AR:</b> The Government indicated its support for the ratification of C.87 and C.98, while mentioning that a solution for its sovereignty needed to be found.</p> <p>The UAEFCCI indicated its support for the ratification of C.87 and C.98.</p> <p>The UAECPPA reiterated its support for the ratification of C.87 and C.98, while noting that these instruments should be in compliance with the national labour policy.</p> <p><b>2008 AR:</b> The Government reiterated its intention to ratify C.87 and C.98.</p> <p>The UAEFCCI and the UAECPPA also reiterated their support to ratification of C.87 and 98.</p> <p><b>2007 AR:</b> The Government indicated six ILO Fundamental Conventions had been ratified, and that it would ratify the others (i.e. C.87 and C.98) shortly.</p> <p>The UAECPPA supported ratification of C.87 and C.98, as well as the establishment of workers' organizations in the United Arab Emirates.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>Article 33 of the Constitution provides that “the freedom to organize and establish associations is guaranteed within the limits defined by law”.</p>



		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b>  <b>2005 AR:</b> The Labour Code is being reviewed in light of the provisions of ratified ILO Conventions and the fundamental principles and rights at work. The Cabinet has recently adopted a decision with a view to elaborating a federal law on the establishment of workers' organizations.</li> <li>• <b>Legislation:</b>  <b>2014 AR:</b> The UAECCPA indicated that a law stipulating the rights of domestic workers was expected to be submitted to Parliament before the end of 2013.  <b>2012 AR:</b> According to the Government: The legislation in force in the United Arab Emirates and the Constitution guarantee public freedoms, including the right to organize and the right to collective bargaining. The Government, as part of its executive functions, endeavours to carry out all measures to ensure the effective realization and protection of these rights. The Government is considering ways of developing the legislation in a manner which protects workers' rights and is consistent with the specificities of the national labour market, which is suffering from a structural deficit reflected in the huge expansion in temporary migrant labour compared to the national labour force. As part of the Government's efforts to develop legislation strengthening the means of guaranteeing the right to freedom of association, Federal Act No. 2 of 2008 on public interest civil associations and institutions was enacted. The Act allows the establishment of associations in the public interest by all population groups in order to express their opinions in a legal, organized manner which is not contrary to the public interest. The Act provides that the term "public interest association" means any group with an established structure, on condition that it has at least 20 founding members; the Minister may allow exemption from this condition, provided that there are at least five founding members. Through the Act, the State guarantees all persons working within its territory the right to establish occupational associations representing them, with membership of such associations open to all (nationals and resident non-nationals). The Act also grants the founding members of an organization full freedom in drafting its statutes, determining the conditions and types of membership and procedures for acquiring and terminating membership, the rights and duties of members, the manner of establishing the administrative board, its terms of</li> </ul>
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		<p>reference and working methods, and of determining the resources of the association and how they are to be used and spent. The Act provides for the right of an association to establish an administrative board to direct its affairs, whose members shall be elected by secret ballot in accordance with its statutes drawn up by its founding committee. The Act further allows participation in international events and affiliation with international organizations and bodies and in the organization of certain activities in cooperation with them. Lastly, section 13 of the Act allows organizations declared in accordance with the Act to request the establishment of federations among themselves, in accordance with the implementing regulations under the Act.</p> <p><b>2007 AR:</b> According to the Government: Amendment to the labour law is under review.</p> <p><b>2006 AR:</b> According to the Government: A draft law on workers’ organizations and other amendments to the Labour Relations Act, 1980, were submitted to the ILO in April 2005 for review. The Government is currently waiting for ILO comments to go ahead with the law and amendments.</p> <p><b>2005 AR:</b> Federal Law No. 8 of 1980 regulating labour relations defines in section 154 a collective labour dispute as “any dispute between an employer and his employee the subject of which concerns the joint interests of all or certain subgroups of employees working in a specific establishment, occupation or trade or in a specific occupational sector”.</p>		
		<b>Basic legal provisions</b>		(i) Constitution (article 33); (ii) Federal Act No. 2 of 2008 (iii) Federal Law No. 8 of 1980; (iv) Federal Law No. 6 of 1974, as amended by Federal Law No. 20 of 1981; (v) Federal Law No. 22 of 2000 (section 9); and (vi) Ministerial Decree No. 297 of 1994.
		<b>Judicial decisions</b>		<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<b>2002-2004 ARs:</b> Prior government authorization is required to establish an employers’ organization, but not to conclude collective agreements. All categories of employers can exercise freedom of association (FOA) and the right to collective bargaining at sector/enterprise, national and international levels.
			<b>For Workers</b>	<b>2002-2004 ARs:</b> Prior government authorization is required to establish a workers’ organization, but not to conclude collective agreements. Medical professionals can exercise FOA, as can teachers at sector, national and international levels, but the right to collective bargaining is recognized at enterprise, sector/industry, national and international levels. However, FOA and the right to collective bargaining cannot be exercised by the following categories of persons: (i) workers in the public service; (ii) agricultural workers; (iii) workers engaged in domestic work; (iv) workers in export processing zones (EPZs) or enterprises/industries with EPZ status; (v) migrant workers; workers in the informal economy; and (vi) all categories of “non-professional” workers. The minimum age for exercising this right is 18 years.

			<p><b>Special attention to particular situations</b></p>	<p><b>2012 AR:</b> According to the Government: Special attention has been given to domestic workers. A delegation of UAECCPA participated in a workshop on “<i>Workshop on Role of Trade Unions in Promoting Decent Work for Domestic Workers in Arab Countries</i>” held in cooperation with ILO. At the workshop, participants discussed prospects for developing international labour standards that could be used to improve the regulatory environment and enable domestic workers to benefit from protection mechanisms and the rights related to decent work for domestic workers, and heard testimonies from domestic workers participating in the workshop about the principal difficulties and constraints faced by this large category of workers.</p> <p><b>2003 AR:</b> According to the Government: Women workers and workers’ organizations in the industry, banking, petroleum and other sectors.</p>
			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2012 AR:</b> According to the UAECCPA: There are currently more than 15 workers’ committees, divided by sector, as well as many other associations working with different issues related to workers’ rights.</p> <p><b>2003-2004 ARs:</b> According to the Government: There is a lack of information and data.</p>
		<p><b>At international level</b></p>	<p>According to the Government: There are no particular restrictions for the international affiliation of employers’ and workers’ organizations.</p>	
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2004 AR:</b> According to the Government: In instances where the principle of collective bargaining has not been respected, penal and administrative sanctions are taken, the matter being referred to the courts.</p> <p><b>2002 AR:</b> According to the Government: The Conciliation Committees and the Higher Arbitration Committee have been established to settle collective labour disputes.</p>		



	<p><b>Involvement of the social partners</b></p>	<p><b>2014 AR:</b> The UAECCPA indicated its participation in social dialogue.</p> <p><b>2012 AR:</b> According to the Government: With regard to C.98, chapter 9 of the Labour Code, on collective labour disputes and mechanisms for collective bargaining, governs the right to collective bargaining and provides for the establishment of labour conciliation committees in every sphere of work, the main function of which is to effect conciliation between workers and employers in the event of a collective labour dispute; workers thus exercise the right to engage in collective bargaining with employers through these committees. In addition, the workers' welfare offices (nine offices) established by the Ministry of Labour in workers' cities, which are the areas with the highest concentration of labour in the UAE, also have an important role in ensuring liaison between the tripartite social partners and conciliation between workers and employers, especially in the event of a collective problem arising on which the workers wish to engage in bargaining with employers. These offices have a conciliation role in mediating between employers and workers to settle collective labour disputes; in the event of failure to reach a mutually satisfactory settlement, the complaint is referred to the court to ensure that justice is done in resolving the dispute. As part of its concern to support and strengthen social dialogue, and in line with its belief in the importance of constant and effective liaison and consultation with employers' and workers' organizations in all matters related to labour market regulation, the Ministry has organized, with the participation of representatives of employers' and workers' organizations, consultation and information meetings.</p> <p><b>2002 AR:</b> The Government indicated that it seeks to promote and expand the scope of FOA through consultations with employers and professional associations in the country. Tripartite discussions of issues have been set up.</p>
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	<p><b>Promotional activities</b></p>	<p><b>2014 AR:</b> According to the Government: The UAECPPA participated in various workshops organized by the ILO on the role of trade unions in improving domestic workers' working conditions in Arab States.</p> <p>The UAECPPA indicated that it had participated in several national and international events where it had promoted the ratification of C.87 and C.98 by the United Arab Emirates.</p> <p><b>2013 AR:</b> The Government indicated that it participated in two regional workshops: (i) one on social dialogue experiences and best practices in December 2012 in Morocco, and; (ii) another one on capacity building on the Social Justice Declaration and other ILO legal instruments. It further mentioned its participation in a workshop on trade unions' role in improving domestic workers' working conditions in the Arab region.</p> <p><b>2012 AR:</b> According to the Government: In order to study best practices and successful international experience in the area of promotion of social dialogue and means of realizing the effective recognition of collective bargaining, the Government sent a high-level delegation to participate in the Regional Conference on Social Dialogue in the Arab States held jointly in cooperation between the Arab Labour Organization and the ILO, in December 2010 in the Kingdom of Morocco. The main objectives of the Conference were to: (i) strengthen the commitments among the social partners to the principle of tripartism and the adoption of social dialogue as a means of addressing the various problems on the labour market; (ii) identify social dialogue experiences and mechanisms that have proven successful in certain Arab or non-Arab States and identify lessons learned from such experience; and (iii) adopt principles, key elements and a framework for an action plan for promoting social dialogue in the Arab States. Moreover, several officials from the Ministry of Labour participated in a training workshop on the ILO Declaration on Social Justice held in the Lebanon in October 2010 where they were also sensitized on ILO core Conventions.</p> <p><b>2010 AR:</b> The UAECPPA mentioned its participation in the ILO/Gulf Cooperation Council (GCC) on the Declaration's Follow-up organized in Bahrain and Jordan.</p> <p><b>2009 AR:</b> According to the Government: Consultations to find a solution for the labour issues were held between the Government and the social partners.</p> <p>The UAECPPB indicated that the election process within the professional bodies was a means to sensitizing the workers on labour issues.</p> <p><b>2007 AR:</b> The Government, the UAECFCCI and the UAECPPA mentioned their participation in the ILO/Gulf Cooperation Council (GCC) on the Declaration Follow-up organized in Kuwait City in April 2006. According to them, a labour law review is being carried out to promote the ILO Declaration.</p> <p><b>2003 AR:</b> According to the Government: Women workers can enjoy the right to FOA by forming their own committees and federations; five women were appointed as members of the Consultative Council of Sharjah.</p> <p>In September 2002, the Conciliation Board and the Supreme Arbitration Board promoted the mechanism of collective bargaining. Moreover, a technical committee was implemented in order to create workers' organizations.</p> <p><b>2002 AR:</b> The Government indicated that it was seeking to amend relevant laws and regulations to achieve the realization of the PR.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2012 AR:</b> The Ministry of Labour, through the activities of the inspectorate – the Guidance Department – has been keen to develop initiatives aimed at providing an enabling environment for effective and serious social dialogue, by supporting mechanisms for social dialogue at the enterprise level and organizing national awareness campaigns carried out by the members of the Guidance Unit among workers at their workplaces, with the full cooperation and support of employers, in order to promote and disseminate a culture of dialogue and publicize the workers’ rights enshrined in the Labour Code and all the international and Arab labour Conventions relating to fundamental rights at work. As part of its concern to support and strengthen social dialogue, and in line with its belief in the importance of constant and effective liaison and consultation with employers’ and workers’ organizations in all matters related to labour market regulation, the Ministry has organized, with the participation of representatives of employers’ and workers’ organizations, consultation and information meetings.</p> <p>The UAECCPA indicated that it was taking the first steps in realizing the creation of a strong foundation for the evolving trade union movement in the United Arab Emirates, in particular through organizational process and social dialogue.</p> <p><b>2008 AR:</b> The Government, the UAEFCCI and the UAECCPA indicated that women membership represented 22 per cent of the newly elected Federal National Council as a result of the elections that took place in 2006.</p> <p><b>2004 AR:</b> According to the Government: A special initiative has been taken through the draft amendment of the Labour Law in relation to FOA, so as to allow the formation of workers’ organizations, as jointly suggested by the Ministry of Labour and the Ministry of Justice. This amendment has been submitted to the Cabinet for approval. A technical committee is actively following up on this matter.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2009 AR:</b> According to the UAEFCCI: The protection of the sovereignty of the UAE is a major challenge to the ratification of C.87 and C.98.</p> <p><b>2007 AR:</b> According to the UAEFCCI: There is a lack of understanding on the ILO Fundamental Conventions and Declaration among the partners.</p>



		<p><b>Workers' organizations</b></p>	<p><b>2014 AR:</b> According to the UAECCPA: While there are no obstacles to the ratification of C.87, there is still a need to reflect the provisions of C.98 in the national legislation. The UAECCPA is engaging with the Government in this regard.</p> <p><b>2013 AR:</b> The UAECCPA mentioned that the absence of political will and obstacles to legal reforms are the main difficulties in the realization and implementation of the PR in the country.</p> <p><b>2012 AR:</b> According to the UAECCPA: The main challenges in realizing the PR in the country are: (i) the lack of awareness on workers' rights and lack of unity among them; (ii) lack of awareness on trade unions' rights, trade unions' role, and (iii) serious legal obstacles to the creation of trade unions, which will need to be amended before ratification of C.87 and C.98.</p> <p><b>2010 AR:</b> The UAECCPA raised the following challenges: (i) migrant workers cannot enjoy the PR; (ii) lack of capacity of tripartite partners; and (iii) lack of appropriate legal reforms.</p> <p><b>2009 AR:</b> According to the UAECCPA: The process of introduction of C.87 and C.98 into the country would need more time.</p> <p><b>2008-2009 ARs:</b> The ITUC raised the following additional challenges: (i) the current Labour Law does not permit the formation of trade unions; (ii) the law does not recognise the right to collective bargaining; (iii) strikes are banned in the public sector; (iv) migrant workers (85-90 per cent of the workforce) would risk deportation for trying to organize unions or going on strike; (v) labour legislation does not cover public service workers, domestic workers or anyone working in the agricultural sector; and (vi) each export processing zones has its own labour regulations.</p>
			<p><b>2006-2007 ARs:</b> According to the Arab Emirates Coordinating Committee of Professional Associations, although the Government is making progress in relation to FOA and other fundamental principles and rights at work, some entities are expressing reluctance due to their lack of awareness on the PR.</p> <p>The ICFTU raised the following additional challenges: (i) the Bill allowing the formation of trade unions in the private sector is still pending; (ii) in 2004, trade unions and collective bargaining were still banned, although some workers can associate; (iii) strike action is tolerated; (iv) each export processing zones has its own labour regulations.</p> <p><b>2000-2002, 2005-2005 ARs:</b> The ICFTU raised the following challenges: (i) trade unions are illegal; (ii) the law does not recognize the right to organize nor the right to collective bargaining and the right to strike; (iii) payment is set by individual contracts that are reviewed by the Ministry of Labour, or in the case of domestic workers, by the Ministry of Immigration; (iv) labour laws do not apply to government employees, agricultural workers and domestic servants; (v) migrant workers (85-90 per cent of the workforce) would risk deportation for trying to organize unions or going on strike.</p>



	<p><b>According to the Government</b></p>	<p><b>2010 AR:</b> The Government mentioned that the main challenge for the country was to find a different system for workers' representation, because of the high percentage of migrant workers in the country, without endangering the country's sovereignty.</p> <p><b>2003 and 2007 ARs:</b> The Government identified the main difficulties encountered in realizing the PR as follows: (i) lack of public awareness/support; (ii) lack of information and data; (iii) social values and cultural traditions; (iv) social and economic circumstances; (v) political situation; (vi) legal provisions; (vii) prevailing employment practices; (viii) lack of capacity of workers' organizations and (ix) lack of social dialogue on the PR.</p> <p><b>2000-2001 ARs:</b> In response to ICFTU's observations, the Government made the following comments: (i) FOA exists under the law; (ii) it is not denied, but established professional organizations are different in form from traditional workers' organizations; (iii) the United Arab Emirates is a Federation and has no previous experience in the establishment of trade unions or labour federations; (iv) the right to collective bargaining is guaranteed by Federal Law No. 8 of 1980, which has established a mechanism to settle labour disputes through specific structures that are supervised by the labour administration.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> The Government reiterated with insistence its request for ILO technical cooperation in the following issues: (i) Training and awareness raising on the Declaration and the Social Justice Declaration; (ii) Ratification process for C.87 and C.98 and the implementation of these instruments; and (iii) Training of the responsible technical staff in the Ministry of Labour on determining implementation requirements, monitoring indicators and preparing reports on the PR</p> <p><b>2014 AR:</b> The Government reiterated with insistence its request for ILO technical cooperation in the following issues: (i) Training and awareness raising on the Declaration and the Social Justice Declaration; (ii) Ratification process for C.87 and C.98 and the implementation of these instruments; and (iii) Training of the responsible technical staff in the Ministry of Labour on determining implementation requirements, monitoring indicators and preparing reports on the PR.</p> <p>The UAEFCCI expressed the need for ILO technical cooperation to build the technical capacity of the tripartite partners.</p> <p>The UAECCPA indicated that ILO technical cooperation would be requested should the need arise.</p> <p><b>2012-2013 ARs:</b> The Government requested with insistence ILO technical cooperation in the ratification process for C.87 and C.98 and the implementation of these instruments, but also in the training of the responsible technical staff in the Ministry of Labour on determining implementation requirements, monitoring indicators and preparing reports on the PR.</p> <p>The UAECCPA, requested, in view to meeting the great need to organize and create a solid trade union movement in the country, ILO's technical support to sensitize workers on the PR, but also to strengthen the capacity of its leadership and support them in these critical steps of the creation of trade unions, as well as to help them to continuously stay updated through training materials and lessons learned to gain knowledge from other countries, as the experience of organizing workers and conducting trade union activities in the country is scarce. The UAECCPA also emphasized that capacity building and sensitization trainings also will need to cover government officials and employer representatives, as the aim is to create a tripartite structure where all parties are aware of international standards and fundamental rights at work.</p> <p><b>2010 AR:</b> According to the Government and the UAECCPA: ILO's technical assistance is needed to help the country in finding an alternative scheme for workers' representation in the country.</p> <p><b>2007 AR:</b> According to the Government, the UAEFCCI and the UAECCPA: ILO technical cooperation is necessary for awareness raising activities on freedom of association and for the promotion of the Declaration in the United Arab Emirates.</p> <p><b>2006 AR:</b> According to the Arab Emirates Coordinating Committee of Professional Associations, there is a need for ILO technical cooperation to facilitate the realization of FOA in the country, especially in raising awareness on the PR.</p> <p><b>2003 and 2007 ARs:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in the country in the following areas, in order of priority: (1) sharing of experiences across countries/regions; (2) legal reform (labour law and other relevant legislation), strengthening capacity of workers' organizations, strengthening tripartite social dialogue; (3) capacity building of responsible government institutions, training of other officials, strengthening capacity of employers' organizations.</p>
	<p><b>Offer</b></p>	<p>ILO, GCC.</p>



<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries, such as the Gulf States (as well as China and new member States, in particular in the South Pacific), had made important efforts during this process. However, according to them, more needed to be done. The IDEAs also acknowledged the high number of promotional activities concerning the PR in the Gulf States (and some other countries), and encouraged the Office to maintain its efforts to support these activities. However, they noted that restrictions on the right to organize of certain categories of workers in United Arab Emirates, such as domestic workers, workers in export-processing zones, workers in the public service, agricultural workers and workers in the informal economy, were not compatible with the realization of this principle and right (cf. paragraphs 12, 35 and 38 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2006 AR:</b> The IDEAs observed the following: “It is important to note that the majority of workers in the United Arab Emirates and other Gulf States are migrant workers. Therefore, while we note that certain measures have been reported relating to this principle [...] we stress that the principle should be given full effect as regards all the workers present in these countries, including migrant workers, if these countries are to progress meaningfully in this area” (cf. paragraph 45 of the 2006 Annual Review Introduction – ILO: GB.295/5).</p> <p><b>2005 AR:</b> The IDEAs listed the United Arab Emirates among the countries where progress had been made under the Annual Review in the promotion of freedom of association and the effective recognition of the right to collective bargaining. Furthermore, the IDEAs noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (cf. paragraphs 12 and 148 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs were encouraged by the continuing steps taken by countries of the Gulf Cooperation Council (GCC) in relation to this PR, but noted that there was a long way to go and much to do. They further indicated that the Gulf Cooperation Council States were providing more information on the PR, but not enough on the other three PRs. This would help to illustrate the link between all four PRs. The IDEAs also wished that the positive measures taken by countries in the Gulf Cooperation Council (GCC) be expanded upon (cf. paragraphs 29 and 84 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2003 AR:</b> The IDEAs commended the United Arab Emirates for their continuing dialogue with the Office. They also were encouraged to see the Government of the United Arab Emirates pointing out the needs in this country to strengthen the capacity building of workers’ and employers’ organizations and that it turned to the ILO for help (cf. paragraph 73 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p> <p><b>2002 AR:</b> The IDEAs acknowledged, in particular, the high level dialogue and agreement on a plan of activities between the Office and the Government of United Arab Emirates (cf. paragraph 82 of the 2002 Annual Review Introduction – ILO: GB.283/3/1).</p> <p><b>2001 AR:</b> The IDEAs hoped that the Government of the United Arab Emirates would continue a dialogue with the Office regarding the ways in which the PR could be achieved. They also recommended to the governing body that further information be requested from the Government of United Arab Emirates in relation to efforts made to promote the principle and right cf. paragraphs 30 (b) (ii) and 77 of the 2001 Annual Review Introduction – ILO: GB.280/3/1).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015) <sup>1</sup>: UNITED STATES**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2007 Annual Reviews (AR) and no change reports for the 2001 and 2002 ARs.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the United States Council for International Business and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) by means of consultation and communication of a copy of Government's reports.  The updated report under the 2007 AR has been communicated to the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the Change to Win Federation, and the U.S. Council for International Business. In addition, in keeping with longstanding practice, as well as U.S. obligations under the Tripartite Consultations (International Labour Standards) Convention, 1976 (No.144), the draft report was reviewed by members of the Tripartite Advisory Panel on International Labor Standards, a subgroup of the President's Committee on the ILO.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	
	<b>Workers' organizations</b>	<b>2009 AR:</b> Observations by the International Trade Union Confederation (ITUC). <b>2008 AR:</b> Observations by the AFL-CIO. Observations by the ITUC. <b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the AFL-CIO. <b>2005 AR:</b> Observations by the AFL-CIO. Observations by the ICFTU. <b>2004 AR:</b> Observations by the AFL-CIO. <b>2003 AR:</b> Observations by the AFL-CIO. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.





<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>The United States has ratified neither the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) (C.87) nor the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>Under consideration, since 2014, C.87 or C.98.</b> <b>2015 AR:</b> According to the Government: a meeting of the President’s Committee on the International Labour Organization (PC/ILO), held on 15 May 2014, agreed on a set of conclusions drafted on the basis of tripartite consensus and endorsed unanimously by the PC/ILO, which will serve to guide U.S. policy on ILO issues. One of the conclusions called on the PC/ILO’s Tripartite Advisory Panel on International Labor Standards (TAPILS) to intensify its work of reviewing the legal feasibility of U.S. ratification of selected ILO Conventions, including Conventions 87 and 98. <b>2012-2014 AR:</b> According to the Government: There are no current plans to pursue ratification of C.87 or C.98. <b>2011 AR:</b> According to the Government: There are no current plans to ratify C.87 or C.98. <b>2009-2010 ARs:</b> According to the Government: No change. <b>2004 AR:</b> There are no ongoing efforts to ratify C.87 and C.98. The Government made this statement in September 2003 (cf. GB.291/LILS/4 (November 2004, paragraph 13). <b>2002 AR:</b> According to the Government: There had been no development concerning ratification of C.87 and C.98 which was still under consideration (cf. GB.291/LILS/7 (November 2001, paragraph 9).
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES.</b> The First Amendment to the United States Constitution, adopted in 1791, provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances”.
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li> <b>Policy:</b>  <b>2014 AR:</b> According to the Government: In April 2013, the U.S. Department of Education (ED) released a policy framework based on a collaboration with the Federal Mediation and Conciliation Service (FMCS), two major teachers’ unions (the American Federation of Teachers (AFT) and the National Education Association (NEA)) and the organizations representing school administrators, school boards, and major urban school systems (American Association of School Administrators (AASA), the National School Boards Association (NSBA) and the Council of the Great City Schools (CGCS)). The policy framework incorporated the following components: (i) A Culture of Shared Responsibility and Leadership; (ii) Top Talent, Prepared for Success; (iii) Continuous Growth and Professional Development; (iv) Effective Teachers and Principals, (v) A Professional Career Continuum With Competitive Compensation; (vi) Conditions for Successful Teaching and Learning; and (vii) Engaged Communities.  <b>2000-2005 ARs:</b> According to the Government: it is the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate           </li> </ul>



these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection. This policy includes the concept that “sound and stable industrial peace and the advancement of the general welfare, health, and safety of the Nation and the best interests of employers and employees can most satisfactorily be secured by the settlement of issues between employers and employees through the process of conference and collective bargaining between employers and the representatives of their employees” (29 U.S.C. § 171(a)).

Railways and airline employees are covered by the Railway Labor Act (RLA) (45 U.S.C. §§ 151-188), and are provided protections similar to those contained in the National Labor Relations Act (NLRA). The RLA expressly recognizes that employees “have the right to organize and bargain collectively through representatives of their own choosing,” prohibits a carrier from denying “the right of its employees to join, organize, or assist in organizing the labor organization of their choice,” and makes it unlawful for an employer to interfere in any way with the organization its employees... or to influence or coerce employees in an effort to induce them to join or remain or not join or not remain members of any labor organization” (41 U.S.C. § 152).

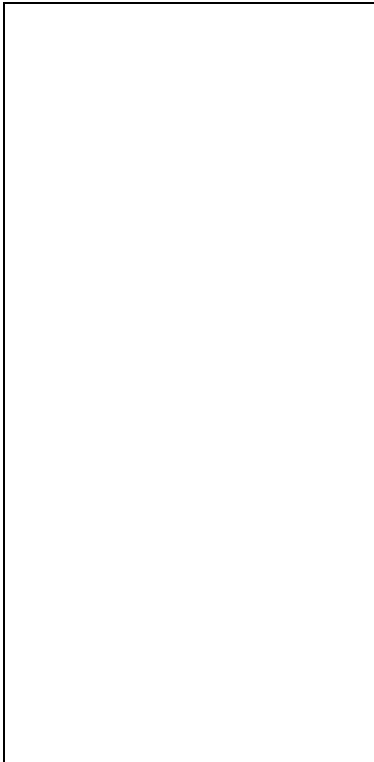
The right of employees of the United States Government, except members of the Armed Forces and certain national security agencies, to organize is governed by the Civil Service Reform Act of 1978 (CSRA) (5 U.S.C. §§ 7101-7135). The CSRA applies to almost all federal civilian employees, and provides that “each employee shall have the right to form, join, or assist any labour organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right” (5 U.S.C. § 7102). Postal workers are protected under the NLRA and provisions of the Postal Reorganization Act of 1970, as amended (39 U.S.C. §§ 1201-1209).

- **Legislation:**

**2011 AR:** According to the Government: The Employee Free Choice Act (S.560, H.R. 1409) is significant legislation on freedom of association and collective bargaining that is pending in the U.S. Congress. The legislation would include amendments to the NLRA to require employers to recognize and bargain collectively with a union formed through a majority sign-up of employees; strengthen penalties and provide for injunctive relief for anti-union discrimination committed during an organizing drive or first-contract negotiation; and provide for binding first-contract arbitration, at the request of either party.

**2010 AR:** According to the Government: *Legislative action:* Pub. L. No. 110-329, Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, was signed into law on September 30, 2008. Section 522 of the law prohibits the use of appropriated funds by the Department of Homeland Security (DHS) for the establishment of a human resources management system (HRMS) without collaboration with employee representatives. This provision is consistent in effect with a recent appellate court decision (i.e., *National Treasury Employees Union v. Chertoff*, 452 F.3d 839 (D.C.Cir. 2006) previously reported in the 2007 and 2009 Declaration reports, which found regulations implementing a DHS HRMS that limited collective bargaining to be improper.

**2009 AR:** According to the Government: section 1106 of The National Defense Authorization Act



for Fiscal Year 2008, Pub. L. No. 110-181, which was enacted into law on January 29, 2008, repealed the Department of Defense's authority to establish a new labor relations system for its civilian workforce. As a result, civilian employees of the Department of Defense remain covered under existing collective bargaining provisions of the Civil Service Reform Act.

- **Regulations:**

**2013 AR:** According to the Government: In last year's report, it was noted that on December 13, 2010, the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration issued an Interim Rule, 75 Fed. Reg. 77723, amending the Federal Acquisition Regulation (FAR) to implement Executive Order (EO) 13496 (Notification of Employee Rights under Federal Labor Laws, issued January 30, 2009). The EO requires covered federal agencies to include specific provisions in their government contracts requiring that contractor and subcontractor employers post notices informing employees of their rights under the National Labor Relations Act (NLRA) to bargain collectively and to form, join or assist a union, or to refrain from such activities. The proposed FAR amendment, at 48 C.F.R. Parts 1, 2, 22, and 52, made the FAR consistent with DOL's regulations relating to the size, form and content of the notice at 29 C.F.R. Part 471 (75 Fed. Reg. 28368). On November 2, 2011, the FAR adopted the interim rule as final without any changes. 76. Fed. Reg. 68015.

As reported previously, on November 12, 2010, the FLRA issued a decision and order settling applications by two unions, the American Federation of Government Employees (AFGE) and the National Treasury Employees Union, which sought a representation election to determine the exclusive representative of transportation security officers (TSOs) employed by the Department of Homeland Security's (DHS) Transportation Security Administration (TSA). The latest developments in the case are that talks between AFGE and TSA began in January 2012 and a tentative collective bargaining agreement was reached on August 2, 2012. The agreement has been submitted to union members for ratification from October 1 through November 2, with the result to be announced on November 9.



			<p><b>2012 AR:</b> According to the Government: On May 20, 2010, the Department of Labor (DOL) issued a Final Rule, 75 Fed. Reg. 28368, implementing Executive Order (E.O.) 13496 (Notification of Employee Rights under Federal Labor Laws, issued January 30, 2009). The Executive Order requires covered federal agencies to include specific provisions in their government contracts requiring that contractor and subcontractor employers post notices informing employees of their rights under the National Labor Relations Act (NLRA). The E.O. 13496 requires the Secretary of Labor to prescribe the size, form, and content of the notice that must be posted. Under the E.O., unless a specific exemption or exception applies, all federal agencies must include the required provisions in every contract. The regulations implementing E.O. 13496 are found at 29 C.F.R. Part 471. State and local government employees are excluded from coverage of the NLRA, but they too are entitled to the protections of the United States Constitution described above. In addition, the state and local governments have a diverse variety of legislation covering freedom of association and collective bargaining by state and local employees: however, those laws cannot be inconsistent with fundamental constitutional guarantees of freedom of association. Private sector employees who are not covered by the RLA or the NLRA (primarily agricultural, domestic, and supervisory employees who are excluded from NLRA coverage under 29 U.S.C. § 152(3)), are nonetheless protected by the First, Fifth and Fourteenth Amendments of the United States Constitution which, taken together, guarantee that workers are entitled to establish and join organizations of their own choosing, without previous authorization by or interference from either the Federal Government or the State Governments.</p> <p>On December 13, 2010, the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration issued an Interim Rule, 75 Fed. Reg. 77723, requesting comments on a proposed amendment to the Federal Acquisition Regulation (FAR) to implement E.O. 13496. The proposed FAR amendment, at 48 C.F.R. Parts 1, 2, 22, and 52, would make the FAR consistent with DOL's regulations at 29 C.F.R. Part 471 (75 Fed. Reg. 28368). On December 22, 2010, the National Labor Relations Board (NLRB) issued a Notice of Proposed Rulemaking (NPRM), 75 Fed. Reg. 80410, requesting comments on a proposed rule requiring NLRA-covered employers, including labor organizations in their capacity as employers, to post notices informing their employees of their NLRA rights. The NPRM seeks to ensure that employees protected by the NLRA are aware of their rights under the NLRA, and to promote compliance by employers and unions with the requirements of the law. The NLRB proposal would amend 29 C.F.R. Part 104 to adopt the regulations promulgated by DOL in its May 20, 2010, Final Rule (75 Fed. Reg. 28368); 29 C.F.R. Part 471.</p>
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			<p>On December 9, 2009, President Obama signed E.O. 13522. The purpose of this E.O. is to establish a cooperative and productive form of labor-management relations throughout the executive branch of government. The E.O. has three substantive effects on federal public sector labor-management relations. First, it creates the National Council on Federal Labor-Management Relations to advise the President on matters involving labor-management relations in the executive branch. Second, it requires all federal agencies to create labor-management forums to enhance collaboration and monitor improvements in such areas as labor-management satisfaction, productivity gains, and cost savings. Third, it establishes pilot projects in which certain executive departments will elect to bargain over certain permissive issues. The experiences gained through these pilots will be compiled into a report containing recommendations for the federal employee bargaining process. Although the implementation of this E.O. has only recently commenced, a series of pilot programs have been established at various agencies that will allow bargaining over such subjects as the number and types of employees or positions assigned to any organizational subdivision and the technology, means, and methods of performing work or certifying skill levels. A list of pilot programs is available at <a href="http://www.lmrcouncil.gov/meetings/index.aspx?id=74a33d29-6e9b-4ebe-b250-b84db8b247a3">http://www.lmrcouncil.gov/meetings/index.aspx?id=74a33d29-6e9b-4ebe-b250-b84db8b247a3</a>. Work is ongoing at the national Council to develop a set of metrics that will allow accurate measurement of the impact of the labor-management forums.</p>
		<p><b>Basic legal provisions</b></p>	<p>(i) The First Amendment to the United States Constitution, 1791; (ii) the National Labor Relations Act (NLRA) (29 U.S.C. §§ 151-187) (1935); (iii) the Labor-Management Relations Act (1947); (iv) the Labor-Management Reporting and Disclosure Act (1959); (v) the Civil Service Reform Act (1978); (vi) the Norris-LaGuardia Act (1932); (vii) The Railway Labor Act (1926); (viii) the Postal Reorganization Act (1970); (ix) the Congressional Accountability Act (1995); and (ix) the Presidential and Executive Office Accountability Act (1996).</p>



		<p><b>Judicial decisions</b></p>	<p><b>2015 AR:</b> According to the Government: On June 30, 2014, the U.S. Supreme Court held that the First Amendment of the Constitution prohibits the collection of an agency fee from home health care providers in Illinois who do not wish to join or support a union. <i>Harris v. Quinn</i>, 134 S.Ct. 2618 (2014). Illinois is one of 26 states that require public-sector workers – such as firefighters, police officers and teachers – to pay partial dues, often known as “agency fees,” to the unions that negotiate their contracts and represent them in grievances. The Court determined that, while states can choose whether to allow unions to collect fees from non-union members on the ground that the collective agreements with the employer would still benefit non-union members, the Illinois Public Labor Relations Act, which permitted union security agreements, violated the First Amendment’s free speech and associational rights. The Court decided that a contract between the State of Illinois and Medicaid-funded home care workers cannot require the covered workers to pay a “fair-share fee” that covers the costs of benefits they receive from union representation. This “fair-share fee” (union dues) covers the costs of the union’s activities – collecting bargaining, implementing and enforcing the contract including making sure people are paid the right amounts, representing employees at grievance hearings, etc.</p> <p>In recent years, the National Labor Relations Board (Board or NLRB) has emphasized that a proposed bargaining unit that contains a readily identifiable group of employees who share a community of interest will not be rejected simply because there are other employees who could have been included in the proposed unit. In August 2013, the U.S. Court of Appeals for the Sixth Circuit affirmed<sup>2</sup> a Board denial of an employer attempt to enlarge the proposed bargaining unit of certified nursing assistants to include other non-supervisory, non-professional service and maintenance employees.<sup>3</sup> Clarifying its existing standard, the Board held that to succeed in opposing what is otherwise an appropriate unit, it is not enough to show that there is a more appropriate unit; rather, the employer must demonstrate that the excluded employees “share an</p>
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<sup>2</sup> *Kindred Nursing Ctr. E., LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013).

<sup>3</sup> *In re Specialty Healthcare & Rehabilitation Ctr. of Mobile*, 357 NLRB No. 83, 191 LRRM (BNA) 1137 (2011).



			<p>overwhelming community of interest with the included employees.”<sup>4</sup> Although the Board’s decision in <i>Specialty Healthcare</i> concerned employees in non-acute healthcare services, the holding has been extended to other industries.<sup>5</sup></p> <p>First noted in our 2013 annual report, the NLRB continues to find employer policies constraining employees’ electronic communications, when reasonably construed to prohibit concerted activity protected by Section 7 of the National Labor Relations Act (NLRA), are unlawful. In <i>Dish Network Corp.</i>, the Board found an employer’s social media policy violated Section 7 for prohibiting “disparaging or defamatory comments” directed towards the company.<sup>6</sup> In <i>Kroger Company</i>, the employer’s handbook required employees publishing work-related information online to include a disclaimer representing all views as their own.<sup>7</sup> The Board held that this rule, among others, was overly broad, potentially chilling activities protected under the NLRA.</p> <p><b>2014 AR:</b> According to the Government: In 2012, the National Labor Relations Board (NLRB) issued several decisions that recognize and enforce freedom of association rights for workers using the internet to engage in concerted activity protected by Section 7 of the National Labor Relations Act (NLRA), such as organizing for collective bargaining. In <i>Hispanics United of Buffalo, Inc.</i>, issued in December 2012, the NLRB held that comments made on social media websites such as Facebook can constitute protected, concerted activity. Similarly, in <i>Costco Wholesale Corp. and Karl Knauz Motors, Inc.</i>, issued in September 2012, the Board held that company policies regarding employees’ electronic postings that could be reasonably construed to prohibit concerted activity protected by Section 7 are unlawful.</p> <p>In August 2011 the NLRB issued a final rule that required covered employers to post a notice describing employees’ rights under the NLRA and provided that an employer that failed or refused to post the notice would violate section 8(a)(1) of the NLRA. However, in May 2013, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) ruled in <i>National Association of Manufacturers</i> that the rule was invalid as inconsistent with section 8(c) of the Act, which reflects the U.S. Constitution’s First Amendment free speech guarantee as applied to activity covered by the NLRA. In September 2013, the D.C. Circuit denied the NLRB’s petition for a rehearing and en banc consideration of this case. The rule was also struck down by the U.S. Court of Appeals for the Fourth Circuit (Fourth Circuit) on June 14, 2013, when it held that the NLRB lacks statutory authority to promulgate the rule in Chamber of Commerce. The Fourth Circuit also denied the NLRB’s petition for a rehearing in August 2013. The NLRB final rule was modeled on the Department of Labor’s final rule. The Department of Labor’s final rule applies to federal contractors, is still effective, and has not been challenged.</p>
<p><sup>4</sup> <i>Id.</i>, at 1, 9.</p> <p><sup>5</sup> See, e.g., <i>Macy’s Inc.</i>, 361 NLRB No. 4 (2014), 2014 WL 3613065.</p> <p><sup>6</sup> <i>Dish Network Corp.</i>, 359 NLRB No. 108, 196 LRRM (BNA) 1271 (2013).</p> <p><sup>7</sup> <i>Kroger Co. of Mich.</i>, 199 LRRM 1319 (2014).</p>			





			<p><b>2013 AR:</b> According to the Government: On December 22, 2011, the National Labor Relations Board (Board or NLRB) adopted a final rule amending its election case procedures to reduce unnecessary litigation and delays. 76 Fed. Reg. 80137; 29 C.F.R. Parts 101 and 102. The rule is primarily focused on procedures followed by the NLRB in the minority of cases in which parties cannot agree on issues such as whether the employees covered by the election petition are an appropriate voting group. In such cases, the matter goes to a hearing in a regional office and the NLRB Regional Director decides the question and sets the election. Under the new rule, regional hearings will be expressly limited to issues relevant to the question of whether an election should be conducted, and hearing officers will have the authority to limit testimony to relevant issues and to decide whether or not to accept post-hearing briefs. All appeals of Regional Director decisions to the Board will be consolidated into a single post-election request for review and Board review of decisions will be discretionary. The NLRB rule was to take effect on April 30, 2012. However, the U.S. Chamber of Commerce and the Coalition for a Democratic Workplace challenged the rule in the U.S. District Court for the District of Columbia, arguing that the rulemaking process was improperly handled because the Board took action based on the approval of only two Board members. Section 3(b) of the NLRA requires three Board members to constitute a quorum. On May 14, 2012, the D.C. federal district court ruled that the NLRB had failed to assemble a quorum and, therefore, the changes to the election case procedures were invalid and unenforceable. The NLRB filed a motion asking the court to reconsider its ruling but the motion was denied on July 27, 2012. In its opinion, the court noted that nothing would prevent the NLRB from voting on the new rule with a properly constituted quorum. The NLRB has appealed both the May 14 and July 27 decisions to the U.S. Court of Appeals for the D.C. Circuit. Briefs are to be filed with the Appeals Court by December 31, 2012.</p> <p>On May 22, 2012, the NLRB invited all interested parties to submit briefs on the question of whether university faculty members seeking to be represented by a union are employees covered by the NLRA or excluded managers. The case at issue is <i>Point Park University</i>, 06-RC-012276. Faculty members at this university petitioned for an election and voted in favor of representation by the Communications Workers of America, Local 38061. The university challenged the decision to hold the election, arguing that the faculty members were managers and therefore ineligible for union representation. The case was presented to the U.S. Court of Appeals for the District of Columbia Circuit, which remanded it to the NLRB to develop the explanation of its original conclusion that the faculty's role was not managerial. Specifically, the D.C. Circuit asked the NLRB to identify which of the factors set forth in the Supreme Court's decision in <i>NLRB v. Yeshiva University</i>, 444 U.S. 672 (1980), are most significant in deciding whether faculty members are statutory employees or managers. The NLRB Regional Director issued a new decision, again finding that the Point Park faculty are statutory employees. The Board has granted Point Park University's request to challenge the finding once more. The Board invited briefs from interested parties to aid in addressing the matters raised in the D.C. Circuit's remand order. The Board listed eight specific questions that should be addressed by parties filing briefs. The deadline for filing briefs was July 6, 2012.</p> <p>On June 22, 2012, the NLRB granted review in two cases involving the collective bargaining rights of graduate teaching and research assistants. <i>New York University</i>, No. 2-RC-23481, review granted June 22, 2012; <i>Polytechnic Inst. of N.Y. Univ.</i>, No. 29-RC-12054, review granted June 22, 2012. The NLRB invited the parties and interested organizations to file briefs concerning the employee</p>
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			<p>status of graduate assistants and addressing standards to apply to them in union representation cases under the NLRA. The NLRB asked those filing briefs to address four questions, including whether the Board should modify or overrule its 2004 decision in <i>Brown University</i> which held that graduate student assistants who perform services at a university in connection with their studies are not statutory employees within the meaning of Section 2(3) of the NLRA. 342 N.L.R.B. 483 (2004). The <i>Brown</i> decision had overruled a 2000 decision in <i>New York University</i>, which held that the assistants are employees under the NLRA. 332 N.L.R.B. 1205 (2000). The deadline for filing briefs was July 23, 2012.</p> <p><b>2012 AR:</b> According to the Government: In a case decided by the U.S. Supreme Court in June 2010, Granite Rock Co. sued the International Brotherhood of Teamsters and its Local Union No. 287 alleging that the Local Union No. 287 conducted a strike in breach of the collective bargaining agreement's (CBA) no-strike clause. The employer sued the union under section 301 of the Labor-Management Relations Act (LMRA), seeking damages for breaching the CBA, and also sought to sue the union for tortious interference with the collective bargaining agreement. The Supreme Court declined to recognize a common law cause of action for tortious interference, finding that virtually all lower courts have held that federal courts' authority to create a federal common law of CBAs under section 301 should be confined to a common law of contracts. <i>Granite Rock Co. v. International Brotherhood of Teamsters, et al.</i>, 130 S.Ct. 2847, 2864 (2010).</p> <p>On November 12, 2010, the FLRA issued a decision and order settling applications by two unions, the American Federation of Government Employees (AFGE) and the National Treasury Employees Union (NTEU), which sought a representation election to determine the exclusive representative of transportation security officers (TSOs) employed by the Department of Homeland Security's (DHS) Transportation Security Administration. Although the FLRA held that TSOs have a statutory right to seek a representation election, the statutory authority which created the Agency – Aviation and Transportation Security Act (ATSA) – provides that the “[Agency Secretary] may employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal service for such a number of individuals as the [DHS] determines to be necessary to carry out the screening functions of the [DHS] under section 44901 of ATSA. The [DHS] shall establish levels of compensation and other benefits for individuals so employed.” 49 U.S.C. § 44935 Note. The FLRA held that a certified, exclusive representative has independent rights under the Federal Service Labor-Management Relations Statute separate from the right to negotiate a collective bargaining agreement, and that TSOs may elect an exclusive representative to secure these non-collective bargaining rights or any collective bargaining authority that the Agency permits. Following the FLRA decision, on February 4, 2011, the DHS issued a Determination providing that if TSOs chose to be represented by a union, its exclusive representative would have the right to engage in limited collective bargaining that does not conflict with DHS's mission to protect public security. The Determination permitted the employee representative to negotiate several issues: (1) the performance management process; (2) awards and recognition; (3) attendance; (4) certain shift and annual leave bidding; (5) transfers; (6) work status changes; (7) uniforms; and (8) parking subsidies. The Determination also establishes a dispute resolution process for employees, and allows the elected exclusive representative to suggest modifications to the system. On June 23, 2011, TSOs elected AFGE as their exclusive bargaining representative.</p>
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			<p><b>2009 AR:</b> According to the Government: In <i>National Treasury Employees Union v. Chertoff</i>, 452 F.3d 839 (D.C.Cir. 2006), the Department of Homeland Security (DHS) and the Office of Personnel Management filed a status report on February 15, 2008, with the U.S. District Court for the District of Columbia asking the Court to dismiss the lawsuit. As a result of the filing, the Court dismissed the case and DHS employees will remain covered under the existing labor relations rules for federal civilian employees.</p> <p><b>2008 AR:</b> According to the Government: In <i>American Federation of Government Employees, AFL-CIO v. Gates</i>, 2007 WL 1452571(D.C.Cir.2007), the Court of Appeals for the District of Columbia reversed the judgment of the District Court in <i>American Federation of Government Employees, AFL-CIO, v. Rumsfeld</i>, 422 F.Supp.2d 16 (D.D.C.2006). In reversing the District Court’s decision, the Court of Appeals upheld the Department of Defense (DoD) regulations implementing a new human resources management system, granting DoD temporary authority to curtail collective bargaining for DoD civilian employees through November 2009.</p> <p>According to the AFL-CIO: Many decisions by the National Labour Relations Board (NLRB) in 2006/2007 illustrate the assault on fundamental workers’ rights. For example, in <i>Sacred Heart Medical Centre</i>, 347 NLRB No.48 (June 2006), the Board held that an employer could lawfully prevent nurses from wearing a button stating “RNs Demand Safe Staffing” in those parts of the medical facility where employees might encounter patients or their families. Other decisions: (i) <i>Roosevelt Medical Centre</i>, 348 NLRB No. 64 (Oct 2006) and <i>Bud Antle, Inc.</i>, 347 NLRB No. 9 (May 2006) on the right to strike; (ii) <i>Airport 2000 Concessions</i>, 346 NLRB No. 86 (April 2006), <i>Winkle Bus Company Inc.</i>, 347 NLRB No. 108 (August 2006), <i>Weldon, Williams &amp; Lick</i>, 648 NLRB No. 45 (Sept 2006), <i>Medieval Knights, LLC</i>, 350 NLRB No.17 (June 2007) on unlawful management threatening statements and intimidating conducts; and (iii) <i>Garden Ridge Management, Inc.</i>, 347 NLRB No. 13 (May 2006) regarding the employer’s conduct blocking the negotiation of a first agreement and withdrawing the recognition of the unions’ representative status.</p> <p><b>2007 AR:</b> According to the Government: In <i>American Federation of Government Employees, AFL-CIO, v. Rumsfeld</i>, 422 F.Supp.2d 16 (D.D.C.2006), the Court of Appeals enjoined the Department of Defense from implementing new personnel regulations. This decision has been appealed. In <i>National Treasury Employees Union v. Chertoff</i>, 452 F.3d 839 (D.C.Cir 2006), affirming, reversing and remanding <i>National Treasury Employees Union v. Chertoff</i>, 385 F. Supp.2d 1 (D.D.C.2005), the Court of Appeals invalidated portions of disputed personnel regulations. DHS did not appeal the ruling and plans to engage the DHS unions in further dialogue in order to redraft the regulations in compliance with the Court’s ruling. Until DHS issues revised rules, DHS employees are still covered by the current federal civil service rules. <i>District of Columbia National Treasury Employees Union v. Chertoff</i>, 385 F. Supp.2d 1 (D.D.C.2005); <i>Hoffmann Plastic Compounds v. National Relations Board</i>, 535 US 137 (2002).</p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>At national level (enterprise, sector/ industry, national)</b></p>	<p><b>For Employers</b></p> <p><b>2003-2005 ARs:</b> No Government’s authorization is required to establish an employers’ organization or to conclude collective agreements. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for all categories of employers.</p>



			<p><b>For Workers</b></p>	<p><b>2012 AR:</b> The Final Rule, 76 Fed. Reg. 54006, by the NLRB requiring NLRA-covered employers to post notices informing their employees of their NLRA rights will contribute to employees' exercise of their rights as it is fundamental that the employees know both their basic rights and where they can go to seek help in understanding those rights, and that notice of the right of self-organization, to form, join, or assist labor organizations, to bargain collectively, to engage in other concerted activities, and to refrain from such activities, and of the Board's role in protecting those statutory rights is necessary to effectuate the provisions of the NLRA.</p>
				<p><b>2003-2005 ARs:</b> No Government's authorization is required to establish a workers' organization, or to conclude collective agreements.</p> <p>The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for the following categories of workers: (i) medical professionals; (ii) teachers; (iii) agricultural workers; (iv) workers engaged in domestic work; (v) workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (vi) migrant workers; (vii) workers of all ages; and (viii) workers in the informal economy.</p> <p>All workers in the public service can exercise freedom of association, but not the right to collective bargaining.</p>



			<p><b>Special attention to particular situations</b></p>	<p><b>2015 AR:</b> According to the Government: On March 26, 2014, the NLRB director for Region 13 determined that student football players receiving football grant-in-aid scholarships qualify as employees under the NLRA.<sup>8</sup> An election was held, but the University requested that the Board review and reverse the decision; the votes will not be counted until the NLRB reviews the case. The NLRB invited the filing of amicus briefs until July 31, 2014, but has not yet set a date for resolution of the case. If upheld, it will mark the first application of the NLRA to student athletes.</p> <p>As previously reported, on August 1, 2013, the NLRB announced that it signed a Letter of Agreement with Mexico’s Ministry of Foreign Affairs designed to strengthen collaboration between the NLRB and the Mexican Embassy in Washington, D.C., as well as NLRB Regional Offices and Mexican Consulates nationwide, in their efforts to provide Mexican workers, their employers, and Mexican business owners in the United States with information, guidance, and access to education regarding their rights and responsibilities under the NLRA. Under the framework of this agreement, NLRB regional offices have signed local agreements to strengthen cooperation and collaboration with Mexican consulates in Chicago and Los Angeles.</p>
			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2014 AR:</b> According to the Government: The NLRB’s Acting General Counsel reported that in Fiscal Year (FY) 2012, 93.9 per cent of all initial union elections were conducted within 56 days of the filing of the petition; a 91 per cent settlement rate was achieved in the regional offices in meritorious unfair labor practice cases; and 97 per cent of the 37 10(j) injunction petitions litigated in federal district courts resulted in a satisfactory settlement or substantial victory. Over \$44 million was recovered on behalf of employees as backpay or other equitable reimbursements, and 1,241 employees were offered reinstatement.</p> <p>Section 10(j) of the NLRA grants the Board the discretion, upon issuance of a complaint charging the commission of any unfair labor practice, to seek appropriate injunctive relief from a district court of the United States prior to the Board’s ultimate adjudication of the merits of the complaint. In February 2013, the Acting General Counsel of the NLRB reported on the use and outcome of cases where injunctions were sought: in Fiscal Year (FY) 2012 the NLRB’s Injunction Litigation Branch (ILB) received 169 10(j) requests from Regional offices. Of those requests, the General Counsel’s office submitted 60 cases for 10(j) injunction proceedings, and 58 were authorized by the Board. Of those 58 cases, 20 were litigated to conclusion (19 wins, 1 loss), 23 cases were settled, 2 were withdrawn due to developments in the</p>

<sup>8</sup> *Northwestern Univ.*, 198 LRRM (BNA) 1837 (2014).



			<p>cases, and 13 cases were still pending at the end of 2013.</p> <p>The Acting General Counsel began an initiative in September 2010 to expedite 10(j) injunction requests for cases involving alleged unlawful discharges during union organizing campaigns. In FY 2012, the NLRB's ILB received 59 requests for 10(j) relief in such cases. The Board authorized 10(j) proceedings in 21 cases. A total of 15 petitions were filed in district court seeking reinstatement of employees. Of those cases, 10 cases were won, 2 were settled, 1 was withdrawn after an adverse administrative law decision, and 2 were still pending. In addition, since 2010 and through the end of FY 2012, NLRB has settled 198 such cases. The total back pay and interest received in these settlements amounted to over \$3 million, and 482 discharged employees were offered reinstatement.</p> <p><b>2013 AR:</b> According to the Government: The NLRB's Acting General Counsel reported that in Fiscal Year (FY) 2011, 91.7 per cent of all initial elections were conducted within 56 days of the filing of the petition; a 93 per cent settlement rate was achieved in the regional offices in meritorious unfair labor practice cases; and the NLRB regional offices won 87 per cent of Board and Administrative Law Judge unfair labor practice and compliance decisions in whole or in part, recovering \$60,514,922 on behalf of employees as backpay or reimbursement of fees, dues, and fines, with 1,644 employees offered reinstatement. NLRB representatives also participated in over 600 outreach events during 2011.</p> <p><b>2012 AR:</b> According to the Government: The NLRB General Counsel reported that in Fiscal Year (FY) 2010, 95.1 per cent of all initial elections were conducted within 56 days of the filing of the petition; a 95.8 per cent settlement rate was achieved in the regional offices in meritorious unfair labor practice cases; and NLRB regional offices won 91.0 per cent of Board and Administrative Law Judge unfair labor practice and compliance decisions in whole or in part, recovering \$86,557,684 on behalf of employees as backpay or as reimbursement of fees, dues, and fines, with 2,250 employees offered reinstatement. NLRB representatives also participated in over 630 outreach events during FY 2010.</p>
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		<p><b>At international level</b></p>	<p>According to the Government: There are no particular restrictions for the international affiliation of employers’ or workers’ organizations.</p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2010 AR:</b> According to the Government: During fiscal year (FY) 2008, 25,890 cases were filed with the Board, 22,497 of which alleged that employers or unions committed unfair labor practices (ULPs) and 3,158 of which were petitions to conduct secret ballot elections to determine whether employees desired to have a union as their exclusive bargaining representative in collective bargaining with their employers. Seventy-two per cent of the ULP cases were filed against employers and the majority of those alleged that the employer refused to bargain with the union. Allegations of illegal discharge or other types of discrimination against employees were the second most frequently filed charges against employers, comprising 40.3 per cent of the total charges filed. When the Board determines that unfair labor practice charges have merit, voluntary resolution is attempted prior to issuance of a complaint, which improves labor-management relations and reduces litigation. In FY 2008, 39.1 per cent of the unfair labor practice cases were found to have merit. Pre-complaint settlements and adjustments were achieved in 6,928 cases, or approximately 79 per cent of the merit cases. The NLRB General Counsel issued 1,108 complaints in unfair labor practice cases; 86 per cent of the complaints were issued against employers and 14 per cent were against unions.</p> <p>In ULP cases against employers, the Board collected \$64,899,747 during FY 2008 for employees illegally discharged or otherwise discriminated against in violation of their rights under the NLRA. Additionally, the Board secured offers of reinstatement for 1,839 employees, and 80.4 per cent accepted. Unions won 60 per cent of the 1,931 representation elections conducted by the NLRB during FY 2008, resulting in unions obtaining or retaining bargaining rights for 85,247 workers. For more information on NLRB operations, see the Board’s annual report for FY 2008, which can be found at <a href="http://www.nlr.gov/publications/reports/annual_reports.aspx">http://www.nlr.gov/publications/reports/annual_reports.aspx</a>.</p>	



		<p><b>2003 AR:</b> According to the Government: The following measures have been implemented to promote and realize the principle and right (PR): (i) legal reform (labour law and other relevant legislation); (ii) inspection/monitoring mechanisms; (iii) penal, civil or administrative sanctions; (iv) special institutional machinery; and (v) capacity building of responsible Government officials.</p> <p><b>2000 AR:</b> According to the Government: Enforcement of most provisions of the NLRA is done by the National Labor Relations Board (NLRB), an independent General Counsel, and the judicial system.</p> <p>Disputes that cannot be resolved by the parties themselves are generally resolved through the use of mediation, conciliation and arbitration.</p> <p>The FMCS has authority to help resolve bargaining disputes between federal agencies and workers' organizations. If a federal-sector dispute cannot be resolved voluntarily, either party may request the Federal Service Impasses Panel (FSIP) to consider the matter.</p> <p>The Federal Labor Relations Authority (FLRA) performs functions for federal employee labour organizations similar to those performed by the NLRB for private sector employees, including resolution of complaints of unfair labour practices and disputes over the scope of collective bargaining negotiations (5 U.S.C. §§ 7104-7105).</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>NIL.</b></p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: In August 2013, the NLRB launched a mobile phone application providing employers, employees and their representatives with detailed information regarding their rights and obligations under the NLRA. The application also connects users directly to an NLRB representative to answer questions concerning these rights. Announcing the launch, NLRB Chairman Mark Gaston Pearce explained that "The promise of the law can only be fulfilled when employers and employees understand their rights and obligations. With this app, we are using 21st Century technology to inform and educate the public about the law and their rights."</p> <p>In December 2013, the Federal Mediation and Conciliation Service (FMCS) hosted a "Partnerships that Work" summit at the White House celebrating labor-management partnerships and the virtues of union-employer negotiations. The summit brought together union, business and government leaders to showcase how effective collaboration between the parties can build long-term success for all, and featured several panels on effective collaboration. Leaders of the International Longshoremen's Association, the United States Maritime Alliance, and the New York Shipping Association were recognized during the event for working together during extended collective bargaining in 2012 to avert a work stoppage in U.S. Atlantic and Gulf Coast ports.</p> <p>In February 2014, the FMCS and the Department of Education cosponsored a third major conference on labor-management collaboration. This year's conference examined how school leaders, teachers and other staff can work together to ensure college- and career-ready (CCR) standards are successfully integrated into classrooms across the country. The conference supported effective implementation of CCR standards by providing examples of collaboration and supporting teams as they created plans that reflect shared priorities. The event was also cosponsored by the following organizations: American Federation of Teachers, National Education Association, American Association of School Administrators, School Superintendents Association, National School Boards Association, Council of the Great City Schools, and Council of Chief State School Officers.</p> <p>In August 2014, the Federal Labor Relations Authority (FLRA) hosted a focus group at its Washington, D.C. office in order to seek the input of the federal-labor management community that it serves about the agency's future strategic direction. The</p>





FLRA has recently launched a new strategic planning effort that will culminate in the creation of the FLRA 2015–2020 Strategic Plan.

**2014 AR:** According to the Government: On June 17, 2013, the Federal Labor Relations Authority (FLRA) issued the Guide to Negotiability Under the Federal Service Labor-Management Relations Statute. The Guide addresses negotiability terms and concepts, the negotiability process, the bases for dismissing negotiability petitions, and some substantive issues that frequently arise in negotiability cases, including management rights. The guide was compiled with input from the Society of Federal Labor and Employment Relations Professionals. On May 2, 2013, the NLRB completed the largest mail ballot election in its history in determining representation by Kaiser healthcare employees. Employees cast 32,000 ballots in retaining their current bargaining representative, SEIU-United Healthcare Workers-West (SEIU-UHW), rather than switching to National Union of Healthcare Workers-California Nurses Association, AFL-CIO (NUHW-CNA).

Since 2011, the Federal Mediation and Conciliation Service (FMCS) has worked in conjunction with the U.S. Department of Education (ED), two major teachers' unions (the American Federation of Teachers (AFT) and the National Education Association (NEA)) and the organizations representing school administrators, school boards, and major urban school systems (American Association of School Administrators (AASA), the National School Boards Association (NSBA) and the Council of the Great City Schools (CGCS)) on an educational reform effort designed to elevate student achievement in public schools. The FMCS has used its expertise in labor-management cooperation to promote student achievement as a priority concern in collective bargaining in public education. At a February 2011 conference, the FMCS worked with ED, AFT, NEA, AASA, NSBA, and CGCS to put forth A New Compact for Student Success and developed 10 principles of labor-management collaboration that addressed, among other things, the way that teachers are supported, compensated, evaluated, and engaged in strategic planning and decision-making. In May 2012, the same entities hosted a second conference on labor-management collaboration to focus exclusively on Collaborating to Transform the Teaching Profession and produced a joint statement outlining seven components to transform the teaching profession: (i) A Culture of Shared Responsibility and Leadership; (ii) Top Talent, Prepared for Success; (iii) Continuous Growth and Professional Development; (iv) Effective Teachers and Principals, (v) A Professional Career Continuum With Competitive Compensation; (vi) Conditions for Successful Teaching and Learning; and (vii) Engaged Communities.

**2013 AR:** According to the Government: On June 18, 2012, the NLRB launched a public webpage on Protected Concerted Activity describing the rights of employees to act together for their mutual aid and protection, even if the employees are not unionized. The webpage ([www.nlr.gov/concerted-activity](http://www.nlr.gov/concerted-activity)) provides 13 examples of recent cases involving protected concerted activity for the general public to review. The examples are placed on an interactive U.S. map, allowing review of examples of protected concerted activity cases by state. *See:* <http://nlrb.gov/news/nlrb-launches-webpage-describing-protected-concerted-activity>. NLRB representatives also participated in over 600 outreach events during 2011.

**2012 AR:** According to the Government: NLRB representatives participated in over 630 outreach events during 2010.

**2010 AR:** According to the Government: Public awareness raising: As part of its mission, the NLRB also engages in an extensive outreach/education campaign across its 34 regional offices to inform workers, employers, unions, and other interested stakeholders about the rights of employees and the responsibilities of employers and labor organizations under the NLRA.

In FY 2008, NLRB agents participated in over 525 outreach events, providing information to over 32,000 stakeholders, including discussing the NLRA and recent case developments on radio talk shows. Most outreach events took place in educational settings such as law schools and undergraduate and high school classes. Other events involved community-based activities, bar association activities, and outreach activities to labor organizations, employer/management organizations, and government organizations. The NLRB's General Counsel has recently emphasized "non-traditional" outreach, which has





resulted in increased outreach to non-English-speaking groups at fairs, conferences, workers' centers, immigrant welcome centers, and women's rights centers. There were also events designed to educate union stewards and human resource employees about workers' rights. In addition, almost two-thirds of the NLRB regional offices prepared and disseminated regional newsletters, many of which have been translated into Spanish, which have been placed on the NLRB website. The NLRB also maintains a centralized speakers' bureau that makes available NLRB representatives to speak about the NLRA and the NLRB to a variety of organizations, including worker and employer representatives and worker advocacy groups. Finally, production of an English/Spanish video about the NLRB and union representation case processing for nationwide distribution to the public has been completed. DVDs will be sent to the regional offices for distribution and a streaming video will be placed on the NLRB website. For more information about the Board and its outreach activities go to <http://www.nlr.gov/index.aspx>.

**2000 AR:** According to the Government: the FMCS has outreach programs that include promotion of a wider understanding, acceptance and proper use of the collective bargaining process and third-party assistance in the prevention and constructive resolution of labour-management and other disputes.



	<b>Special initiatives/Progress</b>	<p><b>2015 AR:</b> According to the Government: On February 5, 2014, the NLRB noticed for comment proposed amendments to its election rules and regulations, which would accelerate pre-election hearings by requiring they be held within seven days rather than 14. The proposed amendments are identical in substance to the election procedure changes the NLRB adopted in December 2011. As previously reported, that final rule was invalidated by a District Court ruling that it had been adopted without a validly constituted quorum. Additionally, to facilitate communication between unions and employees preceding an election, the amendments would require employers to submit employee email addresses and phone numbers on lists of eligible voters, rather than simply names and home addresses. Finally, the amendments would allow elections to avoid being slowed by disagreement over appropriate members of a bargaining unit when the contested members comprise less than 20 percent of the proposed unit.<sup>9</sup> In <i>Purple Communications, Inc.</i> the Board expressed an interest in revisiting <i>Register-Guard</i>, a 2007 decision holding that employees do not possess the right to use employer email and communications systems to engage in organizing and other protected activities under the NLRA.<sup>10</sup> Prior to Board review, the Administrative Law Judge had dismissed the employees' argument that <i>Register-Guard</i> should be overturned given the "increased importance of email as a means of employee communication."<sup>12</sup> Interested parties filed amicus briefs prior to June 16, 2014. On July 8, 2013, the Justice Department Civil Rights Division's Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) entered into a Memorandum of Understanding (MOU) with the NLRB. The MOU empowers the NLRB to make referrals to the OSC when a matter indicates a violation of the anti-discrimination provisions of the Immigration and Nationality Act, a statute within the OSC's jurisdiction. Conversely, should a matter before the OSC suggest violations of workers' rights, the Office may refer the case to the NLRB. Greater coordination and information sharing between the two agencies helps ensure that employers do not avoid liability where an employee simply turns to the wrong agency or is unaware of additional protections provided by a different law.<sup>13</sup> In a summary of activities for Fiscal Year 2013, NLRB General Counsel Richard Griffin, Jr. announced that the settlement rate for all 21,394 charges of unfair labor practices was 92.8 percent. For the 1,272 cases proceeding to litigation, the NLRB won 85.7 percent. For cases sent to the Division of Advice, the median processing time was 21 days. Finally, of the 41 cases where the Board sought 10(j) injunctions, it won 8 of the 11 litigated to conclusion.<sup>14</sup> Additionally, the Board conducted 1,620 elections, including 172 mail ballot elections and 14 mixed manual/mail ballot elections.</p> <p><b>2014 AR:</b> According to the Government: As previously reported, the Acting General Counsel began an initiative in September</p>
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<sup>9</sup> Notice of Proposed Rulemaking, 79 Fed. Reg. 7317 (proposed Feb. 6, 2014) (to be codified at 29 C.F.R. pts. 101-03), available at <https://www.federalregister.gov/articles/2014/02/06/2014-02128/representation-case-procedures#h-8>.

<sup>10</sup> *Purple Commc'ns, Inc.*, 210RC-091584 (2013).

<sup>11</sup> See, *The Guard Publishing Co. D/B/A the Register-Guard*, 351 NLRB No. 70, 183 LRRM (BNA) 1113 (2007).

<sup>12</sup> *Purple Communications*.

<sup>13</sup> Department of Justice, available at <http://www.justice.gov/opa/pr/2013/July/13-crt-762.html>.

<sup>14</sup> NLRB's Summary of Operations for FY 13 (Memorandum GC 14-02) can be found at <http://www.nlr.gov/reports-guidance/general-counsel-memos>.



		<p>2010 to expedite 10(j) injunction requests for cases involving alleged unlawful discharges during union organizing campaigns. On August 1, 2013, the NLRB announced that it signed a nonbinding Letter of Agreement with Mexico's Ministry of Foreign Affairs. The commitments in the letter are designed to strengthen collaboration between the NLRB and the Mexican Embassy in Washington, D.C., as well as NLRB Regional Offices and Mexican Consulates nationwide, in their efforts to provide Mexican workers, their employers, and Mexican business owners in the United States with information, guidance, and access to education regarding their rights and responsibilities under the NLRA.</p> <p><b>2013 AR:</b> According to the Government: As previously reported, on September 30, 2010, the NLRB's Acting General Counsel announced an initiative to expedite the processing of Section 10(j)<sup>15</sup> requests in cases involving alleged unlawful discharges during union organizing campaigns. On June 7, 2012, the NLRB Assistant General Counsel in the Injunction Litigation Branch, reported that the General Counsel's office succeeded in obtaining a Section 10(j) injunction - or, more often, a settlement - in every one of the 41 recent cases in which it had sought Board authorization to seek a court injunction.<sup>16</sup> Of these cases, 30 percent involved discharges during union organizing campaigns. From October 2011 through March 2012, the Board acted to authorize Section 10(j) injunctions within one to 10 days of the General Counsel's request in cases involving discharges during organizing campaigns, responding in an average of six days. In discharge cases where the employee does not seek reinstatement, injunctive relief increasingly includes requiring the employer to read aloud to employees a notice or court order barring future acts of retaliation for organizing activity. Three of the 26 union certifications issued by the NMB since its 2010 voting rule change for representation elections would not have been made under the previous rule.<sup>17</sup> A total of 43 elections among airline and railroad employees have been held since the change, resulting in 23 union certifications based on a majority of the votes cast in favor of union representation. Prior to 2010, the NMB required unions to win the votes of a majority of all eligible workers, in effect counting those who did not cast ballots as votes against representation. The rule change, which was supported by unions, was challenged by the airline industry in federal court, but was upheld by the U.S. Circuit Court for the District of Columbia.</p> <p>Furthermore, in 2012 the Federal Labor Relations Authority (FLRA) implemented a broad eFiling system over the course of a three-stage regulation. This first stage of the eFiling Initiative was published on February 7, 2012 and allows parties to electronically file requests for the Federal Service Impasse Panel to assist in resolving negotiation impasses, 77 Fed. Reg. 5987. This rule became effective on March 8, 2012. The second stage of the regulations was published on May 4, 2012, 77 Fed. Reg. 26430. This second stage allows parties to use the FLRA's eFiling system to electronically file 11 types of documents in arbitration, negotiability, unfair labor practices, and representation cases before the Authority and became effective on June 4, 2012. The third and final stage was published on June 25, 2012, and allows parties to file electronically three types of documents: union representation petitions under 5 C.F.R. Part 2422; cross petitions in response to those petitions, also under 5 C.F.R. Part 2422; and unfair labor practice charges under 5 C.F.R. Part 2423, 77 Fed. Reg. 37,751. The final rule became effective on July 25, 2012. Making eFiling available is expected to improve the customer-service experience and increase efficiencies by reducing procedural filing errors and resulting processing delays.</p>
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<sup>15</sup> Section 10(j) of the NLRA grants the Board the discretion, upon issuance of a complaint charging the commission of any unfair labor practice, to seek appropriate injunctive relief from a district court of the United States prior to the Board's ultimate adjudication of the merits of the complaint.

<sup>16</sup> Highlights of Merberg's speech are discussed in the following article: John Herzfeld, *Board to Stick with Rulemaking Despite Resistance, Pearce Says*, BLOOMBERG BNA DAILY LABOR REPORT, June 11, 2012, available at

[http://news.bna.com/dlln/DLLNWB/split\\_display.adp?fedfid=27053000&vname=dllmotalissues&wsn=499625500&searchid=18620903&doctypeid=1&type=date&mode=doc&split=0&scm=DLLNWB&pg=0](http://news.bna.com/dlln/DLLNWB/split_display.adp?fedfid=27053000&vname=dllmotalissues&wsn=499625500&searchid=18620903&doctypeid=1&type=date&mode=doc&split=0&scm=DLLNWB&pg=0)

<sup>17</sup> Highlights of Dougherty's speech are discussed in the following article: Larry Swisher, *NMB Voting Rule Change in 2010 Caused Certification of Three Additional Unions*, BLOOMBERG BNA DAILY LABOR REPORT, Mar. 15, 2012, available at

[http://news.bna.com/dlln/DLLNWB/split\\_display.adp?fedfid=24831566&vname=dllmotalissues&wsn=487081000&searchid=18621507&doctypeid=1&type=date&mode=doc&split=0&scm=DLLNWB&pg=0](http://news.bna.com/dlln/DLLNWB/split_display.adp?fedfid=24831566&vname=dllmotalissues&wsn=487081000&searchid=18621507&doctypeid=1&type=date&mode=doc&split=0&scm=DLLNWB&pg=0)



	<p><b>2012 AR:</b> According to the Government: On September 30, 2010, the NLRB’s Acting General Counsel announced an initiative to expedite the processing of section 10(j)<sup>18</sup> requests in cases involving alleged unlawful discharges during union organizing campaigns. The new initiative, announced in a General Counsel Memorandum to the Board’s Regional Offices (Memorandum GC 10-07)<sup>19</sup>, institutes new timelines and procedures to accelerate the review of unfair labor practice charges alleging an unlawful discharge occurring during a union organizing campaign (so-called “nip-in-the-bud” cases). The initiative requires NLRB’s regional offices to investigate charges involving discharges during union organizing campaigns and to submit a report within one week of their findings to the Acting General Counsel. A follow-up memorandum issued on December 20, 2010, provided guidance to NLRB Regional Directors on seeking appropriate remedies in such cases (Memorandum GC 11-01).</p> <p><b>2011 AR:</b> According to the Government: Pursuant to E.O. 13522, on September 20, 2010, the National Council on Federal Labor-Management Relations approved plans for six federal agencies to engage in collective bargaining over permissive topics with their unions; topics covered by permissive bargaining, also known as “b (1) bargaining,” include the numbers, types, and grades of employees and the technology, means, and methods used to perform agency work. At the state level, such initiatives include recent legislation enacted in New York (S 7451) granting child care workers the right to organize and negotiate with the state over certain working conditions. The law, which took effect October 2, 2010, codifies an executive order and grants child care workers the right to form unions and negotiate agreements with the New York Office of Children and Family Services. Such agreements may cover salaries, benefits, working conditions, and certain other items, including “the stability, funding, and operation” of child care programs. The new law covers about 50,000 child care workers who currently are represented by the Civil Service Employees Association (CSEA) and the United Federation of Teachers.</p> <p><b>2010 AR:</b> According to the Government: <i>Legislative action:</i> Pub. L. No. 110-329, Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, was signed into law on September 30, 2008. Section 522 of the law prohibits the use of appropriated funds by the Department of Homeland Security (DHS) for the establishment of a human resources management system (HRMS) without collaboration with employee representatives. This provision is consistent in effect with a recent appellate court decision (i.e., <i>National Treasury Employees Union v. Chertoff</i>, 452 F.3d 839 (D.C.Cir. 2006) previously reported in the 2007 and 2009 Declaration reports, which found regulations implementing a DHS HRMS that limited collective bargaining to be improper.</p> <p>On January 30, 2009, President Obama signed Executive Orders (EO) 13494 and 13496. EO 13494, concerning economy in government contracting, requires Federal agencies to “treat as unallowable the costs of any activities undertaken to persuade employees – whether employees of the recipient of the Federal disbursements or of any other entity – to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of the employees’ own choosing.” EO 13496 requires Federal government contractors and their subcontractors to post in conspicuous places in and about workplaces where contracted work is performed notices to employees regarding their rights under the National Labor Relations Act. This executive order revokes EO 13201, which required posting notices of employees’ rights not to join a union and not to pay dues for activities unrelated to administration of collective bargaining agreements. The Department of Labor issued proposed regulations to implement EO 13496, 74 Fed. Reg. 38,488 (Aug. 3, 2009), and anticipates issuing the final rule in 2010.</p>
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<sup>18</sup> Section 10(j) of the NLRA grants the Board the discretion, upon issuance of a complaint charging the commission of any unfair labor practice, to seek appropriate injunctive relief from a district court of the United States prior to the Board’s ultimate adjudication of the merits of the complaint.

<sup>19</sup> NLRB General Counsel memoranda may be accessed at <http://www.nlr.gov/publications/general-counsel-memos>.



		<p>On February 6, 2009, President Obama signed Executive Order (EO) 13502, which states the Federal Government’s policy to encourage federal agencies to consider requiring the use of project labor agreements on federally-funded construction projects costing at least \$25 million. The EO defines “project labor agreement ‘as’ a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project...” Pursuant to the EO, federal agencies have discretion to require, on an applicable project-to-project basis, that every contractor or subcontractor used on the project negotiate or become a party to a project labor agreement. The new EO revokes EO 13202, as amended, which prohibited federal agencies from requiring that a project labor agreement be a bid specification on a federal construction project. The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have issued proposed regulations to implement EO 13502, 74 Fed. Reg. 33,953 (July 14, 2009).</p> <p>On March 10, 2009, House Bill H.R. 1409 and Senate Bill S.560 (i.e., Employee Free Choice Act or EFCA), which would amend the National Labor Relations Act (NLRA), were introduced in the U.S. Congress. The National Labor Relations Board (NLRB or Board) enforces the NLRA, which is the primary law assuring freedom of association and collective bargaining rights to private sector workers in the United States. President Obama has expressed support for EFCA, which would address several challenges to the full exercise of the rights of freedom of association and collective bargaining. Many of these challenges were first identified in 1999 when the United States submitted its initial report on freedom of association and the effective recognition of the right to collective bargaining in accordance with the Declaration on Fundamental Principles and Rights at Work and its Follow-up. The text of the proposed legislation is available at <a href="http://edlabor.house.gov/documents/111/pdf/legislation/EmployeeFreeChoiceAct2009.pdf">http://edlabor.house.gov/documents/111/pdf/legislation/EmployeeFreeChoiceAct2009.pdf</a>.</p> <p>On April 2, 2009, the Transportation Security Workforce Enhancement Act of 2009, H.R. 1881, was introduced in the U.S. Congress. The Act would place employees of the Transportation Security Administration (TSA) under the same personnel management system as civil service employees, providing some 42,000 airport screeners with collective bargaining rights. The text of the legislation is available at <a href="http://thomas.loc.gov/cgi-bin/bdquery/z?d111:H.R.1881">http://thomas.loc.gov/cgi-bin/bdquery/z?d111:H.R.1881</a>.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers’ organizations</b>	<b>NIL.</b>
		<b>Workers’ organizations</b>	<b>2007-2009 ARs:</b> The ICFTU raised the following additional challenges: (i) The NLRA excludes many categories from private sector employees from its scope, such as agricultural and domestic workers, supervisors, and independent contractors; (ii) at federal level, in the public sector, approximately 40 per cent of all workers are still denied basic collective bargaining rights and the statutes outlaw strikes; (iii) the law allows employers to replace striking workers permanently; (iv) employers have a legal right to engage in a wide range of anti-union tactics that discourage the exercise of freedom of association; (v) the penalties are too weak to deter employers who violate labour laws from doing it again; (vi) 2005 showed a disturbing trend of employers using the bankruptcy system to declare collective bargaining agreements no longer valid.



			<p><b>2006 and 2008 ARs:</b> According to the AFL-CIO: Actions on the part of the United States (U.S.) Government during the year 2005 continue an alarming trend of weakening workers' fundamental rights of freedom of association and collective bargaining. In <i>District of Columbia National Treasury Employees Union v. Chertoff</i>, 385 F. Supp.2d 1 (D.D.C.2005), the Court opined that "collective bargaining has at least one irreducible minimum that is missing from the HR System: a binding contract." <i>Id.</i> at 17[2]. The Court's decision reveals the U.S. Government's so-called human resources management system for what it really is: a full-fledged and unprecedented assault on the fundamental rights of federal Government workers. In addition, decisions by the National Labor Relations Board (NLRB or Board) in 2005 severely curtailed workers' rights in the private sector.</p> <p><b>2005 AR:</b> The AFL-CIO strongly disagreed with the draft update to the report on the PR. According to the AFL-CIO: (i) Legislation does not protect workers (e.g. the Homeland Security Act in 2002); (ii) other developments in 2004 threaten workers' fundamental rights, such as the National Labour Relations Board's decision to review the legality of the rules regarding majority verification and neutrality of procedures to form unions; (iii) the Department of Defense's employees are denied the right to collective bargaining under the Department of Defense Reauthorization Act, passed by Congress in 2003.</p> <p>According to the ICFTU: (i) Many categories of employees in the private sector are excluded from the right to freedom of association and the right to join trade unions; (ii) legal restrictions on the exercise of the PR; (iii) law also allows employers to replace striking workers permanently, and the statute of the 1978 Federal Labor Relations Act outlaws strikes for employees of the Federal Government; (iv) the U.S. Supreme Court ruled in 2002 that undocumented workers are not entitled to back pay as a remedy for unfair labour practices under the NLRA, and they are not entitled to reinstatement; (v) several restrictions have made difficult the enforcement of trade union rights on behalf of the millions of undocumented workers in the country.</p> <p><b>2004 AR:</b> The AFL-CIO stated the following: (i) The often glaring discrepancies between the rights guaranteed to workers in theory under United States law, and the failure to extend these same rights in actual practice; (ii) the situation has not improved since last year, and the conditions of undocumented workers are getting worse (e.g. <i>Hoffman Plastic Compounds v. National Labour Relations Board</i>, 535 US 137 (2002)).</p>
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			<p><b>2000-2002 ARs:</b> ICFTU’s observations: (i) One in ten union supporters campaigning to form a union is illegally fired; lack of protection of the trade union representatives against the employers; (ii) the procedures of the National Labor Relations Board (NLRB) do not provide workers with effective redress in the face of abuses by employers; (iii) trade union representatives are denied access to the employer’s property to meet employees during non-working time; (iv) the National Labor Relations Act requires the NLRB to seek injunctions in a federal court against trade unions committing certain kinds of unfair labour practices but there is no corresponding obligation when the unfair labour practices are committed by employers; (v) employers regularly challenge the results when the union wins a representation vote, regardless of the margin of victory; (vi) restrictive strikes right; (vii) there is little collective bargaining in the construction industry; (viii) should the company and the union reach an agreement during a strike, striking workers do not automatically return to work; (ix) national labour legislation does not cover agricultural or domestic workers and certain kinds of supervisory workers; (x) approximately 40 per cent of all public sector workers, nearly 7 million people, are still denied basic collective bargaining rights.</p>
	<p><b>According to the Government</b></p>		<p><b>2015 AR:</b> In <i>Noel Canning v. NLRB</i>, an employer successfully challenged the President’s recess appointment of three members of the NLRB in January 2012. Under the U.S. Constitution, certain governmental positions, including the Members and the General Counsel of the NLRB, may only be appointed by the President with the “advice and consent” of the Senate. Under the Recess Appointments Clause of the Constitution, however, the President “shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.” In January 2012, the President, citing his recess appointment power, appointed three members to the NLRB during a brief Senate recess. In August, 2013, the President again appointed members to the Board, though with full Senate confirmation.</p> <p>On June 26, 2014, the Supreme Court issued its opinion in <i>NLRB v. Noel Canning</i>, holding that the President’s January 2012 recess appointments of Board Members were not authorized by the Recess Appointments Clause. <i>See</i> Art. II, § 2, C1. 3. The Court held that the Senate was in session during its <i>pro forma</i> sessions because the Senate said it was in session and had retained the power to conduct business. The Court, therefore, concluded that the President lacked the authority to make the January 2012 recess appointments during the 3-day period between two <i>pro forma</i> sessions because that 3-day period was too short to constitute a recess. With only two of five Board members properly appointed between January 2012 and August 2013, the Board lacked a quorum, potentially calling into question over 700 reported and unreported NLRB decisions.</p> <p>The consequences of <i>Noel Canning</i> remain uncertain. General Counsel Richard Griffin, speaking at an American Bar Association webinar on July 9, 2014, stressed that many Board decisions will remain untouched. Often, parties will not have</p>





	<p>an interest in revisiting cases satisfactorily resolved, either through a favorable decision or acceptable settlement. The Board may also, in revisiting overturned cases, choose to confirm those earlier decisions. Finally, though decisions by the recess-appointed Board may lack precedential power, the Senate-confirmed Board may nonetheless find them persuasive.</p> <p><b>2012-2014 ARs:</b> According to the Government: The challenges and difficulties described in the U.S. Government’s report for 2010 AR persist.</p> <p><b>2010 AR:</b> According to the Government: The United States has an elaborate system of substantive labor law and procedures to assure the enforcement of that law and is committed to the fundamental principle of freedom of association and the effective recognition of the right to collective bargaining. Nonetheless, when the United States submitted its initial report in 1999 on freedom of association and the effective recognition of the right to collective bargaining in accordance with the Declaration on Fundamental Principles and Rights at Work and its Follow-up, the report noted several challenges that some workers faced to the exercise of their organizational and collective bargaining rights. The concerns about labor-management relations identified in the 1999 report remain relevant today because there has been no significant revision of U.S. labor laws since it was issued.</p> <p>Representation elections, for example, remain highly adversarial, making it difficult in many cases for positive collective bargaining relations and agreements to emerge. Agriculture workers, domestic service workers, independent contractors, and supervisors continue not to be covered by the NLRA. See, e.g., ILO Committee of Freedom Association (CFA) Case No. 2524 (requesting that the United States “take all necessary steps ... to ensure that the [NLRA] exclusion ... of supervisory staff ... is limited to those workers genuinely representing the interests of employers). The collective bargaining and strike rights of public sector workers are also subject to varying degrees of protection. See, e.g., ILO CFA Case No. 2292 (requesting that the United States carefully review “matters covered within the overall terms and conditions of employment of federal airport screeners which are not directly related to national security issues and to engage in collective bargaining on these matters”). Union representatives continue to have limited access to employees in the workplace, particularly when compared to employers’ access. The ILO Committee on Freedom of Association (CFA) has noted this problem and requested that the United States “guarantee access of trade union representatives to workplaces, with due respect for the rights of property and management, so that trade unions can communicate with workers.” ILO CFA Case No. 1523. It remains the case under U.S. labor law that an employer is permitted to hire replacement workers during a strike in order to continue business operations and, if the strike is an economic strike (as distinguished from an unfair labor practice strike), the employer is not required to displace the replacement workers in order to reemploy the returning strikers. This provision of United States labor law has been criticized as detrimental to the exercise of fundamental rights of freedom of association and to meaningful collective bargaining and was the subject of ILO CFA Case No. 1543.</p> <p>U.S. law continues to treat allegations of serious employer and union illegal conduct differently. In cases involving alleged serious unlawful acts by workers’ organizations that could threaten businesses and rapidly lead to irreparable damage to employers, the NLRA requires the NLRB to seek temporary injunctions under section 10(i) if it reasonably believes the allegations to be true. In cases of alleged serious unlawful employer conduct that could lead quickly to irreparable damage to workers’ exercise of their rights to freedom of association and collective bargaining, the NLRA provides that the NLRB <i>may</i> seek a temporary injunction under section 10(j) if it has reasonable cause to believe the allegations. The ILO CFA considered a case against the United States addressing this disparity between the obligation of the NLRB under section 10(i) and the discretion given to the NLRB under section 10(j), and requested that the United States “ensure that, within the context of the application of the NLRA, workers and employers will be treated on a fully equal basis, in particular with respect to unfair labor practices.” ILO CFA Case No. 1523. The remedies available under the NLRA also do not include compensatory or punitive damages, causing some to question whether existing remedies are sufficient to deter unfair labor practices by some employers. See Dunlop Commission Report, cited in the United States’ 1999 Report. EFCA would address these issues.</p> <p>In addition, the length of time it takes to resolve some disputes under the NLRA can undermine the right to organize and</p>
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		<p>meaningful collective bargaining. The NLRB's most recent annual report indicates that the median length of time it takes from the filing of charges to the issuance of a complaint in an unfair labor practice case is 98 days; the median length of time from the issuance of a complaint to entry of an administrative law judge's decision was an additional 213 days. The median length of time from the filing of charges to the issuance of a full NLRB decision was 559 days. NLRB 2008 Annual Report, Table 23, available at <a href="http://www.nlr.gov/publications/reports/annual_reports.aspx">http://www.nlr.gov/publications/reports/annual_reports.aspx</a>. Such delays increase the likelihood that unfair labor practices which result in the defeat of organizing efforts or prevent reaching first contracts can never be remedied effectively, thereby deterring the exercise of protected rights.</p> <p>In summary, it must be acknowledged that some aspects of the U.S. labor law system could be improved to more fully protect the rights to organize and bargain collectively of all employees in all circumstances. It must further be acknowledged that to ensure respect, promote, and realize the right to organize and bargain collectively, it is essential to reexamine any system of labor laws from time to time to assure that the system continues to protect these fundamental rights. The President and the U.S. Congress regularly assess the state of U.S. legislation, and the Congress amends existing laws or enacts new laws when necessary. As part of these ongoing efforts, for example, the Congress is actively considering legislation, such as the Employee Free Choice Act, that would address many of the concerns discussed above.</p> <p><b>2008 AR:</b> The Department of Homeland Security (DHS) and the Department of Defense (DoD) each issued regulations in 2005 that implement legislation authorizing them to establish new human resources management systems. DHS published its final regulations in the <i>Federal Register</i> on February 1, 2005 (70 Fed. Reg. 5,272) and DoD published its final regulations on November 1, 2005 (70 Fed. Reg. 66,116). The validity of each of these regulations is the subject of ongoing litigation. A federal judge enjoined the labour-management portions of the DHS regulations on August 12, 2005 (National Treasury Employees Union v. Chertoff, 385 F.Supp. 2d 1(D.D.C.2005)), and she declined to modify the injunctions on October 7 (394 F.Supp. 2d 137 (D.D.C.2005)). These decisions have been appealed. No ruling has been made on the pending challenge to the DoD regulations, which was scheduled to take effect on February 1, 2006.</p> <p>In response to ITUC's observations, the Government indicated that the information, that it has regularly submitted under the Declaration's Annual follow-up, has shown that the Government is deeply committed to the basic principles that were reaffirmed in the ILO Declaration, and that the country's law and practice reflect those principles.</p>
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<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2012-2015 ARs:</b> According to the Government: To the extent that the ILO might be able to recommend relevant forms of tripartite technical cooperation, the United States would welcome such proposals.</p> <p><b>2011 AR:</b> The Government reiterated that to the extent that the ILO might be able to recommend relevant forms of tripartite technical cooperation, the United States would welcome such proposals.</p> <p><b>2010 AR:</b> According to the Government: Federal legislation and practice appear to be in general conformance with ILO Conventions 87 and 98, though the challenges identified above persist and no recent in-depth tripartite analysis has been performed regarding these Conventions. To the extent that the ILO might be able to recommend relevant forms of tripartite technical cooperation, the United States would welcome such proposals.</p> <p><b>2003 AR:</b> According to the AFL-CIO: Priority needs for technical cooperation to facilitate the realization of the PR in the United States exist in the following areas: (1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the principle; (2) strengthening data collection and capacity for statistical analysis; (3) legal reform; and (4) capacity building of responsible Government institutions.</p> <p><b>2000 AR:</b> According to the Government: To the extent that the ILO might be able to recommend relevant forms of tripartite technical cooperation, the United States would be interested in any such proposals.</p>
	<b>Offer</b>	<b>NIL.</b>
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that the Government of United States (and three other governments) had indicated the current impossibility to ratify C.87 and C.98 without further justification (cf. paragraphs 12 and 29 of the 2008 Annual Review Introduction – ILO: GB.301/3). They also noted that restrictions on the rights of certain categories of workers in United States, such as workers in the public service and agricultural workers, to organize, were not compatible with the realization of this principle and right (cf. paragraphs 29 and 38 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed the United States among the four countries in which 52 per cent of the total labour force of ILO member States lives and which have not yet ratified C.87 and C.98. This leaves many millions of workers and employers without the protection offered by these instruments in international law, even if the governments concerned may consider that their law and practice are sufficient (cf. paragraph 32 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The ILO Declaration Expert-Advisers listed the United States among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 AR Introduction). They also considered that the example of regular and constructive contributions by AFL-CIO should be expanded upon, in particular among other national workers' organizations, as well as employers' organizations (cf. paragraph 190 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015) <sup>1</sup>: UZBEKISTAN**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, except for the 2000-2002, 2004 and 2011 Annual Reviews (ARs). No change report for the 2007 AR.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Chamber of Commerce and Industry of Uzbekistan (CCIU) and the Federation of Trade Unions of Uzbekistan (FTUU) through communication of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the CCIU. <b>2013 AR:</b> Observations by the CCIU. <b>2008 AR:</b> Observations by the CCIU.	
	<b>Workers' organizations</b>	<b>2014 AR:</b> Observations by the FTUU. <b>2013 AR:</b> Observations by the FTUU. <b>2012 AR:</b> Observations by the FTUU. <b>2008 AR:</b> Observations by the FTUU. <b>2007 AR:</b> Observations by the FTUU. <b>2006 AR:</b> Observations by the FTUU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	Uzbekistan ratified in 1992 the Right to Organize and Collective Bargaining Convention (No. 98) (C.98). However, it has not yet ratified the Right to Organize Convention, 1948 (No. 87) (C.87).

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.

		<p><b>Ratification intention</b></p>	<p><b>YES, in process since 2014 for C.87.</b></p> <p><b>2015 AR:</b> According to the Government: In April 2014, the Government signed a Memorandum of Understanding with the ILO concerning its Decent Work Country Programme (DWCP) under which ratification of C.87 is planned by 2016. In accordance with the DWCP and the Decree No. 132 of the Cabinet of Ministers of 27 May 2014, the Government is planning to submit C.87 to Parliament to debate its ratification.</p> <p><b>2014 AR:</b> According to the Government, the CCIU and the FTUU: The tripartite partners are still in the process of consideration of ratification of C.87. The CFTUU has prepared a draft legislative document on the possibility of ratification of C.87. The draft has been reviewed by the concerned ministries and has been returned to the CFTU Expert Commission for further revision. The CCIU and FTUU emphasised that there is a solid engagement and commitment from the social partners in this process. The Government underlined that the provisions of C.87 are enshrined in the relevant laws and regulations of the Republic of Uzbekistan.</p> <p><b>2013 AR:</b> According to the Government, the CCIU and the FTUU: Ratification of C.87 is still under consideration. Alternative steps forward in the ratification process have been outlined and explored over 2011. The ratification has been considered at expert level including by representatives from the Parliament, workers' and employers' organizations. The concerned departments are currently examining the situation with regard to ratification of C. 87. While substantial progress has been made in the process of consideration and assessment, the bureaucratic procedures and the formal proposal for ratification of C.87 by Uzbekistan remain. Nonetheless, the provisions of C.87 are enshrined in the relevant laws and regulations of the Republic of Uzbekistan.</p> <p><b>2012 AR:</b> According to the Government: The Government intends to pursue the ratification process for C.87, and is currently investigating alternative steps forward. However, time would be needed for consideration, labour law revision and national processing for the ratification of this instrument. Many of the provisions under C.87 are already in place and enjoyed through the national legislation, but this fact does not entail that the Government automatically should ratify C.87.</p> <p>The FTUU expressed its wish to conduct an internal consultation before it adopts a definite position on the ratification of C.87.</p> <p><b>2009 AR:</b> According to the Government: National laws are being reviewed with a view to ensuring compliance with the provisions of C.87</p> <p><b>2008 AR:</b> The Minister informed us that the Labour Code of Uzbekistan took into consideration the provisions of all ILO fundamental Conventions and a draft Law on Ratification of the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182) is expected to be ratified very soon by the national Parliament after extensive consultations during which it had received the full support of other technical ministries and agencies and the employers' and workers' organizations. Ratification of the Freedom of Association and the Right to Organize Convention, 1948 (No. 87) will be considered.</p> <p>The CCIU supported ratification of C.87 and wishes to introduce international labour standards in the business.</p> <p>The FTUU also supported ratification of C.87.</p>
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<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES.</b> Article 56 of the Constitution relates to freedom of Association (FOA). <b>2008 AR:</b> According to the Federation of Trade Unions of Uzbekistan (FTUU): the right of citizens to join trade unions, political parties and other public voluntary organizations is enshrined in article 34 of the Constitution.	
	<b>Policy/Legislation and/or Regulations</b>	<ul style="list-style-type: none"> <li> <b>Legislation:</b>  The Labour Code (1996), the Law on Voluntary Organizations in the Republic of Uzbekistan (1991), the Law on Trade Unions, their Rights and Guarantees of their Activities (1992) and the Law on Non-Governmental and Non-Commercial Organizations (1999) relate to the principle and right (PR).  <b>2015 AR:</b> According to the Government: A Bill on Social Partnership is currently being considered by the Parliament. Decree No. PP-2085 of the President of the Republic of 12 December 2013 "On additional measures to provide assistance in developing civil society institutions" has reduced the rates of state fees charged for state registration of non-state, non-commercial organizations (including trade unions) by 80% and the fees charged for the state registration of their symbols has fallen by 40%. It has also reduced the state registration period from two to one month.  <b>2014 AR:</b> According to the Government: The CFTU has prepared and submitted a draft amendment of the Law on Trade Unions, their Rights and Guarantees of their Activities (1992) to the concerned ministries for revision.  <b>2013 AR:</b> According to the Government, the CCIU and the FTUU: Legal amendments to the Law on Trade Unions have been drafted in 2012, taking into account international practice of foreign countries such as Russia, France, Germany and Japan in respect of guaranteeing freedom of association. The draft includes the right of trade unions to ensure employers' compliance with labour legislation and occupational safety and health (OSH) regulations, i.e. the establishment of labour and legal inspectorates, as well as several provisions covering employment, OSH, the environment and social partnership.  <b>2006 AR:</b> The Act on the Chamber of Trade and Industry of the Republic of Uzbekistan was passed on 3 December 2004.  <b>2003 AR:</b> On 21 August 2001, the Government adopted Resolution No. 347 on the "Development of Registration of Organizations and Enterprises". </li> </ul>	
	<b>Basic legal provisions</b>	(i) Constitution (articles 34, 56 and 59); (ii) the Labour Code (1996); (iii) the Law on Voluntary Organizations in the Republic of Uzbekistan (1991); (iv) the Law on Trade Unions, their Rights and Guarantees of their Activities (1992); (v) the Law on Non-Governmental and Non-Commercial Organizations (1999); and (vi) the Administrative Code.	
	<b>Judicial decisions</b>	<b>NIL.</b>	
<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<b>2005 AR:</b> Government authorization is not required to establish employers' organizations. <b>2003 AR:</b> Prior government authorization is required to establish an



				<p>employers' organization.</p> <p>FOA can be exercised at enterprise, sector/industry, and international levels by all categories of employers.</p>
		<p><b>At national level (enterprise, sector/ industry, national)</b></p>	<p><b>For Workers</b></p>	<p><b>2012 AR:</b> According to the Government: National legislation provides for the right to freedom of association as well as the right for trade unions to defend professional interests through collective bargaining. Employers have the obligation to respect trade unions' rights for expression and to provide conditions in which they can represent the interests of the workers. Section 25 of the Labour Code prohibits employers' interference in trade union activities.</p> <p>According to FTUU: There is no restriction to the freedom of association, which is already exercised and supported by national laws in Uzbekistan. Trade unions can be created, registered and operative as any other Non-Governmental Organization (NGO) in the country. The procedures for creation of a trade union are very easy and favourable. Trade unions that are not part of the FTUU also exist, giving evidence that the right to freedom of association is enjoyed in Uzbekistan.</p> <p><b>2005 AR:</b> Government authorization is not required to establish workers' organizations.</p> <p><b>2003 AR:</b> Prior government authorization/approval is required to establish a workers' organization.</p> <p>The PR can be exercised at enterprise, sector/industry, and international levels (only FOA can be exercised at national level) by the following categories of persons: (i) all workers in the public service; (ii) medical professionals; teachers; (iii) agricultural workers; (iv) workers engaged in domestic work; (v) workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (vi) migrant workers; (vii) workers of 14 years old and over.</p> <p>Only workers in the informal economy are not recognized as having such rights.</p>



			<p>Special attention to particular situations</p>	<p><b>2015 AR:</b> According to the Government: In recent years, particular attention has been paid to enabling workers in the non-state sector to join trade unions. Additionally, special attention is paid to the involvement of workers in private sector union membership and to the development of family and small business. Since 2012, there is a “Family Enterprise Act”. In order to protect the socio-economic interests of workers in family businesses and individual entrepreneurs, recommendations were developed for their involvement in trade union membership. As a result of the work carried out only in 2014, three thousand workers in family businesses and individual entrepreneurs were involved in trade union membership.</p> <p><b>2014 AR:</b> According to the Government: The CFTU is giving special attention to improve the conditions for establishment of trade unions in the non-state sector of the economy. Studies have been carried out by the CFTU Study Centre outlining how to institutionalise the establishment of trade unions in the non-state sector. Trade union officials have been offered special training on organizational and technical skills.</p> <p><b>2013 AR:</b> According to the Government: Special attention is given to the non-state sector of the economy.</p> <p><b>2003 AR:</b> According to the Government: Women.</p>
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			<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> According to the Government: Currently, FTUU comprises 14 branch trade unions and 14 territorial associations of trade unions. On 1 January 2014, there were more than 35,000 primary trade union organizations, with 6 million members. Trade unionists held more than 1,000 different events (meetings, round tables, debates, seminars, etc.) to encourage trade union membership among workers at non-unionized enterprises. As a result of these activities, 8,384 new primary trade union organizations, with a membership of 103,372, were established in 2013. In the first half of 2014, 4,783 new primary trade union organizations were created, with a membership of 50,533. With the aim of protecting the socioeconomic interests of workers in family enterprises and individual entrepreneurs, recommendations were developed on how they could enjoy trade union membership. As a result of these efforts, more than 3,000 workers in family enterprises and individual entrepreneurs became trade union members in 2014.</p> <p><b>2014 AR:</b> According to the Government: During the first seven months of 2013 a total of 2,176 trade unions were created, with a total of 36,496 members. This is an increase compared to 2012, when 1,525 trade unions were established during the same period. Between 2010 and 2013, 7,376 trade unions with a total of 170,561 members were established. The average number of members of newly established trade unions has decreased over the last years, from an average of 41 members in 2009, to 39 members in 2010, 25 members in 2011, 21 members in 2012 and an average of 16 members in 2013. This reflects the structure of the private sector, which is mainly made up of small enterprises.</p> <p>The FTUU indicated that its membership rate was 97 per cent and added that memberships are on a voluntary basis.</p> <p><b>2013 AR:</b> According to the Government: 1, 525 new primary trade unions were established in enterprises of the non-state sector during the first seven months of 2012, with a total of over 31,000 members.</p> <p><b>2012 AR:</b> According to FTUU: Currently, there are 12 trade unions organized by sector in the country, as well as 14 regional trade unions.</p> <p><b>2010 AR:</b> The Government indicated that 137,724 collective agreements had been adopted in 2008 compared to 2007, where 210,614 collective agreements were adopted in the country. Furthermore, 5,150,474 union memberships were registered in 2008 compared to 5,880,364 in 2007.</p> <p><b>2008 AR:</b> According to the FTUU: Fourteen regional agreements are currently in effect in the provinces and in the city of Tashkent. In the different economic sectors, there are 77 national sectoral agreements and 605 regional sectoral agreements. Collective agreements have been adopted in more than 178,000 enterprises, covering some 5,350,000 workers.</p>
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	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>		<p><b>2015 AR:</b> According to the Government: Under section 9 of the Labour Code, specially authorized state bodies and inspection services are responsible for monitoring and supervising compliance with labour law and occupational safety regulations. The Public Prosecutor's Office and its prosecutors are responsible for monitoring compliance with labour law across the country.</p> <p><b>2005 AR:</b> According to the Government: Where FOA has not been respected, section 49 of the Administrative Code provides for a penalty such as a fine.</p> <p><b>2003 AR:</b> According to the Government: The following measures have been implemented in order to realize the PR: (i) legal reform (labour law and other relevant legislation); (ii) inspection/monitoring mechanisms; (iii) penal, civil or administrative sanctions.</p>
	<p><b>Involvement of the social partners</b></p>		<p><b>2015 AR:</b> According to the Government: On 25 December 2013, the Cabinet of Ministers, the FTUU and CCIU signed the General Agreement on socio-economic issues for 2014-2016, which includes the respect for the legitimate rights of trade unions and employers' associations, as well as non-government interference in their activities in accordance with legislation.</p> <p><b>2014 AR:</b> The Government, the CCIU and the FTUU reported that tripartite consultations concerning the ratification of C.87 had taken place over the last year. The Government expressed that it regards the social partnership as being key in this process. The CCIU added that the ratification of C.87 was being discussed at company level.</p> <p><b>2013 AR:</b> According to the Government, the CCIU and the FTUU: The Government has invited all the relevant parties, including the social partners, to participate in the ratification process. It has been a joint process of consideration and assessment of steps forward. Tripartite consultation groups concerning the legal changes which have been initiated in 2012 are to be established in a near future. The CCIU and the FTUU underlined that they have a close partnership and that social dialogue is progressing well.</p> <p><b>2012 AR:</b> The Government indicated that tripartite social dialogue was jointly established in the country and guaranteed by the national legislation. It further expressed that in the process of social dialogue, the right to expression should be guaranteed at both national and international levels.</p> <p><b>2008 AR:</b> The FTUU indicated that it has been undertaking joint measures in cooperation with the Ministry of Labour and Social Protection of the Population to act jointly with a view to regulating the labour market processes. It further adds that in recent years, the FTUU has made more than 300 proposals in the process of the drafting of 60 Bills and the majority of these proposals were adopted. Moreover, the trade unions are currently involved in the drafting of laws to strengthen the mechanism for enforcing citizens' rights and social guarantees. These laws include: (i) the Law on State social insurance against occupational injuries and diseases; (ii) the Law on Medical Insurance; (iii) the Law on the Social Protection of the Population; and (iv) a new version of the Law on Trade Unions.</p> <p><b>2005 AR:</b> According to the Government: Tripartite discussions on specific measures to respect, promote and realize the PR have been held.</p>

	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: Two representatives of the Ministry of Labour and Social Protection participated in the ILO/TURIN Course on International Labour Standards in May 2014 where C.87 was presented and discussed. Also, in November 2013, a tripartite national delegation participated in the ILO/TURIN seminar on social dialogue organized by the ILO International Training Centre in Turin. In 2014, FTUU has published and distributed 15,000 copies of a booklet to promote union membership to target groups. The Training Centre of FTUU has also conducted sessions to motivate union membership and has set up training courses on basic organizational skills for trade union officials. On the basis of the Joint Action Plan for 2013-2014, a constructive cooperation has started between FTUU and CCIU to attract companies of the private sector to join trade unions. In cooperation with CCIU, free business legal assistance is offered to entrepreneurs to complete necessary documents in the process of establishing new businesses, including the creation of trade union organizations. As of 1 May 2014 "Guidelines Centers" provided practical and legal assistance to 400 business entities, whose workers are trade union members.</p> <p><b>2014 AR:</b> According to the Government, the CCIU and the FTUU: A joint assessment by the tripartite partners on the implications of the ratification of C.87 is still ongoing. A number of promotional activities have taken place over the last year, including tripartite workshops and conferences covering the PR. The possibility of ratification of C. 87 was also raised at the tripartite round table "Prospects for technical cooperation in the implementation of Uzbekistan's international commitments as part of the ILO", held in Tashkent in July 2013. Furthermore, large enterprises as well as small family businesses are involved in promotional activities through the CCIU. Evaluations of activities related to promoting and realizing freedom of association are taking place and best practices are being identified. Considerable work has been done in learning from experiences from other countries and a tool with best practices relating to the PR has been developed. In 2013, the CFTU issued several booklets in collaboration with the CCIU and trade unions from various sectors. The booklets covered issues such as how to stimulate workers and employers to organize and how to strengthen social dialogue.</p> <p><b>2013 AR:</b> According to the Government, the CCIU and the FTUU: The FTUU organized a conference on the protection of International Labour Standards which was held in May 2012 in cooperation with ILO. This activity also brought together participants from the Government as well as representatives from neighbouring countries. Ratification of C.87 was discussed and experiences from other countries that have ratified this instrument were shared. Based on this, a decision was taken to publish a publication of experiences from the ILO and trade unions in the concerned countries. This publication is to serve as an instrument for the Government in the assessment process of the implications of C.87. Several other seminars had also been organized by the FTUU and by the Government in the course of 2011/2012, concerning C.87. Furthermore, according to the Government, a compulsory two-hour class on the ILO and its core Conventions has been introduced in the training curriculum for trade union officers in the Trade Union Training Centre. Further training activities are contemplated by the FTUU, in cooperation with ILO.</p> <p><b>2012 AR:</b> The Government indicated that it was giving priority to realizing freedom of association and assessing the possibilities to ratifying C.87.</p> <p><b>2009 AR:</b> According to the Government: An official of the Ministry of Labour has participated in the Turin course on international labour standards and the Declaration (May 2008). On this occasion, matters relating to the principle and right were discussed among others.</p> <p><b>2008 AR:</b> According to the CCIU: Freedom of association is also promoted among the small and medium enterprises (SMEs). Moreover, during several workshops on the FPRW, the issue of collective bargaining was tackled so as to allow supervisory action by employers' and workers' organizations. In addition, an Inter-Eurasian Trade Unions Conference on Labour Migration was held in October-November 2006, where the FTUU mentioned its intensive activity on the monitoring of child labour as a result of the integration of child labour provision in collective agreements.</p> <p>The FTUU indicated that training on workers' rights and obligations are organized on a regular basis with a comprehensive</p>
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		<p>approach. Schools located in the rural areas of the country are also given equipment and training.</p> <p><b>2005 and 2007 ARs:</b> According to the Government: The following measures have been implemented: (i) capacity building of responsible government officials; (ii) training of other government officials; and (iii) capacity building for employers' and workers' organizations.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: On the basis of the Joint Plan of Action for 2013-2014, constructive cooperation has been established between FTUU and CCIU with a view to bringing enterprises in the non-state sector into CCIU and enabling their workers to join trade unions. With assistance from CCIU, workers at 2,816 enterprises belonging to the CCIU became trade union members. A booklet entitled "Advantages of joining Uzbekistan's trade unions and Chamber of Commerce and Industry" has also been produced and distributed to target groups. FTUU and CCIU have worked together to organize local advice centres to provide free organizational and legal assistance to entrepreneurs in completing the necessary paperwork to establish a new business, including with respect to the creation of trade unions. As at 1 May 2014, these advice centres had provided practical and legal assistance to 400 enterprises, whose workers have also become trade union members. Moreover, on 25 December 2013, the Cabinet of Ministers, the FTUU and CCIU signed the General Agreement on socio-economic issues for 2014-2016, which includes the respect for the legitimate rights of trade unions and employers' associations, as well as non-government interference in their activities in accordance with legislation. At international level, FTUU and CCIU are in the process of joining the International Trade Union Confederation and the International Organisation of Employers, respectively.</p> <p><b>2013 AR:</b> According to the Government, the CCIU and the FTUU: Substantial progress has been made over 2011 in terms of improving and adapting the legislation in line with C.87, as well as initiating the process of consideration at multiple levels, including at the tripartite level, at the Ministry of Labour and other government entities, and at the parliamentary level. Progress has been made in the assessment of the implications of ratifying C.87 and experiences have been shared between the Central Independent States countries. At this stage, positive and negative aspects which have been identified need to be taken into account before formal steps can be taken towards ratification of C.87. The assessment is still ongoing and the Government, along with the social partners are continuing to investigate and ensure that the ratification of C.87 would be in line with the national interest of Uzbekistan. The Government is also looking at prospects of ratifying other related Conventions that would be beneficial for Uzbekistan. Many activities have been conducted between 2011 and 2012 with regard to investigating the prospects and moving ahead with steps forward. Three ways have been outlined in the way forward: (i) working at tripartite level to strengthen social dialogue and sensitize all concerned parties on the content and the implications of C.87, particularly learning from experiences in other CIS countries; (ii) the Ministry of Labour is working jointly with the relevant Government entities to conduct all the necessary preparation work that need to be undertaken in order be able to start a formal ratification process later on; and (iii) ratification of C.87 is also being considered in the Parliament, where Parliamentarians have been sensitized on the content of C.87 and are surveying the implications of the ratification of this Convention by other countries so as to be prepared to move ahead with the formal ratification process if and when indications to do so will be given.</p> <p><b>2008 AR:</b> According to the FTUU: 2007 was the year of social protection for workers and their families. Government support on this issue has increased. Moreover, it participates in the Monitoring Commission so as to see how the national programme is implemented and can also prepare a list of problems, make recommendations and consult the local authorities in order to take action. Credit unions also contribute to the PR by helping workers integrate the formal economy. Finally, fourteen regional agreements are currently in effect in the provinces and in the city of Tashkent. In the different economic sectors, there are 77 national sectoral agreements and 605 regional sectoral agreements. Collective agreements have been adopted in more than 178,000 enterprises, covering some 5,350,000 workers.</p> <p><b>2006 AR:</b> In accordance with Presidential Decree No. 3453 of 7 July 2004, the Chamber of Manufacturers and Entrepreneurs was reorganized, which led to the establishment of the Chamber of Trade and Industry of Uzbekistan.</p>



		<b>2003 AR:</b> According to the Government: A major change has been introduced in 2001 through the establishment of an easier registration process for organizations.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2008 AR:</b> There are no workers' organizations and the PR is not enjoyed in the informal economy.
		<b>Workers' organizations</b>	<b>2007 AR:</b> No particular challenges had been raised by the Council of the Federation of Trade Unions of Uzbekistan.
	<b>According to the Government</b>	<p><b>2015 AR:</b> According to the Government: There are no challenges and problems of a systemic nature in the implementation of the right to freedom of association in Uzbekistan.</p> <p><b>2005 AR:</b> According to the Government: There is a lack of capacity of responsible government institutions and employers' and workers' organizations.</p>	



<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> According to the Government: ILO technical assistance is welcome to strengthen the capacity of labour inspection, tripartite partners on social dialogue and C.87 in particular, and the implementation of the DWCP, in general. Moreover, joint measures have been agreed upon between FTUU and the ILO Country Office for Eastern Europe and Central Asia, in particularas regards the provision of ILO technical assistance: i) on how workers can organize and on the conclusion of collective agreements in multinational companies; and ii) for retraining tripartite partners in the ILO Moscow and Turin.</p> <p><b>2014 AR:</b> According to the Government, the CCIU and the FTUU: Technical cooperation needs were discussed with the ILO at the round table “Prospects for technical cooperation in the implementation of Uzbekistan’s international commitments as part of the ILO”, held in Tashkent in July 2013. The round table was attended by representatives from the ILO and the Committee for Economic Cooperation. Future requests for ILO technical cooperation are foremost considered in improving working conditions and strengthening social protection. If the ILO would provide support in these areas, more favourable conditions for realizing the PR and moving ahead with the ratification process would be created. There is also a need to share experiences from other countries.</p> <p><b>2013 AR:</b> According to the Government, the CCIU and the FTUU: There is a need for ILO technical assistance concerning the legal amendments to the Law of Trade Unions and general support in the processes of ratification of relevant ILO Conventions, with a special focus on the implications of C.87. Furthermore, ILO technical cooperation is needed to strengthen the capacity of the social partners and to raise awareness around the content of C.87 through seminars and information campaigns.</p> <p><b>2012 AR:</b> The Government expressed its wish to cooperate with the ILO following a tripartite need assessment.</p> <p>According to the FTUU: A decision for request of ILO technical cooperation will be taken jointly by all FTUU trade union affiliates so as to reach a common approach.</p> <p><b>2010 AR:</b> The Government reiterated the request it had made under the 2003-2005 ARs.</p> <p><b>2008 AR:</b> According to the CCIU: ILO technical assistance is required for capacity building of employers’ in the SMEs.</p> <p><b>2003-2005 ARs:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Uzbekistan, in particular in the following areas, in order of priority: (1) assessment in collaboration with the ILO of the difficulties identified and their implications, for realizing the principle; awareness raising, legal literacy and advocacy; strengthening data collection and capacity for statistical analysis; sharing of experiences across countries/regions; training of other officials; strengthening capacity of employers’ organizations; strengthening tripartite social dialogue; (2) capacity building of responsible government institutions; strengthening capacity of workers’ organizations; (3) legal reform (labour law and other relevant legislation).</p>
	<b>Offer</b>	ILO (DWCP and Turin Centre).
<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted that some countries facing structural difficulties, such as Uzbekistan (and three other countries), were able to report with ILO assistance (cf. paragraph 25 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2003 AR:</b> The IDEAs were encouraged to see the Government of Uzbekistan pointing out the needs in this country to strengthen the capacity building of workers’ and employers’ organizations and that it turned to the ILO for help. In light of requests by Uzbekistan for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field (cf. paragraphs 73 and 74 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>





**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>53</sup>: VIET NAM**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , except for the 2003 and 2004 Annual Reviews (ARs).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Viet Nam Chamber of Commerce and Industry (VCCI), the Viet Nam General Confederation of Labour (VGCL), the Viet Nam Cooperative Alliance (VCA), the Viet Nam Cooperatives Alliance of Small and Medium Enterprises (VCASME) and the Viet Nam National Council of Cooperatives (VNC), Viet Nam National Union of Post and Telecommunications, and through consultations and communication of government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2014 AR:</b> Observations by the VCCI. Observations by the VCA.</p> <p><b>2012 AR:</b> Observations by the VCCI.</p> <p><b>2009 AR:</b> Observations by the VCCI. Observations by the VCA.</p> <p><b>2008 AR:</b> Observations by the VCCI.</p>
	<b>Workers' organizations</b>	<p><b>2013 AR:</b> Observations by the VGCL.</p> <p><b>2012 AR:</b> Observations by the VGCL.</p> <p><b>2011 AR:</b> Observations by the VGCL.</p> <p><b>2009 AR:</b> Observations by the VGCL.</p> <p><b>2008 AR:</b> Observations by the VGCL. Observations by the International Trade Union Confederation (ITUC).</p> <p><b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).</p> <p><b>2006 AR:</b> Observations by the VGCL. Observations by the ICFTU.</p> <p><b>2005 AR:</b> Observations by the ICFTU.</p>

<sup>53</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>.



		<p><b>2004 AR:</b> Observations by the ICFTU.  <b>2003 AR:</b> Observations by the ICFTU.  <b>2002 AR:</b> Observations by the ICFTU.  <b>2001 AR:</b> Observations by the ICFTU  <b>2000 AR:</b> Observations by the ICFTU.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Viet Nam has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>YES, since 2011, for C.87 and C.98.</b></p> <p><b>2015 AR:</b> According to the Government: In the period between 2014 and 2015, the ILO has conducted a review on the compliance of national laws and regulations with international labour standards, including C.87 and C.98. Given this research report, Vietnam currently continues to implement the follow-up study to consider the possibility of ratifying both C.87 and C.98. In this regard, focus is placed on the following aspects: the compliance of national regulations and institutions as compared with the requirements of the Conventions; the capability and willingness of the tripartite partners at all levels in the subsequent implementation of the Conventions; and determining what steps need to be taken to ensure ratification and implementation of the Conventions.</p> <p><b>2014 AR:</b> The VCCI and the VCA expressed their support for the ratification of C.87 and C.98 by Viet Nam.</p> <p><b>2013 AR:</b> The Government indicated that it was conducting initial research and a feasibility study on the ratification of C.98, assessing the compliance of Viet Nam’s legislation with the provisions of the convention. It further mentioned it had not yet conducted any study with respect to C.87, which was not in the roadmap of ratification during the period 2012-2015.</p> <p>The VGCL reiterated its strong support for the ratification of C.87 and C.98 while indicating that the adoption of the new law by the National Assembly would ensure the implementation of the principle and right (PR) in the country.</p> <p><b>2012 AR:</b> According to the Government: The revision of the Labour Code 2012 has been submitted to the National Assembly which should review it in October 2011 and adopt it in May-June 2012. At this stage, no proposals for ratification of C.87 and C.98 have been submitted to the National Assembly.</p> <p>The VGCL and the VCCI expressed their full support for the ratification of C.87 and C.98 by Viet Nam.</p> <p><b>2010-2011 ARs:</b> According to the Government: The revision of the Labour Code and Trade Union Law is underway with a view to meeting ILO’s requirements and consequently facilitate ratification of C.87 and C.98. The Bills should be submitted to the National Assembly for adoption by October</p>

			<p>2010 so as to allow the Government to consider ratification of these instruments.</p> <p><b>2008 AR:</b> The VGCL expressed its support for the ratification of C.87 and C.98.</p> <p><b>2007 AR:</b> According to the Government: Ratification of C.87 and C.98 is still under consideration in cooperation with employers' and workers' organizations.</p> <p><b>2006 AR:</b> The Government indicated that it was studying ratification of C.87 and C.98 in consultation with the social partners.</p> <p>The VGCL hoped that C.87 and C.98 would be ratified by Viet Nam in due course.</p>
<p><b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b></p>	<p><b>Constitution</b></p>		<p><b>YES</b>, according to the Government: The principle of freedom of association and the effective recognition of the right to collective bargaining is recognized in the Constitution of Viet Nam, 1992.</p> <p>In 2013, Viet Nam adopted the Constitution of the Socialist Republic of Viet Nam (enforced as of 01/01/2014) based on the Credo of constructing the nation during the transition to the socialist society, following the Constitution 1946, 1959, 1980 and 1992. Article 25 of Constitution 2013 states clearly "Citizens have the right to freedom of speech, of press, of access to information, of gathering, of creating associations, of going on strikes. The implementations of these rights are regulated by legislations".</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy</b>  <b>2012-2013 ARs:</b> According to the Government: A national ratification plan covering the non-ratified core Conventions was developed by the Ministry of Labour, Invalids and Social Affairs (MOLISA) and communicated to the VCCI, the VGCL, and the VCA for advice. The Plan was finalized with high level of consensus and has been submitted to the Prime Minister for approval.</li> <li><b>2006 AR:</b> According to the VGCL: Participation in the elaboration of State policies regarding the labour legislation system, for example amending labour law, elaborating social insurance law, improving wage policy and handling housing issues for workers in industrial zones.</li> </ul> <p>In response, the Government supports VGCL observations.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b>  <b>2015 AR:</b> According to the Government: Viet Nam has recently introduced many important policies and legislations. During the reporting period of 2014 and 2015, the following activities have been undertaken in relation with the preparation and completion of relevant legal documents: <ul style="list-style-type: none"> <li>• Making Law on Associations: To enforce the Constitution 2013, under Resolution No. 70/2014 / QH13 dated 30/05/2014 of the National Assembly on the Schedule Adjustment of Issuing law and ordinances in 2015, the draft of Law on Associations is currently under way by the Government. It is expected that the law draft will be put up for comments from National Assembly of Vietnam in the 10<sup>th</sup> meeting session of the 13<sup>th</sup> National Assembly and will be ratified at the 2<sup>nd</sup> meeting session of the 14<sup>th</sup> National Assembly. The Law on Associations does not directly govern the right to form, join and organize the union of employees, but provides for the common foundation for organizations and activities of the association based on the principle of voluntariness, self-</li> </ul> </li> </ul>

			<p>governing, democracy, equality, publicity and transparency.</p> <ul style="list-style-type: none"> <li>• Amending and supplementing Decree No. 95/2013 / ND-CP dated August 22, 2013 of the Government prescribing the sanctioning of administrative violations in the field of labor, social insurance and worker exports under contracts. The proposed contents of the amendments and supplements are the sanctions for the violation regarding the right fulfillments to the realization establishment, joining and union activities of employees; sanctions against interference, manipulation and discrimination toward the trade union. These are important provisions to ensure more effective enforcement of trade union's rights and collective bargaining, which were prescribed in Labour Code 2012 and Trade Union Law of 2012. It is expected that this Decree will be approved by the Government in late 2015.</li> <li>• Issuing Decree No. 05/2015 / ND-CP dated 01/12/2015 of the Government detailing and guiding the implementation of the Labour Code, in which Chapter III of collective bargaining and collective bargaining agreements provides detailed regulations and guidelines for implementation of the new regulations on collective bargaining of the Labor Code 2012. A number of notable contents of Decree include: <ul style="list-style-type: none"> <li>- Collective bargaining is conducted periodically at least once a year. The time for periodical collective bargaining is mutually agreed by the two parties (Article 16 of Decree No. 05/2015 / ND-CP).</li> <li>- Responsibilities of the labor authority on participation in the meeting of collective bargaining: Upon receipt of a written request by either party to collective bargaining, the Ministry of Labour - Invalids and Social Affairs (MOLISA), People's Committees at provincial and district level shall appoint officials to attend meetings of collective bargaining; the designated officials to attend the meeting of collective bargaining are responsible to provide information related to the negotiation content and guidance on labor regulations for participants to collective bargaining (Article 17 Decree No. 05/2015 / ND-CP).</li> <li>- Proposing the declaration of collective bargaining agreements void: Upon the inspection of or settlement for complaints and denunciations about labor, if the collective bargaining agreement is detected for one of the cases specified in Article 78 of Labor Code, inspection head or independent labor inspectors or specialty inspectors make a record of the invalid collective bargaining agreement. In the meantime, a written letter is sent to the People's Court requiring the declaration of void collective bargaining agreements (Article 20 of Decree No. 05/2015 / ND-CP).</li> </ul> </li> <li>• The Prime Minister issued Directive No. 15 / CT-TTg dated 07/07/2015 regarding the continual implementation of Resolution 22 of the Politburo on international integration, which requires Ministry of Labour - Invalids and Social Affairs, in collaboration with the Ministry of Industry and Trade, Ministry of Foreign Affairs, the Vietnam General Confederation of Labour and the Ministries and related agencies to participate in and complete ratification of the core conventions of the International Labour Organisation ( ILO) and the relevant conventions of the United Nations on labor, employment, social security, women's and children's rights. The think tank studies and proposes measures for dealing with labor issues in international economic integration and to ensure</li> </ul>
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			<p>the implementation of international commitments on labor and society. Ministry of Labour - Invalids and Social Affairs is currently coordinating with relevant agencies to draft the Decision of the Prime Minister approving the plan of implementation of the commitments in the framework of the ILO and the other institutions of the UN system in the field of labor and society in the period 2015 to 2020 and the vision to 2030.</p> <p><b>2012-2013 ARs:</b> According to the Government: The Labour Code and the Trade Union Law have been revised, in consultation with the social partners and the ILO, allowing for harmonization of domestic laws with the ILO instruments. The social partners were represented in the Drafting team and the Editorial Committee of the Laws and opinions were solicited from the social partners, relevant agencies and the ILO through seminars and workshops. The drafts of the documents were also posted on the websites of MOLISA and the Government for comments from the public.</p> <p><b>2008 AR:</b> According to the Government: pursuant to the national law, The VGCL is the sole representative organization of workers, the VCCI and VCA are representatives organizations of employers and a law on association will be promulgated by the National Assembly XII legislature.</p> <p><b>2006 AR:</b> According to the Government: Drafting of an Ordinance on strike action, which is listed as an item on the agenda of the National Assembly in 2005-2006.</p> <ul style="list-style-type: none"> <li>• <b>Regulations:</b> Decree No. 102 of 20 May 1957, Decree No. 8/1998 ND-CP, Ordinance on labour dispute resolution of 20 April 1996, the Constitution of Viet Nam Trade Unions of 12 November 1993 relate to the principle and right.</li> </ul>	
		<b>Main legal provisions</b>	(i) Constitution, 1992; (ii) Labour Code, 1994 (sections 7 and 173-179); (iii) Law on Trade Unions of 30 June 1990; (iv) Law No. 102/SL/L004 of 20 May 1957 (sections 1, 2 and 7 concern the right to organize); (v) Decree No. 102 of 20 May 1957; (vi) Decree No. 8/1998 ND-CP; (vii) Decree No. 88/2003/ND-CP (article 16); (viii) Ordinance on labour dispute resolution of 20 April 1996; (ix) Constitution of Viet Nam Trade Unions of 12 November 1993; (x) Circular No. 196/CP of 31 December 1992; (xi) Circular No. 133/HDBT of 20 April; and (xii) Decree No. 45/2010/ND-CP.	
		<b>Judicial decisions</b>	<b>NIL.</b>	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/ industry, national)</b>	<b>For Employers</b>	<b>2000-2005 ARs:</b> Prior government authorization or approval may be required before or after the establishment of an employer's organization, depending on its size and purpose. Employers can exercise freedom of association (FOA) at all levels.
			<b>For Workers</b>	<b>2000-2005 ARs:</b> Government authorization/approval is not required to establish a worker' organization or to conclude collective agreements. Only workers in the public service can exercise FOA and the right to collective bargaining (CB). Workers can exercise FOA at sector, industry, and national level; and the right to CB can be exercised at enterprise, sector or industry levels.

	<p><b>Special attention to particular situations</b></p>	<p><b>2015 AR:</b> The Government reported that in 2014, the Vietnam General Confederation of Labour made a major effort in gathering fishermen established trade union of fishermen to protect and assist these fishermen. Recent programmes and initiatives related to the development of trade unions and labor relations involve mostly employees in garment and footwear; the reason for this focus is mainly due to the labor-intensive sectors for the export of processed goods, with the difficult working conditions, more complex labor relations than other economic areas.</p>
	<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> The Government indicated that in Vietnam, there are presently about 480 associations, social organizations, and professional organizations with national and inter-city coverage as compared to 380 associations in 2009. There are 20 industry trade unions with approximately 52,000 associations, clubs at the local level, operating in all areas of social life. Overall, associations have significant contribution to the development of the country. They can act as a bridge between their members and government agencies through reflecting the aspirations of their members, supporting members in business and production activities, enhancing competitiveness, facilitating the resolution of commercial disputes, and providing information and advice on the production and marketing.</p> <p><b>2013 AR:</b> The Government indicated that it was conducting initial research and a feasibility study on the ratification of C.98. and that a report on the possibility of ratification of C.98 recently had been drafted.</p> <p><b>AR 2011:</b> The VGCL indicated that the total number of its affiliates at the end of the year 2009 was about 6.6 million.</p> <p><b>AR 2010:</b> According to the Government: There is a lack of information and data.</p> <p><b>AR 2009:</b> The VGCL indicated that it had increased its membership by more than 1 million members.</p>
	<p><b>At international level</b></p>	<p>According to the Government: Workers can exercise FOA at the international level.</p>
<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2009 AR:</b> According to the VGCL: Activities to monitor law compliance by trade unions have been conducted on a large scale.</p> <p><b>2006 AR:</b> The VGCL stated that it has carried out many activities in the following areas: providing information on labour legislation; assistance to workers in legal matters; and supervising the implementation of labour policies and legislation on workers.</p> <p><b>2005 AR:</b> According to the Government: In instances where the PR has not been respected, in accordance with section 44 of the Labour Code, a labour agreement should be concluded in a voluntary, fair, and transparent manner. Therefore, the conclusion of a collective agreement is not compulsory and does not involve the intervention of the State. If a concluded agreement violates the law, the competent labour body at the provincial level has the right to declare the whole or a part of the</p>	

		<p>agreement void.</p> <p><b>2000 AR:</b> According to the Government: Any offences in relation to CB will be imposed with penalties by the Labour Inspectorate. Workers' organizations are administered by governmental agencies through CB. The collective bargaining agreement must be registered at the provincial Department of Labour, Invalids and Social Affairs. Moreover, the Government promotes and recognizes the PR through issuance of legal instruments and supervision of the implementation of those instruments at various levels.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2012-2013 ARs:</b> The Government, the VCCI and the VGCL indicated that employers' and workers' organizations had been involved in the drafting and revision of the Labour Code and the Trade Union Law, in accordance with the Tripartite Consultations (International Labour Standards) Convention, 1976 (No.144). The social partners were represented in the Drafting team and the Editorial Committee of the Laws and opinions were solicited from the social partners through seminars and workshops. Additionally, the Government added that a report on the possibility of ratification of the C.98 recently had been drafted and presented to the VCCI, the VGCL and the VCA.</p> <p><b>2011 AR:</b> According to the Government: the employers' and workers' organizations have been involved in the reporting process.</p> <p><b>2005 AR:</b> According to the Government: Tripartite discussions have been held on specific measures to respect, promote and realize the PR. Moreover, national laws have been revised in relation to the PR in consultation with the social partners.</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: <i>On the right to freedom of association:</i> Further to the efforts of improving policies and legislations to promote freedom of association in Viet Nam, VGCL has also implemented new activities to better guarantee the right to establish and participate in trade unions to the bottom-up approach on a voluntary basis. Since 2013, the Ministry of Labour, Invalids and Social Affairs (MOLISA) has been assisting 5 provinces and cities to develop and implement the Project on Industrial Relations Development 2013-2020. This project is distinguished from other projects in its approach to address internal and external factors related to each component of industrial relations in a comprehensive and systematic manner. Among the solutions outlined in the Project are the measures to reform the establishment of trade union to the bottom-up approach instead of the top-down approach, ensuring the effective participation of the employee during the establishment of the enterprise trade union and minimize the intervention of the employer in this process. The Center for Industrial Relations Development of MOLISA has been implementing training on industrial relations in the market and integrating economy for officers working on industrial relations in some provinces in order to improve their awareness. In the framework of the Viet Nam- ILO Project on Industrial Relations, following the success of the pilot Program in Phase I (2009-2012), the VGCL is implementing 4 pilot programs in Phase II (2012-2014) one of which is the new way of establishing enterprise trade union, to ensure the effective participation of employees, in accordance with the Plan No. 09/KH-TLĐ dated 08/02/2014. The targeted participants in this program are enterprises in the private sector which do not have their own trade unions. Based on the results of the pilot programs in the two phases, the VGCL has issued correspondence No. 130/TLĐ and 131/TLĐ dated 11 February 2014 on accelerating the progress of piloting the enlargement of trade union membership and establishment of enterprise trade unions in a new way with the aim to draw lessons and replicate in the trade union system. The above programs have proven the change in the awareness and approach of both the Government and the VGCL in assuring the right to freedom of association for the employee. <i>On the right to collective bargaining:</i> In 2012, the president board of the VGCL issued the Resolution No. 01/NQ-ĐCT dated 18/6/2012 on reforming and improving the quality of negotiation, signing and implementation of collective agreement. In particular, the Resolution of the eleventh Trade Union General Assembly in 2013 set forth the specific objectives in the Program "Improving the quality of negotiation, signing and implementation of collective agreement" 2013-2018. The VGCL and MOLISA have been collaborating in studying, guiding and piloting successfully the signing of collective</p>

		<p>agreements of the Viet Nam Garment-Textile Industry, Binh Duong provincial Garment-Textile Industry and in the Viet Nam Rubber Corporation Group. So far, these above agreements have proven to have effective outcomes, bringing about more benefits for employees in terms of payment, bonus, mid-shift meals, and other welfare. Enterprises which have signed industrial collective agreements do not experience strikes and have more stable and advanced industrial relations. Now the VGCL is implementing the Pilot Program Phase II in the framework of the Viet Nam – ILO Project with theme 3 on Collective Bargaining in the enterprises under the coordination of the trade union at the higher level and among the enterprise trade unions in order to improve further the quality of collective bargaining in enterprises. In addition, the VGCL, MOLISA and the Viet Nam SME Association have been proactive in advocating social partners to organize training for disseminating information, capacity building and raising awareness of enterprises regarding the issues of business administration, finance, labour legislations and policies.</p> <p><b>2014 AR:</b> According to the Government: An officer of the Ministry of Labour had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards held in May-June 2013 where issues concerning the PR were addressed. The VCCI and the VCA indicated that workshops and seminars concerning revisions of the Labour Code had been organised.</p> <p><b>2013 AR:</b> The Government indicated that it was conducting initial research and a feasibility study on the ratification of C.98 and that a report on the possibility of ratification of C.98 recently had been drafted and presented to the VCCI, the VGCL and the VCA. It further stated that workshops and seminars had also been organized in relation to the revision of the Labour Code and the Trade Union Law, including promotional activities through posting of the drafts of the revision of the Labour Code and the Trade Union Law on the websites of MOLISA and the Government so as to allow for comments from the public. The VGCL indicated that a national tripartite workshop on collective bargaining was organized in the country.</p> <p><b>2012 AR:</b> The Government and the VGCL stated that a national tripartite workshop on collective bargaining was organized in Viet Nam in May 2011, in cooperation with the ILO.</p> <p><b>2011 AR:</b> According to the Government: Training activities on collective bargaining for trade union leaders have been organized at enterprise level.</p> <p><b>2010 AR:</b> According to the Government: A workshop to promote ratification and application of ILO fundamental Conventions was organized by the Ministry of Labour in cooperation with the ILO in August 2009.</p> <p><b>2009 AR:</b> According to the Government: Tripartite training workshops on collective bargaining were organized in cooperation with the ILO. Furthermore, tripartite awareness raising activities on the Labour Code have been carried out intensively. The VCCI, VGCL and the VCA confirmed the above indications.</p> <p><b>2008 AR:</b> According to the VGCL: Training activities on collective bargaining for workers have been organized in order to improve the content of collective agreements and relations between workers and employers.</p> <p><b>2007 AR:</b> According to the Government: Workshops have been organised in cooperation with the ILO for awareness-raising activities in relation to the PR.</p> <p><b>2005 AR:</b> According to the Government: Revision of national laws; awareness raising/advocacy activities and vocational and skills training for young workers.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: <i>On the right to freedom of association:</i> The efforts of the Government and trade union in the above mentioned successful pilot programmes [See above under AR 2015 promotional activities] have suggested solutions of reform to the establishment of trade unions from the top-down approach to the bottom-up approach, to ensure workers' effective participation in establishing the enterprise trade union and minimize the intervention of the employer in this process. <i>On the right to collective bargaining:</i> Workplace dialogue and collective bargaining has a close correlation. Workplace dialogue to share information and enhance the understanding between the employer and worker is the measure to develop stable and harmonious industrial relations at the workplace. The Labour Code 2012 which regulates this issue has contributed to the effective implementation in practice. Dialogue will be conducted at the workplace periodically, every three months or upon the request of one party. This is also a regulation which gives opportunities to the employer to listen to the needs and want of the employee for addressing challenges and difficulties and facilitating the collective agreement to be more quickly reached. Additionally, the Government reported that MOLISA continues to support the 5 provinces, i.e., Hanoi, Hai Phong, Ho Chi Minh City, Dong Nai, Binh Duong, implementing the "Master Plan for development of industrial relations at the provincial level for the period 2015 to 2020". This is a grand and comprehensive plan, addressing many different aspects to facilitate the actual implementation of the employees' right to form, join trade unions. It promotes the real dialogue and collective bargaining, innovate the process of resolving collective labor disputes and wildcat strikes in the way to strengthen the role of pro-active mediation from the mediator system.</p> <ul style="list-style-type: none"> <li>• As a component of the Master plan on developing industrial relations at the provincial level, to promote and ensure the implementation of freedom of association and collective bargaining of employees with technical assistance from the ILO, Vietnam General Confederation of Labour implement four pilot programs aimed at the innovation of trade union and labor relations in the direction of bottom-up instead of top-down as previously. These include: i) Development of members of trade union and establish grass root trade unions from the bottom-up; ii) Renovation of the internal organization and operation of trade union through the support and coordination of upper level trade unions; iii) Collective bargaining by enterprise group under the supervision of the upper level trade union; and iv) Promotion of bilateral or trilateral consultative mechanisms at the enterprise level or enterprise group. The pilot programme is conducted by five units in five provinces or cities, including: Trade Unions of Hai Phong Economic Zone, Da Nang Labor Federations, Trade Unions of Binh Duong Industrial Zones, Trade unions of Bien Hoa Industrial Zone, Ho Chi Minh City Labour Federation, and Labor Federation of District 12. The pilot activities are carried out in 69 grassroots trade unions, and companies with more than 65,000 employees (over 56,000 unionists) in many industries, i.e., textiles, leather footwear, woodworking, mechanics, electronics, tourism.</li> <li>• MOLISA, in collaboration with the representative authorities for employees and employers, research and successfully guide the signing of pilot collective agreements in the industry of textile and garment in and rubber. According to the statistics of Institute of Workers and Trade Unions, the percentage of businesses that negotiate and sign collective bargaining agreements in 4 years from 2008 to 2012 increased from 59.48% to 72.15%.</li> <li>• VGCL continues to implement Resolution No. 01 / NQ-DCT dated 18/06/2012 on innovation, negotiation improvement and conclusion of collective labor agreements between 2013 and 2018. The Resolution of Vietnam Trade Union Congress of the Eleventh in 2013 presented the program called "Innovation and improvement of the negotiation quality, conclusion and implementation of collective bargaining agreements." Some specific targets of this program are namely: i) 100% of state owned enterprises, over 65% of private companies and foreign-invested enterprises have trade unions and sign the collective labor agreements; ii) 80% or more of the collective bargaining agreements signed prove to be quality, which have more favorable provisions for employees than the provisions of law; iii) The pilot programme of negotiating and concluding industry collective bargaining agreements in Central Trade Union of industry and 3 grassroots Trade Unions; and iv) Pilot program of negotiating and signing collective labor agreements in the enterprise group of industrial park</li> </ul>
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		<p>One of the specific activities to support the implementation of the program called "Innovation, improvement of the negotiation quality, conclusion and implementation of collective labor agreements", is run with the technical support of FES Institute (Germany).</p> <ul style="list-style-type: none"> <li>• VGCL continues to provide several training courses for instructors and experts on collective bargaining of upper level trade unions. These Instructors and negotiation experts of collective bargaining agreements continue to provide training to the staff of grass root trade unions and to support the grass root trade unions negotiating with employers.</li> </ul> <p><b>2012-2013 ARs:</b> According to the Government: A revision of national laws in the light of ILO Conventions has been initiated since 1982. In this regard, the Labour Code and the Trade Union Law were revised in consultation with the social partners and the ILO which provided several comments that have been taken into consideration in the revision process. This national tripartite exercise allowed the harmonization of domestic laws with related ILO instruments, but also the evaluation of which of the ILO Conventions that may be ratified by Viet Nam. Additionally, in consultation with the social partners and related organizations, a national ratification plan for the period 2012-2020 covering all ILO conventions, including the non-ratified core conventions, has been approved by the Prime Minister.</p> <p>The VGCL indicated that the three key targets to be achieved by 2013 were as follows: (i) 1.5 million newly unionised members; (ii) the establishment of trade unions in 70 per cent of the enterprises qualified for trade union establishment under the Charter of Trade Union of Viet Nam, with 60 per cent of workers in those enterprises being unionised; and (iii) 70 per cent of enterprise trade unions will negotiate and conclude collective bargaining agreements.</p> <p><b>2011 AR:</b> According to the Government: The new revised Labour Code facilitates labour representation in the absence of grass roots trade unions.</p> <p><b>2010 AR:</b> According to the Government: C.87 and C.98 are currently being studied and compared with the relevant provisions of the current labour laws and regulations of Viet Nam with a view to supporting the revision of the Labour Code and Trade Union Law.</p> <p><b>2006 AR:</b> According to the Government: The VGCL stated that it is carrying out a five-year programme (2003-2008) for the recruitment of a million more members.</p> <p><b>2005 AR:</b> According to the Government: Successful examples: (i) the establishment of several trade unions; (ii) the 2002 Amendment to the Labour Code on the right to CB and the facilitation of establishment of associations; and (iii) the Amendment to the Labour Code (section 47, paragraph 2) to enable a collective agreement to be acknowledged immediately after the signature of the agreement by the two parties or as of the date of effect indicated in the agreement.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>NIL.</b></p>
		<p><b>Workers' organizations</b></p>	<p><b>2013 AR:</b> The VGCL indicated the following challenges in realizing the PR in the country: (i) lack of capacity building for workers' organizations; (ii) lack of understanding of the PR by the stakeholders; (iii) lack of training of tripartite partners; (iv) lack of sensitization of the local population on the PR; and (v) poor socio-economic conditions.</p> <p><b>2012 AR:</b> According to VGCL: (i) It is difficult to organize workers in small and medium scale enterprises (SMEs); and (ii) there is lack of capacity among enterprise unions, in particular when it comes to negotiation skills.</p> <p><b>2009 AR:</b> The VCA indicated that the risk of labour disputes and strikes is emerging in</p>

		<p>cooperatives and the SME sector.</p> <p><b>2007-2009 ARs:</b> The ex-ICFTU (now the ITUC) raised the following challenges: (i) there are still no independent unions as they are politically controlled; (ii) workers are not free to organise or join unions of their choosing; (ii) the right to strike is recognized by law but there are several restrictions: very heavy pre-strike procedures and prohibition of strikes in the public sector- however, hundreds of strikes are tolerated; (iii) the VGCL does not defend workers' rights in practice as it is considered to be closed to or assimilated to management; (iv) lack of collective bargaining agreements in the private sector; (v) EPZ are not covered by the same law as the rest of the country; (vi) the law excludes business with less than 10 employees from the Labour Code's requirements on unionisation.</p> <p><b>2008 AR:</b> The VGCL indicated the following challenges: (i) employers still violate the rights of workers; (ii) enforcement and monitoring of the law are still weak; and (iii) there is a lack of training of the workers moving from the rural to the urban areas.</p> <p><b>2000-2006 ARs:</b> Observations of the ICTFU: (i) there are no independent trade unions; (ii) the law requires a trade union to receive prior authorization from the authorities before it can be set up; (iii) collective agreements are limited in scope and content; (iv) the right to strike is restricted for workers; (v) although export processing zones are covered by the same laws as the rest of the country, employers in these zones tend to ignore workers' rights.</p>
	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> The Government indicated that there are many difficulties and challenges for the ratification and subsequent implementation of the Conventions. These include: i) the need for great efforts in time and resources to continually amend many relevant laws; ii) disparities in the level of awareness and understanding of a number of organizations about the content of the conventions; iii) weak ability of public and private agencies and institutions, businesses, and citizens to execute the contents and requirements of the Conventions; and iv) institutional and organizational systems to enforce the requirements of the Conventions have not been complete yet.</p> <p><i>On the right to freedom of association:</i> Viet Nam is deeply involved in international integration, which imposes great challenges to the assurance of the right to freedom of association and the right to organize without the intervention by the employer. The biggest challenge is how to ensure the effective participation of workers in the establishment of the trade union to represent their own voice. In addition, the awareness of the public in general and social partners in particular is inadequate. Addressing this challenge cannot be quick but is time-consuming and needs both human and financial resources.</p> <p><i>On the promotion of collective bargaining:</i> i) From the enterprise side: the biggest challenge is the unawareness of the employer of their responsibility to comply with the law concerning collective agreement, especially in small enterprises. Therefore, they do not really negotiate or do not fully follow the procedure of collecting opinions, notifying the employee of the content of the signed collective agreement, do not register the agreement with the competent authority and do not strictly implement the commitments in the agreement. The employer often tries to avoid negotiation and is usually not cooperative with the enterprise trade union executive board in the negotiation on signing collective agreement; ii) From the trade union side: the status, capacity and skills of enterprise trade union are very limited while the trade union at the higher level does not provide effective assistance for the enterprise trade union in negotiation. The establishment and operation of enterprise trade unions do not match the rapid development of the workforce in the Foreign Direct Investment (FDI) and private sectors; iii) From the side of state management agencies for labor: due to the small number of inspectors, the inspection and examination cannot be conducted frequently. As a result, they do not detect and address violations of collective agreement; and iv) Legal regulations:</p>

		<p>The system of legal documents on collective agreement is not adequate, timely and specific enough, which leads to the limitations in the implementation. In addition, the sanction is not strong enough to prevent violations of the regulation on the procedure and process of collective agreement.</p> <p><b>2013 AR:</b> The Government indicated, as a response to the challenges concerning lack of capacity among enterprise unions and difficulties to organize workers in small and medium scale enterprises mentioned by the VGLC, that the revised Labour Code of 2012 to enter into force as of 1 May 2013, aimed to address these issues by specifying: where there is no enterprise trade union, a trade union at higher level will be the representative to protect the interests of workers.</p> <p><b>2012 AR:</b> The Government stated that domestic laws need to be reviewed taking into considerations the ILO’s expert advice.</p> <p><b>2009 AR:</b> According to the Government: There have been “wildcat strikes” in Foreign Direct Investment enterprises which have not been organized in accordance with the legal procedure under labour laws and regulations.</p> <p><b>2006 AR:</b> In response to ICFTU observations’, the Government stated that the law and practice in the country show that workers have the right and are not constrained to join or form unions. They also freely bargain collectively, and agreements are concluded in accordance with the provisions of the Labour Code. The right to strike must comply with certain rules. In this respect, a new Ordinance on strike is being discussed and should be adopted by the National Assembly Standing Committee in 2005. In practice, the number of union members in the private sector has been steadily increasing and is expected to continue to increase, which reflects the confidence of union members in the representative trade union. There is also a union representing agricultural workers.</p> <p><b>2005 AR:</b> According to the Government: The main difficulties encountered in Viet Nam in the realization of the PR are as follows: (i) lack of public awareness and/or support; (ii) lack of information and data; (iii) lack of capacity of responsible government institutions; (iv) lack of capacity of employers’ and workers’ organizations; and (v) lack of social dialogue on this PR.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: stated that Vietnam wishes to have a technical assistance from the ILO to improve the legal system to promote freedom of association and the effective recognition of the right to collective bargaining; to learn from the experience of other nations around the world in terms of ratification and implementation of the Conventions; and to conduct research with an emphasis on i) improving the legal system to conform to international labor standards, ii) improving organizational system, personnels, and legal regulations of trade unions and labor relations, and iii) enhancing knowledge and capacity of tripartite partners on the content related to promoting freedom of association and collective bargaining. The Government further stated that ILO has been supportive with various programs and projects with the aim to improve the legal awareness of the employers and workers, and has been assisting Viet Nam in its development and improvement of the legal system on labour. In the future, Viet Nam would like to continue the cooperation with the ILO in the following aspects: i) developing legislations: Viet Nam requests ILO’s continuing technical assistance in studying and considering the feasibility of ratifying C.87 and C.98, and the possible amendment of related legal documents in order to ratifying these Conventions; and ii) ILO’s technical assistance in training trainers, professionals and enterprise trade union officers on negotiation skills and the supervision of collective agreements’ implementation.</p> <p><b>2014 AR:</b> The VCCI and the VCA requested ILO technical cooperation to build the capacity of the social partners and raise their awareness on the PR.</p> <p><b>2013 AR:</b> The Government reiterated its request for ILO technical cooperation made under the 2012 AR while adding that there is also a need for ILO support in providing technical assistance to the Government in the development of guiding documents for provisions of the revised Labour Code, 2012, on negotiating and signing collective bargaining agreements.</p> <p>According to the VGCL: ILO technical cooperation will be needed to facilitate the realization of the PR in the following areas:</p>

		<p>(i) capacity building for workers' organizations, including workers' awareness raising on their rights and responsibilities at work as requested by the Government.; (ii) awareness raising of workers and employers on the PR; (iii) training of trainers; and (iv) dissemination of information about the PR among the local population.</p> <p><b>2012 AR:</b> According to the Government: There is a need for ILO support in the following areas: (i) capacity building of labour inspectors in policy making and labour enforcement; (ii) awareness raising of workers and employers at enterprise level on the PR, and on the new labour law when adopted; and (iii) Training and sharing of experiences with other countries as regards to the implementation of freedom of association and the effective recognition of the right to collective bargaining (study tours, workshops, internships at ILO, etc.).</p> <p>The VGCL shared the Government's request and insisted on the need to build workers' capacity on the PR.</p> <p><b>2010-2011 ARs:</b> According to the Government: An intensification of ILO's technical assistance is needed, in particular for the revision of the Labour Code and the Trade Union Law.</p> <p><b>2009 AR:</b> According to the Government: The ILO's technical cooperation is sought for the labour law revision process.</p> <p>The VCA requested ILO's technical cooperation to develop advocacy materials on industrial relation, especially for cooperatives and SMEs.</p> <p>The VGCL indicated that ILO's technical assistance was needed to: (i) strengthen its capacities and train its officers; promote information sharing and dialogue at enterprise level and collective bargaining; (ii) promote membership development; and (iii) revise the Law on Trade Unions, 1990.</p> <p><b>2008 AR:</b> The Government requested support for studying C.87 and C.98 for the drafting of the Law on Associations.</p> <p>According to the VGCL: ILO technical assistance is needed for the capacity building of trade unions in local areas and awareness raising activities. It also requested that a country assessment be undertaken on the Declaration Follow-up.</p> <p><b>2006 AR:</b> According to the Government: There is a need for ILO technical cooperation in particular in assessing the impact of Viet Nam's entry in the World Trade Organization on labour and employment issues. The Government hopes that ILO technical cooperation will be extended in this respect.</p> <p>The VGCL commends the ILO for its valued support and requests strengthened ILO technical cooperation in order to provide better life for all workers.</p> <p><b>2005 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in particular in the following areas in order of priority: (i) strengthening data collection and capacity for statistical analysis; (ii) sharing of experiences across countries/regions; (iii) legal reform (labour law and other relevant legislation); (iv) strengthening capacity of employers' and workers' organizations; and (v) strengthening tripartite social dialogue.</p>
	<b>Offer</b>	ILO (Pilot programmes on the PR), WTO and ITUC.
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>		<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) encouraged Viet Nam (and few other governments) to complete the legal review process to remove the obstacles to ratification of C.87 and C.98. They also acknowledged the high number of promotional activities concerning the PR in Viet Nam (and some other countries), and encouraged the Office to maintain its efforts to support these activities (cf. paragraphs 32 and 35 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs) listed Viet Nam among the countries that had been indicating their intention to ratify C.87 and C.98 for several years, with no indication that progress had been made (cf. paragraph 33 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p>



	<p><b>2005 AR:</b> The IDEAs looked forward to positive changes emerging with regard to legislation on freedom of association and collective bargaining, in cooperation with the ILO. In this respect, they were glad to receive concrete information on the activities carried out in Viet Nam (cf. paragraph 146 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director-General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



## **GENERAL OBSERVATION BY THE INTERNATIONAL ORGANISATION OF EMPLOYERS (IOE) UNDER THE 2015 ANNUAL REVIEW**<sup>54</sup>

As in the 2014 Annual Review, the IOE sent a statement outlining its position and activities with regard to the Declaration and its follow-up, which is reproduced here *in extenso*<sup>55</sup>.

[The IOE] thanks the Office for [the] opportunity to provide comments under the [A]nnual [F]ollow-up concerning [N]on-[R]atified [F]undamental Conventions and to reflect on the relevance of the 1998 ILO Declaration on Fundamental Principles and Rights at Work (the Declaration) for the programmes and activities developed by the International Organisation of Employers (IOE).

This communication intends to give an overview of the most important activities the IOE has undertaken in the past year in its efforts to promote the Declaration and its four principles.

### ***Promotion of the ILO Declaration on Fundamental Principles and Rights at Work***

At a global level, the IOE has had the opportunity across the range of inter-governmental, UN and multilateral system consultations in which it frequently engaged, to reiterate the commitment of business to the promotion of the Fundamental Principles.

Furthermore, the last Governing Body session discussions on the implementation report for the follow-up to the resolution concerning the recurrent discussion on fundamental principles and rights and work (GB.320\_INS\_3\_1) in March 2014 provided a platform for the Employers to re-energize attention, priority and focus on the fundamental principles and rights set out in the Declaration.

The conclusions of this debate reaffirmed the objectives of [the 1998] Declaration, mutually reinforcing strategic objectives and the fundamental principles and rights at work. Key elements of the ILO action plan continue to be [IOE's] focus of attention, as follows:

- Leading the knowledge agenda, advocacy and information dissemination.
- Supporting regional priorities. Capacity building, strengthening the role of social partners.
- Strengthening partnerships with major international actors.
- Ensuring that technical assistance activities have a focus on formalizing the economy, generating employment with particular emphasis to jobs and skills for youth.

### ***Corporate Social Responsibility***

The IOE, through its member Employers' Organisations, continues to work to ensure the proper use of the Declaration within CSR activities, recognizing that the Declaration is a call to member States to promote the Principles.

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<sup>54</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers, the ILO Governing Body and the International Labour Conference.

<sup>55</sup> With some light editing by the Office.



The IOE CSR Newsletter series has attracted contributions from many IOE member federations, highlighting concerns, announcing legal developments around the world and showcasing company experiences and best practices. Furthermore, the deliberations of the IOE Policy Working Group on CSR and Business & Human Rights, capturing the business perspective on challenges and company experiences of implementing the UN Guiding Principles, is providing specific guidance to Employers and Business Organisations on how to apply and support the Declaration in this context.

Major debates within the European Union and at the Office of the High Commissioner on Human Rights (OHCHR) have led the IOE to remain focussed on promot[ing] the incorporation of the fundamental principle and rights in the CSR activities of the business community around the world.

The IOE continues to work closely with the UN Human Rights Council in advancing the implementation of the Guiding Principles on Business and Human Rights through the activities of its Working Group and keeps on ensuring the clear identification of the labour rights aspects of the Declaration in conformity with the intent and purpose behind its creation.

### *The effective abolition of child labour*

The IOE has continued to work actively with IPEC/ILO [ILO International Programme on the Elimination of Child Labour] and, together, [it] jointly support[s] a business assessment project with SHIFT to help companies eliminate the risk of child labour in their supply chains. In particular, the IOE/IPEC/SHIFT project has a focus on fundamental labour rights in alignment with the UN “Protect, Respect, and Remedy” Framework and its Guiding Principles and aims to provide guidance to companies seeking to demonstrate a proactive, rights-based approach to preventing child labour. The outcome of this project is a Toolkit for Employers on How to do business with respect for Children’s right to be free from Child Labour which is currently under review and its publication is anticipated before the end of 2015.

The IOE also continues to be actively engaged in the development of the Child Labour Platform, a business network aimed at contributing to the eradication of Child Labour from international production chains as a specific follow-up action from the Hague Conference. Please see section on Global Compact for further information.

### *The elimination of all forms of forced or compulsory labour*

The IOE welcomed the adoption of the new Protocol and Recommendation on supplementing the Forced Labour Convention (C. 29) adopted at the 2014 ILC [International Labour Conference] and fully supports the action framework that these two new instruments will provide to effectively contribute to the elimination of all forms of forced labour and human trafficking. The IOE has produced joint guidance material on the relevance of this new instrument for Business, IOE-ILO Guidance Note on the 2014 Protocol to the Forced Labour Convention, 1930 and supports the ILO 50 for Freedom Campaign as part of the follow-up global initiative.

The Employers look forward to being part of the development of the ILO platform of action for the implementation of these new instruments in alignment with the Principles of the [19]98 Declaration and call on the ILO to assert its unique role as the organisation with the legitimacy and competence to set and deal with [I]nternational [L]abour [S]tandards, and, in doing so, promote policy coherence and collaboration across the multilateral system.

The IOE has continued to strengthen its partnership with the [ILO] Special Action Programme to combat Forced Labour (SAP – FL) and has completed the updating of [the] joint publication: Combating Forced Labour: A Handbook for Employers and Business and [it] continue[s] to target the development of further booklets on critical risk sectors such as agriculture, fishery and manufacturing.

In addition, the IOE supports the ILO’s Fair Migration Agenda, including the Fair Recruitment Initiative which was designed in close consultation with employers to support pilot models of fair recruitment and capacity building of private employment agencies in target countries and in different sectors and industries; and in close cooperation with the International Organisation for Migration (IOM) committing to work at a global level and reducing exploitative recruitment practices in international labour migration.





### ***The elimination of discrimination in respect of employment and occupation***

The IOE is actively involved in addressing various forms of discrimination directly through the activities of [its] policy working groups i.e. Employment; CSR and Business & Human Rights; International Labour Migration, Industrial Relations and Sustainable Development, as well as in cooperation with others as follows:

- With the ILO Bureau for Employers' Activities (ACT/EMP) to provide first-hand support and guidance at country level.
- With the Business and Industry Advisory Committee to the OECD, BIAC, to jointly advance the business case for gender diversity and women's economic empowerment.
- With the International Federation of Business and Professional Women (BPW International) to develop strategies, share networks and promote intercultural understanding to encourage workplace diversity, gender equality and women's empowerment across the business community.
- Through its co-chairing of the B20 Employment Task Force ensuring, for example, the G20 focus on increasing job opportunities for young people, including youth entrepreneurship, and that international organisations support national efforts to this end.
- The IOE has also worked in cooperation with the global trade union movement to jointly identify key priorities for the employment of young people.
- With the support of the ILO, the IOE continues to contribute to the development of the IOE/BIAC Global Apprenticeships Network (GAN), created as a direct outcome of the commitment of the global business community to play its part in addressing the youth employment crisis.

### ***Global Compact***

With Secretary-General Linda Kromjong on the Global Compact Board, the IOE continues to play a crucial role in influencing the future direction and priorities of the Global Compact and its local networks, many of which are co-ordinated by IOE member federations.

In March 2014, the IOE launched a call to members in selected countries, in conjunction with its partner BPW International, to promote the Women's Empowerment Principles of the UN Global Compact/UN Women and we continue to monitor its development.

### ***Freedom of Association and the effective recognition of the right to collective bargaining***

One of the IOE's primary means of promoting and upholding the principle of freedom of association for employers remains ensuring that the Governing Body Committee on Freedom of Association (CFA) and the CEACR [Committee of Experts on the Application of Conventions and Recommendations] are relevant, and responsive to the cases brought by the Employers' Group.

It remains a key responsibility of the IOE to defend the rights and interests of employers' organisations in all regions that do not fully enjoy freedom of association by providing assistance, guidance, support and representation.

Whilst freedom for employers prevails in many countries of the world and is largely taken for granted, developments in other parts of the world continue to threaten those rights, requiring the attention of the Employers' Group and the IOE and providing an on-going role for the promotion of the Declaration supported by targeted technical cooperation.





In partnership with the ILO Bureau for Employers' Activities (ACT/EMP), the IOE continues to help ensure infringements of this principle of employers' rights are strongly denounced in the CFA and in the Governing Body as required.

### **Conclusions**

The Employers continue to be fully engaged in the promotion of the Fundamental Principles and Rights at Work which are the cornerstone of [IOE's] framework of action and policy recommendations.

The Employers reiterate their commitment to cooperate with all relevant actors to further promote the realisation of the Principles in accordance with the different national circumstances of [the IOE] member federations.

The Declaration remains an outstanding example of how the ILO should and can react to pressing social issues through its unique process of consensus building. [The IOE] appreciate[s] this opportunity to provide feedback and remain available to answer any questions arising from this document.



**The elimination of all forms of forced or compulsory labour**

**L'élimination de toute forme de travail forcé ou obligatoire**

**La eliminación de todas las formas de trabajo forzoso u obligatorio**



## **15 REPORTING STATES (AND THE CONVENTIONS NOT YET RATIFIED BY THEM)**

1. **Afghanistan** (C.29)
2. **Brunei Darussalam** (C.29 & C.105)
3. **China** (C.29 & C.105)
4. **Japan** (C.105)
5. **Korea, Rep. of** (C.29 & C.105)
6. **Lao People's Dem. Rep.** (C.105)
7. **Malaysia** (C.105)
8. **Marshall Islands** (C.29 & C.105)
9. **Myanmar** (C.105)
10. **Palau, Republic of** (C.29 & C.105)
11. **Singapore** (C.105)
12. **Timor-Leste** (C.105)
13. **Tuvalu** (C.29 & C.105)
14. **United States** (C.29)
15. **Viet Nam** (C.105)



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>56</sup>: AFGHANISTAN**

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the 2005 Annual Review (AR). No report under the 2011 AR.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Chamber of Commerce of Afghanistan (CCA) (except for the 2006 AR), the Chamber of Commerce of Kabul (CCK), the National Union of Afghanistan Employees (NUAE locally called AMKA) and the All Afghanistan Federation of Trade Unions (AAFTU) through consultations or communication of the Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2013 AR:</b> Observations by the CCA. <b>2009 AR:</b> Observations by CCK. <b>2007 AR:</b> Observations by the CCA.
	<b>Workers' organizations</b>	<b>2014 AR:</b> Observations by NUAE (AMKA). <b>2012 AR:</b> Observations by NUAE. <b>2010 AR:</b> Observations by NUAE. <b>2009 AR:</b> Observations by NUAE (AMKA). <b>2007 AR:</b> Observations by the AAFTU. <b>2006 AR:</b> Observations by the AWA.

<sup>56</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Afghanistan ratified in 1963 the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105): However, it has not yet ratified the Forced Labour Convention, 1930 (No. 29) (C.29).</b>
		<b>Ratification intention</b>	<p><b>YES, in process since 2005, for C.29.</b></p> <p><b>2015 AR:</b> According to the Government: The revision of labour law has been finalized and sent to the Ministry of Justice for review before submission to Cabinet for approval.</p> <p><b>2014 AR:</b> According to the Government: The revision of labour laws and regulations is at a final stage. Following the finalization of the legal revisions, which covers the provisions of C.29, prospects for ratification of C.29 will improve and the Government will consider how to move forward with the ratification processes.</p> <p>The NUAE (AMKA) expressed its strong support for the ratification of C.29 and underlined the crucial need for ILO technical cooperation to support the Government to move ahead with the ratification process.</p> <p><b>2013 AR:</b> According to the Government: National labour laws and regulations are currently being reviewed in view of ratification and implementation of C.29. ILO's technical support would be needed in this exercise.</p> <p>The CCA expressed its support for the ratification of C.29, and indicated that the absence of political will is delaying ratification.</p> <p><b>2012 AR:</b> According to the Government: Ratification of C.29 has received executive approval, but is still being reviewed by the Parliament, which should approve it soon.</p> <p>The NUAE (AMKA) indicated their support for the ratification of all fundamental Conventions.</p> <p><b>2010 AR:</b> According to the Government: ratification of C.29 is currently being studied by the Parliament. However, ILO's is needed to complete this process.</p> <p><b>2009 AR:</b> The Government indicated that the ratification of C.29 was still being considered.</p> <p>The CCK and the NUAE expressed their support for the ratification of C.29 by Afghanistan.</p> <p><b>2008 AR:</b> The Government indicated that the ratification of C.29 was currently under evaluation by the Council of Ministers in consultation with employers' and workers' organizations. Upon approval of the Council of Ministers, the document will be submitted to Parliament.</p> <p><b>2007 AR:</b> According to the Government: C.29 has been integrated into national laws and will be submitted to Parliament for ratification.</p> <p>The CCA supported ratification of C.105 by Afghanistan.</p> <p>The AAFTU supported ratification of C.105 by Afghanistan, and hoped that the Government would accelerate this process.</p> <p><b>2005-2006 ARs:</b> According to the Government: C.29 is in the process of ratification.</p>
	<b>Recognition of the principle and right (prospect(s),</b>	<b>Constitution</b>	<p><b>YES.</b></p> <p>According to the Government: article 41 of the new Constitution (2004) defines forced labour as a</p>

	<p><b>means of action, main legal provisions)</b></p>		<p>compulsion for anyone to work without his/her consent or under a threat. It also prohibits all forms of forced or compulsory labour.</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b>  <b>2005 AR:</b> The Government stated that the national policy to realize the principle and right (PR) of the elimination of all forms of forced or compulsory labour was defined in the Labour Code.</li> <li>• <b>Legislation:</b>  <b>2014 AR:</b> According to the Government: Revisions of labour laws and regulations have been undertaken in close collaboration with ILO and the social partners, to ensure inclusion of the provisions of C.29. The revision process is currently at its final stage and the draft amendments will be submitted to the Ministry of Justice in the near future.  <b>2006 AR:</b> According to the Government: section 11 of the 1987 Labour Code prohibits all forms of forced or compulsory labour.</li> </ul>
		<p><b>Basic legal provisions</b></p>	<p>(i) Constitution (article 41); (ii) Labour Code (1987), section 11.</p>
		<p><b>Definition of forced or compulsory labour</b></p>	<p><b>2005 AR:</b> According to the Government: Forced or compulsory labour is defined in its various forms in national legislation and or judicial decision.</p>
		<p><b>Judicial decisions</b></p>	<p>NIL.</p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>Special attention to particular situations and human trafficking</b></p>	<p><b>2013 AR:</b> According to the Government: Special attention is given to women, children, young people and refugees who may be subject to human trafficking or debt bondage.  <b>2005 AR:</b> According to the Government: Special attention is given to the situation of young boys and girls.</p>
		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2013 AR:</b> According to the Government: A survey on children victims of forced labour is being conducted in some provinces, however, there are no meaningful national statistics on forced labour.  <b>2005 AR:</b> According to the Government: Statistics are not collected but the Government intends to do so.</p>
	<p><b>Prevention/monitoring, enforcement and sanctions mechanisms</b></p>		<p><b>2015 AR:</b> According to the Government: Inspection is under the General Directorate of Labour Laws and there are plans to expand scope and increase staff.  <b>2005 AR:</b> According to the Government: Should the PR not be respected then the matter is referred to courts, which decide appropriate sanctions, ranging from fines to imprisonment. In realizing the PR, the following measures have been implemented: legal reform and inspection /monitoring mechanisms.</p>
	<p><b>Involvement of the social</b></p>		<p><b>2015 AR:</b> According to the Government: Good tripartite cooperation, policies and strategies discussed with partners.</p>

	<p><b>partners</b></p>	<p><b>2014 AR:</b> According to the Government and NUAE (AMKA): Tripartite consultations are ongoing in close collaboration with the ILO. The social partners have been involved in the revision of the labour legislation and agreement has been made among the tripartite partners on the necessary legal amendments. Social dialogue has been strengthened over the last year and the relation between the Government and the social partners have improved. The Government has initiated the creation of the first tripartite body in Afghanistan, the High Labour Council, which should institutionalize social dialogue. The High Labour Council is set out to deal with all labour related issues, and one of its initial assignments will be to review the ratification of ILO Conventions. The High Labour Council is expected to be established before the end of 2013.</p> <p><b>2005 AR:</b> According to the Government: There is a tripartite examination of related issues to realize the PR.</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: workshops, seminars and media compaigns have been organized in collaboration with trade unions.</p> <p><b>2013 AR:</b> According to the Government: Awareness-raising campaigns were organized together with trade unions to promote international labour standards (ILS), including the fundamental principles and rights at work (FRPW). Workshops and forums were organized on the PR to help workers better understand the importance of C.29.</p> <p><b>2012 AR:</b> According to the Government and the NUAE (AMKA): A national tripartite workshop on ILS, including the FPRW, was organized in May 2011 in cooperation with the ILO. Other similar workshops on labour laws and the principle and right were organized in cooperation with the Asian Foundation.</p> <p><b>2010 AR:</b> A Senior Officer of the Ministry of Labour and Social Affairs, Martyrs and Disabled has participated in the ILO/Turin Course on International Labour Standards during which issues concerning the Declaration and its follow-up have been addressed, including those relating to C.29. At national level, a tripartite workshop on international labour standards and the 1998 ILO Declaration will be organized in cooperation with the ILO.</p> <p><b>2007 AR:</b> According to the Government: A national tripartite workshop on ILS, the Declaration and social dialogue was organized in 2006 in cooperation with the ILO.</p> <p>The CCA stated that it participated in this workshop and in the labour law review process.</p> <p>The AAFTU confirmed that it participated in this workshop.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2005 AR:</b> According to the Government: The following measures have been implemented to realize the PR: (i) awareness raising/advocacy activities; (ii) employment creation/income generation; (iii) educational programmes; (iv) rehabilitation following removal from forced labour; (v) international cooperation programmes/projects; and (vi) poverty alleviation programmes.</p> <p>A national commission on children’s rights is responsible for the identification, emancipation and/or rehabilitation of people subject to forced labour.</p> <p><b>2007 AR:</b> The AAFTU mentioned that it was working to improve workers’ rights in Afghanistan, and its major objective was the realization of the FPRW in the country.</p> <p><b>2006 AR:</b> According to the Government: A national tripartite seminar on International Labour Standards was organized in May 2005 with ILO technical assistance.</p> <p><b>2005 AR:</b> According to the Government: As a successful example, a national project has been designed for the rehabilitation</p>

		of street children and child soldiers.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2013 AR:</b> According to the CCA: The main challenges encountered in the realization of the PR are: (i) corruption; (ii) informal economy; (iii) insecurity; (iv) lack of social dialogue; (v) high unemployment rate; (vi) lack of good governance; (vii) lack of political will; (viii) lack of capacity of tripartite partners, and; lack of awareness raising campaign.</p> <p><b>2009 AR:</b> According to the CCK: Child trafficking is a big challenge in the country because of the high rate of unemployment. Children are also forced to work in drug production and trafficking.</p>
	<b>According to the Government</b>	<b>Workers' organizations</b>	<p><b>2014 AR:</b> According to the NUAE (AMKA): Child slavery is a problem in the country. Monitoring and regulation of overtime also need to be improved, as employers' obligation to pay for overtime is unclear. Cases have been reported that workers who refused to deliver unpaid overtime got replaced. The trade union movement also needs to be strengthened and modernized.</p> <p><b>2012 AR:</b> According to NUAE (AMKA): The main challenges are: (i) war; (ii) corruption; (iii) poverty; (iv) trafficking; and (v) lack of transparency.</p> <p><b>2008 AR:</b> The AAFTU indicated the following challenges: (i) unemployment and poverty; (ii) illiteracy; (iii) lack of capacity and professional staff, vocational training, educational and health centres; (iv) has to face multiple unions with very diverse ideas, which makes it difficult for social dialogue; (v) political insecurity; (vi) lack of rule of law, and conformity with international labour standards, especially with regards to workers' rights.</p> <p><b>2007 AR:</b> The AAFTU mentioned that the Government did not consult with it in the labour law review process.</p>
		<p><b>2015 AR:</b> The Government indicated that the restriction in the number of labour inspectors makes it difficult to supervise the implementation of the PR.</p> <p><b>2014 AR:</b> According to the Government: In light of improved social dialogue and legal amendments on the way, the Government does not identify any specific challenges related to the realization of the PR or obstacles in the ratification process at this stage.</p> <p><b>2013 AR:</b> According to the Government: The main difficulties encountered with respect to realizing the PR are as follows: (i) lack of information and data; (ii) social values and cultural traditions; (iii) social and economic circumstances; (iv) political situation, and; (v) lack of social dialogue on this PR.</p> <p><b>2008 AR:</b> According to the Government: it has to face multiple unions with very different ideas, which make it difficult for social dialogue. It also mentioned that some children were subject to forced labour on the border of Afghanistan with Pakistan and fewer cases with the Iranian border. Finally, it added that although the Government does not recognize the AAFTU as a trade union as they are not legally registered as a union in the Ministry of Justice, it does not interfere with its activities.</p> <p><b>2005 AR:</b> According to the Government, the main difficulties encountered with respect to realizing the PR are as follows: (i) lack of information and data; (ii) social values and cultural traditions; (iii) social and economic circumstances; (iv) political situation; (v) legal provisions; (vi) lack of capacity of responsible Government institutions; (vii) lack of capacity of employers' organizations; (viii) lack of capacity of workers' organizations; and (ix) lack of social dialogue on this PR.</p>	



		<p>Difficulties also include the rehabilitation of repatriated Afghan children who have been subject to trafficking in various countries.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> The Government reiterated the request it made for a national survey on child victims of forced labour to be carried out in collaboration with the ILO.</p> <p><b>2014 AR:</b> The Government reiterated the request it made for a national survey on child victims of forced labour to be carried out in collaboration with the ILO.</p> <p>The NUAE (AMKA): ILO’s technical cooperation is needed in the following areas: (i) capacity building for trade unions including training of trade union trainers and participation in courses by the International Training Centre, and (ii) to strengthen the capacity of government institutions. ILO technical cooperation is essential for strengthening the capacity of the trade unions, which attempt to undergo a process of modernization. It was requested that ILO should contact the trade unions directly in this regard, and not go through the Government.</p> <p><b>2013 AR:</b> The Government reiterated the request it made under the 2008 AR to carry out a national survey on children victims of forced labour in the country, in cooperation with ILO.</p> <p>According to the CCA: ILO’s technical cooperation is needed in the following areas: (i) public awareness raising campaign in local languages to better understand ILS; (ii) strengthening social dialogue; (iii) legal reform; (iv) capacity building to combat corruption among civil servants; (v) unemployment reduction policies; and (vi) combating mafia in the informal economy.</p> <p><b>2012 AR:</b> The Government reiterated the request it made under the 2008 AR to carry out a national survey on children victims of forced labour in the country, in cooperation with ILO.</p> <p>According to the NUAE (AMKA): There is a need for ILO technical cooperation in capacity building, awareness raising campaign on forced labour and human trafficking.</p> <p><b>2010 AR:</b> The Government reiterated the request it made under the 2009 AR while mentioning that ILO assistance is really needed in the ratification process of C.29.</p> <p>According to the NUAE: There is a need for ILO technical cooperation to facilitate the realization of this PR in Afghanistan, in particular in the following areas: (i) training of officials dealing with labour law enforcement/administrative; (ii) strengthening capacity of workers’ and employers’ organizations; (iii) legal reform (labour law and other relevant legislation); (iv) awareness-raising campaign to help the stakeholders to better understand the ILS; (v) assistance to the Ministry of Labour and Social Affairs in the implementation of the core Conventions.</p> <p><b>2009 AR:</b> The Government reiterated its request for ILO’s and UNICEF’s assistance to carry out a survey on children victims of forced labour in the country.</p> <p>The CCK and the NUAE supported this request.</p> <p><b>2008 AR:</b> The Government requested ILO’s and UNICEF’s assistance for the realization of a national survey on children victims of forced labour in the country.</p> <p><b>2007 AR:</b> According to the Government: ILO technical cooperation should be sustained to help Afghanistan better implement the new labour law and realize the FPRW. Labour Inspection and employers’ and workers’ organizations need ILO support for training and capacity building. A case study on the FPRW is needed in the country.</p> <p>According to the CCA: (i) ILO technical cooperation would be needed for training and capacity building of employers’ organizations in Afghanistan to facilitate the realization of the FPRW; and (ii) the CCA supports the Government’s request for</p>

		<p>a case study on the FPRW in Afghanistan.</p> <p>According to the AAFTU: (i) The AAFTU strongly needs ILO support for capacity building and training among its affiliates and members; and (ii) it also supports the Government's request for a case study on the FPRW in Afghanistan.</p>
		<p><b>2005-2006 ARs:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Afghanistan, in the following priority areas: (1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; strengthening data collection and capacity for statistical collection and analysis; sharing of experiences across countries/regions; policy advice; legal reform (labour law and other relevant legislation); capacity building of responsible Government institutions; training of other officials (e.g. police, judiciary, social workers, teachers); strengthening capacity of employers' and workers' organizations; employment creation; skills training and income generation for vulnerable workers; development of social protection systems; rural development policies (for example, land reform, rural infrastructure, agricultural extension, marketing, micro-finance); cross-border cooperation mechanisms; and coordination between institutions (e.g. various ministries and relevant commissions).</p> <p>Moreover, the Government would appreciate receiving assistance to elaborate a national Declaration Programme to promote all FPRW, including the PR. This could be preceded by a national seminar on the 1998 ILO Declaration.</p> <p><b>2006 AR:</b> The AWA requested ILO technical cooperation to promote the PR among its members.</p>
	<p><b>Offer</b></p>	<p>ILO (awareness raising activities), the Asian Foundation</p>
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>		<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAS) listed Afghanistan among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step forward towards universal ratification. In particular, the IDEAs encouraged the Government of Afghanistan (and four other governments) to initiate or finalize their national labour law review processes. In strengthening and reforming their legal framework in compliance with international labour standards, these countries would allow a better implementation of the principle and right. Finally, the IDEAs noted that a number of governments, employers' or workers' organizations in various countries, including Afghanistan, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO (cf. paragraphs 41, 43 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAS encouraged the Government of Afghanistan (and three other governments) that had expressed their intention to ratify C.29 and/or C.105 to complete the process. The IDEAs also welcomed the significant increase in the reports of action to combat forced labour in several countries, including Afghanistan, and noted that an increasing number of States were recognizing that forced labour does exist in their country [...]. For the IDEAs, such recognition was indispensable to combating forced or compulsory labour, as it was undoubtedly the first step in what is a daunting but essential task (cf. paragraphs 40 and 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2006 AR:</b> The IDEAs hoped that Afghanistan (and another State) would consider ratification of C.29 (cf. paragraph 44 of the 2006 AR Introduction – ILO: GB.295/5).</p> <p><b>2005 AR:</b> The IDEAs noted with particular interest the reporting from Afghanistan in spite of the serious difficulties that this country had to face. They also noted with interest that even in a post-war context, the Government of Afghanistan had endeavoured to rehabilitate children who were victims of trafficking and</p>



	had established a national tripartite commission in this respect (cf. paragraphs 8 and 187 of the 2005 AR Introduction – ILO: GB.292/4).
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101st Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316th Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/-ed_norm/--relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/-ed_norm/--relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2008-2015)<sup>57</sup>: BRUNEI DARUSSALAM**

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2011 Annual Review (AR). Brunei Darussalam joined the ILO in 2007.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (the National Chamber of Commerce and Industry, NCCI) and workers' organizations (the Brunei Oilfield Workers Union, BOWU) by means of consultation and communication of a copy of the Government's report and country baseline.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the NCCI. <b>2013 AR:</b> Observations by the NCCI. <b>2012 AR:</b> Observations by the NCCI and its three affiliates. <b>2010 AR:</b> Observations by the NCCI. <b>2008 AR:</b> Observations by the NCCI and its three affiliates.
	<b>Workers' organizations</b>	<b>2014 AR:</b> Observations by the BOWU. <b>2013 AR:</b> Observations by the BOWU. <b>2012 AR:</b> Observations by the BOWU. <b>2010 AR:</b> Observations by the BOWU. <b>2008 AR:</b> Observations by the BOWU.

<sup>57</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Brunei Darussalam has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29) nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b>
		<b>Ratification intention</b>	<b>Under consideration for both C.29 and C.105.</b> <b>2014-15 ARs:</b> The Government reported that it was still reviewing in a favourable manner the possibility to ratify C.29 and C.105. The NCCI and the BOWU expressed their support for the ratification of C.29 and C.105. <b>2009-2010 and 2012-2013 ARs:</b> The Government indicated that it was still reviewing the possibility to ratify C.29 and C.105 in consultation with the employers' and workers' organizations. The NCCI and the BOWU reiterated their support for the ratification of both C.29 and C.105 by Brunei Darussalam. <b>2008 AR:</b> The Government indicated its intention to ratify C.29 and C.105. The BOWU and the NCCI supported the ratification of these two Conventions by Brunei Darussalam.
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>NO.</b>
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation:</b> <ul style="list-style-type: none"> <li>(i) The Penal Code (Cap. 22);</li> <li>(ii) The Women and Girls Protection Act (Cap. 120);</li> <li>(iii) The Children and Young Persons Order, 2006;</li> <li>(iv) The Trafficking and Smuggling of Persons Order, 2004;</li> <li>(v) Employment Agencies Order, 2004; and</li> <li>(vi) The Children and Young Persons Order, 2006 (will repeal the Children's Order, 2000 once it is in force).</li> </ul> </li> </ul>
		<b>Basic legal provisions</b>	(i) The Penal Code (Cap. 22), sections 367-374; (ii) The Women and Girls Protection Act (Cap. 120); (iii) the Trafficking and Smuggling of Persons Order, 2004, sections 2-12 and 9-24; (iv) the Employment Agencies Order, 2004, section 31 (e); (v) Children Order, 2000; and (vi) the Children and Young Persons Order, 2006 (will repeal the Children's Order, 2000 once it is in force).
		<b>Judicial decisions</b>	<b>NIL.</b>

		<b>Definition of forced or compulsory labour</b>	<b>2008 AR:</b> According to the Government: A definition of unlawful compulsory labour is given under section 374 of the Penal Code, i.e.: when a person is unlawfully compelled to labour against his will. Moreover, the Trafficking and Smuggling of Persons Order, 2004 (section 2) defines: (i) “exploitation” as including any forms of sexual exploitation (including sexual servitude and exploitation of another person’s prostitution), forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs; (ii) “people smuggling” as arranging or assisting a person’s unlawful entry into any receiving country including Brunei Darussalam, of which the person is not a citizen or permanent resident of the receiving country, knowing or having reason to suspect the person’s entry is unlawful, in order to obtain a financial or other material benefit; and “people trafficking” as the recruitment, transportation, transfer, harbouring or receipt of a person for the purpose of exploitation, as set out in sections 4 and 5 of this Order (i.e., by means of threat, use of force or other forms of coercion, abduction, fraud, deception, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person and children trafficking as the recruitment, transportation, transfer, harbouring or reception of a child by any means for the purpose of exploitation).
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	<b>2014-15 ARs:</b> The Government indicated that the Anti-Human Trafficking Unit is operating well. <b>2008 AR:</b> According to the Government: Women, girls, children and young persons are specially protected under the Penal Code (Cap. 22), the Women and Girls Protection Act (Cap. 120), the Children and Young Persons Order, 2006 and the Trafficking and Smuggling of Persons Order, 2004.
		<b>Information/ Data collection and dissemination</b>	<b>NIL.</b>
	<b>Prevention/Monitoring, enforcement and sanctions mechanisms</b>	<b>2014-15 ARs:</b> According to the Government: No cases of forced labour have been reported in Brunei Darussalam. <b>2008 AR:</b> According to the Government: Cases of forced or compulsory labour, including trafficking and smuggling of persons, can be identified by the Ministry of Home Affairs (including the Labour Department and the Immigration Department), by the Police, or by any institution or individual person. Such cases can be reported to the Police and subsequently referred to the Attorney General’s Chambers for prosecution. In case of forced or compulsory labour, sanctions, including fines and imprisonment, are provided under the Penal Code (Cap. 22), the Trafficking and Smuggling of Persons Order 2004, the Employment Agencies Order 2004, etc.	
	<b>Involvement of the social partners</b>	<b>2009 AR:</b> According to the Government: The employers’ and workers’ organizations are being involved in the ratification process of the ILO fundamental Conventions.	

	<b>Promotional activities</b>	<p><b>2013-15 ARs:</b> According to the Government: During the Labour Day Celebration in May (one month), the Labour Department has organized intersport competition activities in cooperation with the employers' and workers' organizations with a view to strengthening tripartite partnership.</p> <p><b>2012 AR:</b> The Government indicated that a series of government workshops concerning trafficking in persons were conducted at national and regional levels under ASEAN. Moreover, it stated that Royal Brunei Police Force was in the process of setting up an intergovernmental agency task force to deal with cases related to human trafficking.</p> <p><b>2009 AR:</b> The Government indicated that one of its senior officers participated in the May 2008 Turin Course on International Labour Standards and the 1998 ILO Declaration.</p> <p><b>2008 AR:</b> According to the Government: In November 2007, officials of the Labour Department of the Ministry of Home Affairs and of the Attorney General's Office worked with the ILO on the fundamental principles and rights at work (FPRW), ILO fundamental Conventions and reporting issues.</p> <p>The NCCI stated that it was promoting the FPRW, decent work and sustainable enterprises through discussions among its members and with the Government.</p> <p>The BOWU stated that it organizes a monthly meeting to develop the knowledge on ILO and the FPRW among its members.</p>	
	<b>Special initiatives/Progress</b>	<p><b>2013 AR:</b> The Government has established a Human Trafficking Investigation Unit under the Prime Minister's Office in order to conduct investigations on trafficking in persons offences in accordance with the Trafficking and Smuggling in Persons Order, 2004.</p> <p><b>2012 AR:</b> According to the Government: The Children's Order 2000 was repealed by the Children's and Young Person's Order 2006 which promotes better safeguards against any forms of mental, physical or emotional abuse of children.</p> <p>The NCCI, BOWU and the Government indicated that the celebration of Labour Day in 2011 was for the first time initiated by employers and workers and supported by the Government.</p> <p><b>2009 AR:</b> The Government stated that it had celebrated the Labour Day on 3 May 2008, including ILO's participation concerning Decent Work issues, and a walkathon.</p> <p><b>2008 AR:</b> According to the Government: The Government is considering ratification of C.29 and C.105. In addition, it has adopted a number of laws and regulations to realize the PR, including a Penal Code (Cap. 22), the Trafficking and Smuggling of Persons Order, 2004; a Woman and Girls Protection Act (Cap. 120); and the Employment Agencies Order, 2004. The Trafficking and Smuggling of Persons Order, 2004 also provides for the establishment of a Trafficking and Smuggling of Persons Fund. This fund is financed by the Government and will serve in particular to: (i) finance the cost of repatriation of smuggled persons and trafficked persons; (ii) promote information and education of the public in preventing, suppressing or otherwise of people trafficking and people smuggling; and (iii) reward any person in preventing or suppressing these illegal activities.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2008 and 2012 ARs:</b> According to the NCCI: No problems of forced or compulsory labour are being encountered in the country.
		<b>Workers' organizations</b>	<b>2008 and 2012 ARs:</b> According to the BOWU: There are no problems of forced or compulsory labour in the country. The BOWU is not aware of such practice in Brunei Darussalam.



	<p><b>According to the Government</b></p>	<p><b>2014-2015 ARs:</b> According to the Government: Lack of resources and capacity to fulfil ILO’s reporting obligations hampers the Government from ratifying any further instruments before the reporting capacity has been strengthened.</p> <p><b>2008-2010 and 2012 ARs:</b> According to the Government: (i) Lack of public awareness on the PR; (ii) Lack of information and data; (iii) Lack of capacity of responsible government institutions; (iv) Lack of capacity of employers’ and workers’ organization; and (v) Lack of social dialogue on this principle. No cases of forced or compulsory labour have been reported so far in the country.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2014-2015 ARs:</b> The Government, the NCCI and the BOWU requested ILO technical cooperation for legal interpretation of C.29 and C.105, and analysis of the implications of the ratification of the two instruments. The Government added that there was a need to strengthen the Government’s capacity to fulfil its ILO reporting obligations.</p> <p><b>2008-2010 and 2012 ARs:</b> According to the Government: ILO technical cooperation will be needed to facilitate the realization of the PR in Brunei Darussalam, in particular in the following areas, by order of priority: (1) awareness-raising, legal literacy and advocacy; sharing of experiences across countries/regions; capacity building of responsible government institutions; training of other officials (e.g. police, judiciary, social workers, teachers); strengthening capacity of employers’ and workers’ organization; cross-border cooperation mechanisms; (2) strengthening data collection and analysis; cross-border cooperation mechanisms; legal reform (labour law and other relevant legislation); policy advise; coordination between institutions (e.g. various ministries and relevant commissions); (3) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle; employment creation, skills training and income generation; rural development policies (for example, land reform, rural infrastructure, agricultural extension, marketing, microfinance). These priorities may be satisfied through the preparation of survey/seminar to promote and realize the FPRW in Brunei Darussalam, in consultation with the employers’ and workers’ organizations.</p> <p>The NCCI and the BOWU supported the Government’s requests and emphasized the need for ILO technical assistance to strengthen the employers’ and workers’ organizations and prepare of a survey/seminar to promote and realize the FPRW in Brunei Darussalam.</p>
	<p><b>Offer</b></p>	<p>ILO (consultations on Decent Work Country Programme and assistance in reporting under the AR); ASEAN; INTERPOL.</p>
<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed Brunei Darussalam among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step towards universal ratification. The IDEAs further noted that a number of governments, employers’ or workers’ organizations in various countries, including Brunei Darussalam, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO. (cf. paragraphs 41 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p>	





<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>58</sup>: CHINA**

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPUSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, except for the 2001 Annual Review (AR).	
	<b>Involvement of Employers' and Workers organizations in the reporting process</b>	YES, Involvement of the China Enterprise Confederation (CEC) and the All-China Federation of Trade Unions (ACFTU) by means of consultations and communication of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2011 AR:</b> Observations by the CEC. <b>2009 AR:</b> Observations by the CEC. <b>2008 AR:</b> Observations by the CEC. <b>2007 AR:</b> Observations by the CEC.	
	<b>Workers' organizations</b>	<b>2011 AR:</b> Observations by the ACFTU. <b>2009 AR:</b> Observations by the ACFTU. <b>2008 AR:</b> Observations by the ACFTU. <b>2001 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>China has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29), nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b>
		<b>Ratification intention</b>	<b>NIL.</b>
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES.</b> The Constitution of the People's Republic of China provides in article 37 that "Personal freedom of citizens of the People's Republic of China is inviolable ... Unlawful detention or deprivation or restriction of citizens' personal freedom by other means is prohibited, and unlawful search of the person of citizens is prohibited". The protection of personal freedom implies the elimination of all forms of forced or compulsory labour.

<sup>58</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"><li>• <b>Policy:</b></li></ul> <p><b>2014 AR:</b> According to the Government: China's Action Plan against Trafficking in Persons (2013-2020) has been approved by the State Council in order to prevent and combat trafficking in persons in accordance with law, actively assist and well place victims of trafficking and effectively protect legitimate rights and interests of citizens. Measures of action include: (i) Improving mechanisms of crime prevention, (ii) Combating crimes and rescuing victims of trafficking, (iii) Strengthening assistance, placement, recovery and reintegration into society with regard to victims of trafficking, (iv) Improving the system of laws, regulations and policies, (v) Enhancing International Cooperation.</p> <p><b>2013 AR:</b> According to the Government: In 2011, the Government has formulated and applied the National Development Plan for Women (2011-2020) with 7 priority areas including 3 chapters concerning economy, social security and laws that relate to the principle and right (PR). The Government has also adopted the National Plan for the Child (2011-2020) with 5 priority areas including, among others, a section on legal protection, which provides that the employment of children under 16 years and the economic exploitation of children are forbidden. This Plan also combats strongly any violations to the law through the use of children in criminal activities (rubbery, prostitution, etc.), artistic activities or as beggars.</p> <p><b>2005 AR:</b> According to the Government: There is a national policy to realize the principle and right (PR) of the elimination of all forms of forced or compulsory labour, but the Government would appreciate receiving ILO assistance in this respect.</p>
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- **Legislation:**
  - The Labour Law (sections 32 and 96);
  - The Criminal Law (sections 240-244);
  - The Law on the Protection of Rights and Interests of Women (sections 37-39).

**2015 AR:** According to the Government: The “Decision of the Standing Committee of the National People’s Congress on Repealing Legislation on Reeducation through Labour” was adopted on 28 December 2013 at the 6th Session of the Standing Committee of the Twelfth National People’s Congress. Accordingly, the 6<sup>th</sup> of the Standing Committee of the Twelfth National People’s Congress decided that the “Resolution of the Standing Committee of the National People’s Congress on Approving the Decision of the State Council on Issues concerning Reeducation through Labour” and the “Decision of the State Council on Issues concerning Reeducation through Labour”, as adopted at the 78th session of the Standing Committee of the First National People’s Congress on 1 August 1957, are repealed. Also, according to the Decision, the “Resolution of the Standing Committee of the National People’s Congress on Approving the Supplementary Provisions of the State Council on Reeducation through Labour” and the “Supplementary Provisions of the State Council on Reeducation through Labour”, as adopted at the 12th session of the Standing Committee of the Fifth National People’s Congress on 29 November 1979, are repealed. The Decision further states that “decisions made on reeducation through labour according to law prior to the repeal of the system shall remain valid; after the repeal of the system, and those who are still undergoing reeducation through labour according to law shall be released without having to carry out the rest of their sentence”

**2012 AR:** According to the Government: Section 244 of the Criminal Law had been amended and adopted at the 19<sup>th</sup> Session of the Standing Committee of the Eleventh People’s Congress on 25 February 2011 and came into force on 1 May 2011. The amended section 244 of the Criminal Law provides that: *Whoever forces, by violence, threat or restriction of personal freedom, others to work shall be sentenced to imprisonment or detention of no more than 3 years with a fine imposed on as well or, where the crime is committed under aggravating circumstances, shall be sentenced to imprisonment of no less than 3 years but no more than 10 years with a fine imposed on as well. Whoever knowingly recruits or transports persons for the others who commit the acts mentioned in the preceding paragraph or otherwise assists in forcing others to work shall be punished in accordance with the provision of the preceding paragraph. Where an entity commits the crimes as provided for in the preceding two paragraphs, a fine shall be imposed on, and its executive officers directly responsible and others individuals directly liable shall be punished in accordance with the provision of paragraph 1 of this Section.*

**2008 AR:** The Government indicated that the Labour Contract Law was adopted at the 28<sup>th</sup> Session of the Standing Committee of the 10<sup>th</sup> National People’s Congress on 29<sup>th</sup> June 2007, which will enter into force on 1<sup>st</sup> January 2008. Article 38 provides that *if an employer uses violence, threat or unlawful restriction of personal freedom to compel an employee to work, or if he is instructed in violation of the rules and regulations or peremptorily ordered by his employer to perform dangerous operations which threaten his personal safety, the employee may terminate his employment contract forthwith without giving prior notice to the employer.*

Article 88 stipulates that if an employer: (a) uses violence, threat or unlawful restriction of personal freedom to compel an employee to work; (b) instructs in violation of rules and regulations or peremptorily ordered by his employer to perform dangerous operations which threaten his personal safety; (c) insults, corporally punishes, beats, illegally searches or detains an employee; or (d) provides odious working conditions or a severely polluted environment, resulting in serious

			<ul style="list-style-type: none"> <li>• <b>Regulations</b> The Regulation Forbidding the Use of Child Labour (section 11).</li> </ul>
		<b>Basic legal provisions</b>	(i) Constitution of the People's Republic of China (article 37); (ii) The Labour Law (sections 32 and 96); (iii) the Criminal Law (sections 240-244); (iv) the Law on the Protection of Rights and Interests of Women (sections 37-39); (v) the Employment Promotion Law (section 6); (vi) the Law on the Protection of Disabled Persons (revised) (section 40); (vii) the Regulation on Workers' Paid Annual Leave (section 6); and (viii) the Regulation Forbidding The Use of Child Labour (section 11).
		<b>Definition of forced or compulsory labour</b>	<p><b>2007 AR:</b> According to the Government: the definition of forced labour is found in section 244 of the Criminal Law which provides that an employer would be in violation of the laws and regulations on labour administration should he compel his employees to work by restricting their personal freedom.</p> <p><b>2003 AR:</b> According to the Government: The Labour Law defines forced or compulsory labour as follows: "to force labourers to work by resorting to violence, intimidation or illegal restriction of personal freedom".</p>
		<b>Judicial decisions</b>	Judicial Explanation of the Supreme Court, 2001 (section 15).
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	<p><b>2013 AR:</b> According to the Government: Trafficking in persons involving women, children and migrant workers, but also other criminal activities involving children.</p> <p><b>2003 AR:</b> According to the Government: Special attention is given to the situation of women and girls.</p>
		<b>Information/ Data collection and dissemination</b>	<b>2004-2005 ARs:</b> The Government indicated that it was planning to collect statistics or other relevant information on the PR.

	<p><b>Prevention/monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2015 AR:</b> According to the Government: The Labour Contract Law of the People’s Republic of China explicitly stipulates that labour contracts shall be concluded in adherence to the principles of lawfulness, fairness, equality, voluntariness, consensus through consultation, and good faith. The human resources and social security departments at all levels actively carry out labour security inspection and law enforcement activities, regulate employment practices according to law and promptly correct and prosecute all types of violations. They also actively improve coordination between the administrative and judicial departments. Cases of forced labour suspected of constituting a crime would be transferred to the judicial department according to law. In recent years, they have organized several special law enforcement inspection activities on payment of wages, labour and employment, through investigating and regulating human resources markets, and promoting and improving supervision at the source. Meanwhile, they actively promote the “gridding and networking” way of managing labour security inspection with a view to basically achieving full coverage of all the townships (sub-districts) nationwide by the end of the Twelfth Five-year Period (2015). Through these efforts, the Departments have strengthened dynamic and overall monitoring of the employment situation, prevented and timely stopped forced labour and other cases of infringements of workers' legitimate rights and interests.</p> <p><b>2012 AR:</b> According to the Government: The All China Women’s Federation has launched a Campaign for Preventing Trafficking for Labour Exploitation in China to help the children under 16 years old complete compulsory education and the youth beyond 16 years old enjoy safe mobility and decent employment.</p> <p><b>2009 AR.:</b> According to the Government: A Labour Inspection Bureau was established within the Ministry of Human Resources and Social Security in July 2008 with a view to strengthening labour inspection in the country.</p> <p><b>2008 AR:</b> According to the Government: A Special Action Plan on Punishing the Illegal Employment and Combating the Relevant Infringements and Crimes was elaborated by various Ministries and the All-China Federation of Trade Unions (ACFTU) in order to protect substantively the rights and benefits of workers in rural and urban areas as well as the young professionals.</p> <p><b>2007 AR:</b> According to the Government: Under article 11 of the Regulation on Forbidding The Use of Child Labour 2002, the act of forcing children to work may be punished according to the Criminal Law. Following the Judicial Explanation of the Supreme Court, 2001 (section 15), in instances where the worker proposes to discharge the labour contract, the employer should pay for the remuneration and may pay for compensation. Under section 4 of the Method of Administrative Punishment for the Violation of the Labour Law 1994, in instances where the employer does not consult the trade unions and the worker and forces the latter to extend the working time, a warning should be given to the employer who may also be required to provide compensation, and a 100 Yuan fine for every hour of overtime performed by each worker.</p>
		<p><b>2003-2004 ARs:</b> According to the Government: Measures taken for the enforcement of the PR include: inspection/monitoring mechanisms, penal sanctions, civil/administrative sanctions, employment creation/income generation, educational programmes, international cooperation programmes and tripartite examination of related issues. Moreover, legal reform and capacity building are envisaged.</p> <p><b>2000 AR:</b> According to the Government: Labour inspections have increased to detect and deal with cases of forced labour.</p>

	<p><b>Involvement of the social partners</b></p>	<p><b>2011 AR:</b> The Government mentioned that the Office for Special Campaign on Fighting Against Illegal Use of Labour and Related Breaches of Law was working together with the CEC and the ACFTU in the framework of the special campaign to overlook the use of labour in small kilns, mines and quarries.</p> <p><b>2005 AR:</b> According to the Government: The Legal Work Committee of the National People’s Congress, the ACFTU, the All-China Federation of Youth and the All-China Federation of Women are responsible for the identification, emancipation and/or rehabilitation of persons subject to forced labour.</p> <p><b>2003-2005 ARs:</b> According to the Government: The ACFTU has been involved in the development and implementation of Government measures.</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: The Human Resources and Social Security departments have in recent years organized several special law enforcement and inspection activities on various issues including the PR, with a view to basically achieving full coverage of all the townships (sub-districts) nationwide by the end of the Twelfth Five-year Period (2015).</p> <p><b>2013 AR:</b> According to the Government: Within the National Plan of Action Against Trafficking, the National Inter-Ministry Joint Meeting Against Trafficking and its members have participated significantly in eliminating forced or compulsory labour in the country through research, studies, media reports, and legal and policy reforms. Moreover, the Ministry of Public Security and the All-China Women’s Federation develop joint activities for the social rehabilitation of women and children that were subjected to trafficking. They have also issued a joint circular requiring the exchange of information and supervisory mechanisms for women and children suspected to be trapped in trafficking. Two national meetings were held on the rehabilitation and reintegration of victims of trafficking.</p> <p><b>2011 AR:</b> According to the Government: The Office for Special Campaign on Fighting Against Illegal Use of Labour and Related Breaches of Law organized, together with the CEC and the ACFTU, a special campaign to overlook the use of labor in small kilns, mines and quarries.</p> <p><b>2009 AR:</b> According to the Government: Research and training activities on C.29 and C.105 were carried out in various provinces in 2007.</p> <p><b>2008 AR:</b> According to the Government: a Special Action Plan on Punishing the Illegal Employment and Combating the Relevant Infringements and Crimes was elaborated by the Ministries of Labour and Social Security, Public Security, the Inspection, Civil Affairs, Land and Resources, Health, State Administration of Work Safety and the ACFTU in order to substantively protect the legislative rights and benefits of workers in rural and urban areas as well as the young professionals. The Government added that the plan also aims to strengthen all the relevant forces so as to focus on the rural small brick kilns, coal mines, mines and workshops during the months of July and August 2007.</p> <p>Furthermore, series of seminars and awareness raising activities have been conducted in the Zhejiang, Fujian and Jilin provinces and a major technical cooperation project entitled CP-TING on prevention of trafficking of young girls and women is currently ongoing.</p> <p>The CEC indicated that it would publish, in collaboration with the ILO, a guide on forced labour for employers. It added that there was a session organized on forced labour during the 4<sup>th</sup> China Employment Forum in October 2006.</p>

	<p><b>2007 AR:</b> The CEC mentioned that it had held two seminars on International Labour Standards and Forced Labour in Beijing City and Guangzhou City in March 2006, in cooperation with ILO.</p> <p><b>2006 AR:</b> According to the Government: In cooperation with the ILO, the Government has conducted a study on Chinese legislation concerning trafficking, illegal migration and forced labour (from November 2004 to March 2005). It has also conducted a high level study tour on trafficking to Australia and Japan (January 2005); a national seminar on trafficking and forced labour in Beijing (April 2005); a field study in projects in Yunnan and Hunan provinces (June 2005); a field study on trafficking and forced labour in Fujian province (August 2005); and a Provincial seminar on trafficking and forced labour in Jilin province (August 2005).</p> <p><b>2005 AR:</b> According to the Government: In January 2004, a seminar was held in Beijing on C.29 and C.105.</p> <p><b>2003-2004 ARs:</b> According to the Government: The All-China Federation of Women has cooperated with the ILO in the Mekong Sub regional Project to Combat Trafficking in Children and Women. Other governmental bodies also cooperated with UNICEF on actions against trafficking.</p> <p><b>2003 AR:</b> According to the Government: In realizing the PR, the following measures have been implemented: awareness raising/advocacy; employment creation/income generation; educational programmes; and international cooperation programmes/projects.</p> <p><b>2000 AR:</b> The Government indicated that it promotes the relevant legislations and regulations, strengthens the enforcement of the laws, increases cooperation with the ILO and widely disseminates international labour standards.</p> <p>The ILO has held many seminars in China on international labour standards in which it promotes the PR.</p>
	<p><b>Special initiatives/Progress</b></p> <p><b>2015 AR:</b> According to the Government: The National People's Congress repealed the laws and decisions concerning "Reeducation through Labour" on 28 December 2013. Following this repeal, those who are still undergoing reeducation through labour according to law shall be released without having to carry out the rest of their sentence". Moreover, the AFCTU initiated the implementation the "two-book" system which considers the principle and right as an important goal for the country.</p> <p><b>2013 AR:</b> According to the Government: The National Action Plan to Combat Trafficking is targeting women, children and female migrants, in particular through a specific national campaign on prevention of trafficking during important holidays and summer holidays, in cooperation with the All-China Women's Federation, ILO and UNICEF. This kind of activity is carried out hotline services and direct contacts in places where this target group is usually concentrated, such as railway stations and bus stations. This campaign is also extended to schools, domestic workers and workers operating in hotels and restaurants and women rural workers, in cooperation with students, parents and teachers and women's federations. This campaign benefited to millions of women and children in 6 provinces. Moreover, at the end of June 2012, a national employment creation project has granted financials loans totaling more than 87 billion Yuan and benefiting over 1.965 million women. In this exercise, more than 6 million women started their own business and created employments, hence reducing the risk of women falling into compulsory labour.</p> <p><b>2012 AR:</b> The Government indicated that: (i) section 244 of the Criminal Law amended on 25 February 2011, provides for more severe penal sanctions (from 3 to 10 years imprisonment) in cases of human trafficking.</p>



		<p><b>2009 AR:</b> According to the Government: The Employment Promotion Law adopted on 30 August 2007 provides that workers shall have the right to equal employment and to choose job on their own initiative in accordance with the law (section 6). The Law on the Protection of Disabled Persons (revised) provides that the employer cannot force the disabled persons to work under violence, threat or illegal restriction of personal freedom (section 40). The Regulation on Workers’ Paid Annual Leave adopted on 7 December 2007 provides that trade unions shall protect workers’ rights to annual leave in accordance with laws and regulations (section 6).</p> <p>According to the CEC: In cooperation with the ILO, the CEC has developed a Guiding Book for Employers on Combating Forced Labour at the Workplace, from which employers can learn all the essential information on combating forced labour, including positive and negative cases. The CEC and the ILO have planned to hold a roundtable meeting involving experts and stakeholders to develop a Code of Conduct for Employers on Combating Forced Labour. Once this code of conduct is finalized and printed together with some other advocating materials such as posters, three workshops will be organized in different regions of China so as to use and test this code of conduct.</p> <p><b>2008 AR:</b> The ACFTU indicated that the protection of workers is more comprehensive in China and sanctions pertaining to forced labour are more severe. It added that the country was undertaking a national special action on the issue of illegal employment, including forced labour.</p> <p><b>2007 AR:</b> According to the Government: In order to reform rehabilitation through Labour mechanism (Laojiao), the 19<sup>th</sup> Meeting of the Standing Committee of the 10<sup>th</sup> National People’s Congress held on 29<sup>th</sup> December 2005, proposed to formulate a “Law on Correction of Minor Offences”, and had included the proposal into its national legislation plan.</p> <p>According to the CEC: The CEC delegates at the International Labour Conference (June 2006) discussed a possible cooperation with the ILO Special Action Programme to Combat Forced Labour (ILO/SAP-FL), and have decided to undertake a survey on working time and wages in China.</p> <p><b>2005 AR:</b> According to the Government: The major change concerning this PR relates to the cooperation started with the ILO in the form of a study tour concerning minor offences in 2003 and a seminar on forced labour in 2004.</p> <p><b>2003 AR:</b> According to the Government: The major changes concerning the PR are as follows: (i) the Government initiated large-scale actions on the struggle against trafficking of women and children through the country (1995, 1999 and 2000); (ii) the Ministry of Public Security issued an “Opinion on Issues Concerning Law and Policy Applicable to Action Against Trafficking” (2000) and several departments issued a “Circular on Issues Concerning Trafficking” (2000); and (iii) the Supreme Prosecutor issued a “Circular on the Active Participation in the Action Against Trafficking” (2000).</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2008 AR:</b> The CEC indicated the following challenges: (i) awareness on human rights is lacking; (ii) productivity is not very high; and (iii) economic development is not well balanced in some regions.</p>



		<p><b>Workers' organizations</b></p>	<p><b>2001 AR:</b> The ICFTU made observations on the following issues: (i) forced or compulsory labour is defined by China's legal context as occurring exclusively in the context of an employment relationship; (ii) legislation does not cover, for instance, servitude or slavery; (iii) forced labour is frequently found in factories producing various consumer goods for export, such as textiles, footwear, radios, television and sporting equipment, handbags, bicycles and many other consumer items; (iv) attempts to organize independently or to strike are said by workers to lead automatically to severe prison sentences; (v) penalties provided for in the law are either inadequate or are not enforced in practice. 41;c</p>
	<p><b>According to the Government</b></p>		<p><b>2009 AR:</b> The Government indicated that time was needed to adapt national legislation to the PR.</p> <p><b>2008 AR:</b> The Government indicated the following challenges: (i) the capacity building of the Labour Inspection Department is still needed; (ii) public awareness activities should be sustained; and (iii) inter-institution cooperation and dialogue should be strengthened.</p> <p><b>2005 AR:</b> The main difficulties encountered in realizing this PR in the country are the lack of information and capacity as well as data, capacity of responsible government institutions with regard to forced labour due to trafficking. Moreover, the Government encounters difficulties with respect to regulations on rehabilitation through labour.</p>



<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: The Chinese Government wishes to continue to strengthen exchanges and cooperation with the ILO and other international organizations, including by carrying out pragmatic cooperation in areas like combating and cracking down on trafficking, forced labour and other illegal and criminal activities, enhancing labour security inspection capacity building, conducting training programmes on requirements and general principles of ILO Conventions on forced labour, and promoting and improving legislation and law enforcement in China to tackle forced labour.</p> <p><b>2012 AR:</b> According to the Government: ILO technical cooperation would be needed to provide assistance in launching public campaigns and training on the Forced Labour Convention to enhance the understanding of public officials, entrepreneurs, workers and the general public on the issue of forced labour, and to increase the public awareness against forced or compulsory labour.</p> <p><b>2011 AR:</b> The Government requested ILO technical assistance to organize training workshops for government officials.</p> <p><b>2009 AR:</b> The Government indicated that ILO technical cooperation on the PR was needed in the fields of legal reform, awareness raising, training and labour inspection.</p> <p>The CEC requested the ILO's assistance to organize more training workshops on the PR for employers.</p> <p><b>2008 AR:</b> The Government indicated that ILO assistance is needed for the capacity building of the labour inspection Department.</p> <p>The CEC requested ILO assistance on awareness raising projects.</p> <p><b>2007 AR:</b> The Government reiterated its previous request for continuing ILO technical cooperation (i.e., legal reform, awareness raising, training, etc.)</p> <p><b>2005 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in the country, in the following priority areas: (1) legal reform (labour law and other relevant legislation); (2) awareness-raising, legal literacy and advocacy; and (3) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the PR.</p> <p><b>2003-2004 ARs:</b> The Government expressed its intention to adopt a national policy to realize the PR and requested ILO assistance in this regard.</p>
	<p><b>Offer</b></p>	<p>ILO and ILO/SAP-FL (policy advice, awareness raising activities and case studies).</p>



<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries such as in China (as well as in the Gulf States and new member States in the South Pacific) had made important efforts during this process. However, according to them, more needed to be done. The IDEAs were also concerned that China (and another State) had not yet expressed their intention to ratify C.29 and/or C.105. However, they welcomed the adoption of new laws relating to forced or compulsory labour in China (and another State). Finally, while understanding that in China the provisions of the Labour Contract Law and the Criminal Law also cover the State as an employer, the IDEAs reminded all the governments that it was of their primary responsibility to ensure that forced labour does not exist in their countries for any reason (cf. paragraphs 12, 42, 43 and 44 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs welcomed the significant increase in the reports of action to combat forced labour in several countries, including China, and noted that an increasing number of States were recognizing that forced labour exists in their country [...]. For the IDEAs, such recognition was indispensable to combating forced or compulsory labour, as it was undoubtedly the first step in what in a daunting but essential task (cf. paragraph 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The IDEAs noted that China was working with the ILO on the issue of the elimination of all forms of forced or compulsory labour. They commended China for its continuing dialogue with the Office and hoped that the positive measures taken would be expanded upon. They also expressed satisfaction concerning the concrete information received on progress made in the elimination of all forms of forced or compulsory labour in China in cooperation with the ILO (cf. paragraph 192 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs stated that they were glad to receive concrete information on activities carried out by the Special Action Programme to Combat Forced Labour (SAP-FL). They noted that the dialogue and engagement with the Government of China continued in this area, on the basis of seminars and study tours on this subject (cf. paragraph 113 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2003 AR:</b> The IDEAs commended China for requesting the ILO’s technical cooperation, through the Annual Review process (paragraph 4 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>59</sup>: JAPAN**

**THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)**

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000, but “no change” reports under the 2010-2011, and 2014.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' (KEIDANREN - former NIKKEIREN) and the workers' (the Japanese Trade Union Confederation - JTUC-RENGO) organisations through consultations and communication of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2001 AR:</b> Observations by the NIKKEIREN.
	<b>Workers' organizations</b>	<p><b>2015 AR:</b> Observations by the JTUC-RENGO.</p> <p><b>2014 AR:</b> Observations by the JTUC-RENGO.</p> <p><b>2013 AR:</b> Observations by the JTUC-RENGO.</p> <p><b>2012 AR:</b> Observations by the JTUC-RENGO.</p> <p><b>2008 AR:</b> Observations by the JTUC-RENGO.</p> <p>Observations by the International Trade Union Confederation (ITUC).</p> <p><b>2007 AR:</b> Observations by the JTUC-RENGO.</p> <p><b>2006 AR:</b> Observations by the JTUC-RENGO and by the International Confederation of Free Trade Unions (ICFTU).</p> <p><b>2005 AR:</b> Observations by the JTUC-RENGO.</p> <p><b>2004 AR:</b> Observations by the JTUC-RENGO.</p> <p><b>2003 AR:</b> Observations by the JTUC-RENGO and by the ICFTU.</p> <p><b>2002 AR:</b> Observations by the JTUC-RENGO.</p> <p><b>2001 AR:</b> Observations by the JTUC-RENGO and by the ICFTU.</p> <p><b>2000 AR:</b> Observations by the JTUC-RENGO.</p>

<sup>59</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.



<b>EFFORTS AND PROGRESS MADE IN REALIZING</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Japan ratified in 1932 of the Forced Labour Convention, 1930 (No. 29) (C.29). However, it has not yet ratified the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b>
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<p><b>THE PRINCIPLE AND RIGHT</b></p>		<p><b>Ratification intention</b></p>	<p><b>Under consideration since 2000 for C.105.</b></p> <p><b>2015 AR:</b> According to the Government: Although discussions were held with the social partners requesting ratification of C.105, further study is needed at the moment concerning the consistency between C.105 and national laws and regulations.</p> <p>JTUC-RENGO regrets the grave situation where no positive progress for ratification of C.105 has been made over the years. Tripartite consultation on this matter did take place in April 2015 at the "ILO Roundtable" set up based on C.144, but it considers the consultations be far from effective. The Government, referring to a cabinet decision in 1953, stipulates that no convention could be ratified unless all the the potentially conflicting domestic laws are amended and argues that for this reason, Japan is unable to ratify C.105. Concern is raised that there is little or no intention for ratification of the Government.</p> <p><b>2014 AR:</b> JTUC-RENGO expressed disappointment that no progress was made towards ratification of C.105 and urged the government to take positive and concrete actions to ratify it, and to collect information about how countries that have ratified this Convention ensure consistency between their domestic laws and the Convention. It also called for information, research and studies among the ministries and agencies concerned.</p> <p>JTUC-RENGO stated that tripartite consultation is taking place, including about ratification of C.105. While the government disclosed all the list of domestic legal provisions which might conflict with the Convention, JTUC-RENGO urges the government to take necessary measures to ratify it.</p> <p><b>2013 AR:</b> The JTUC-RENGO expressed its disappointment that no progress was made towards ratification of C.105 and strongly urged the Government to ratify this instrument as soon as possible.</p> <p><b>2012 AR:</b> The JTUC-RENGO indicated its support for the ratification of C.105 by Japan and reiterated the comments it made under the 2009 AR.</p> <p><b>2010 AR:</b> The JTUC-RENGO reiterated its statement under the 2009 AR.</p> <p><b>2009 AR:</b> According to the Government:No change. Further study is needed in view of, for instance, reviewing the relations between C.105 and national laws and regulations. According to the JTUC-RENGO: The Government should ratify C.105. The JTUC-RENGO believes it is necessary for the Government to strengthen its efforts to promote Diet Members' understanding of the importance of ratification of this fundamental Convention so as to activate discussion at the Diet toward ratification of this Convention (for instance, the Government can make thorough explanation about the purport and background of the convention, and importance of ratifying the fundamental Conventions, etc.).</p> <p><b>2008 AR:</b>According to the JTUC-RENGO: The Government should ratify C.105.</p> <p><b>2000-2004 and 2006 ARs:</b> The Government indicated thatfurther study was needed on, for instance, the compliance between C.105 and national laws and regulations, as regards the ratification of C.105.</p> <p><b>2001 AR:</b> NIKKEIREN encouraged Japan in examining the issue with a view to ratifying C.105.</p> <p><b>2000-2005 ARs:</b> The JTUC-RENGO supported ratification of C.105 by Japan.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>The Constitution of Japan provides in Article 18: that “No person shall be held in bondage of any kind. Involuntary servitude, except punishment for crime, is prohibited”.</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2004 AR:</b> According to the Government: The Labour Policies Commission is responsible for important matters relevant to labour policy and collaborates with the Minister of Health, Labour and Welfare or administration authorities concerned. This Commission is composed by representatives of employers’, workers’ and public interest organizations.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2015 AR:</b> According to the Government: The Action Plan to Combat Trafficking in Persons 2009 was revised into the Action Plan to Combat Trafficking in Persons 2014. This plan provides the following political measures: prevention of human trafficking for the purpose of labour exploitation; enhancement of cooperation of relevant administrative organs by the Task Force for the Enforcement of Human Trafficking Related Laws; strengthening of protection functions for human trafficking victims. Through these measures, the Government of Japan is making efforts to prevent and eliminate human trafficking and to protect and support human trafficking victims.</p> <p>According to the JTUC-RENGO: No progress has been seen in amending domestic laws towards ratification of C.105 as of August 2015.</p> <ul style="list-style-type: none"> <li>• <b>Regulations:</b></li> </ul> <p><b>2000-2006 ARs:</b> According to the Government: The Labour Standards Bureau in the Ministry of Health, Labour and Welfare, Prefectural Labour Standards Offices and Labour Standards Inspection Offices as the local branches are established. The appropriate number of personnel is allocated at these agencies with a view to enforcing the Labour Standards Law. In addition, the Maritime Bureau in the Ministry of Land, Infrastructure, Transport and Tourism and the District Transport Bureau have established local branches in order to enforce the Mariners Law, etc., and the number of necessary personnel is allocated at these agencies.</p>

		<b>Basic legal provisions</b>	<p><b>2007 AR:</b> According to the Government:</p> <ul style="list-style-type: none"> <li>(i) The Constitution of Japan, articles 14, 18-21, 28, 31, 32, 34 and 36;</li> <li>(ii) The Penal Code (Law No. 45 of 1907), sections 193-196;</li> <li>(iii) The Labour Standards Law (Law No. 49 of 1947) sections 5 and 117;</li> <li>(iv) The Mariners Law (Law No. 100 of 1947), section 6;</li> <li>(v) The National Public Service Law (Law No. 120 of 1947), sections 98,102 and 110;</li> <li>(vi) The Rule of National Personnel Authority 14-7 (1949), sections 1-8;</li> <li>(vii) The Mail Law (Law No. 165 of 1947), section 79;</li> <li>(viii) The Trade Union Law (Law No. 174 of 1949), section 1;</li> <li>(ix) The Local Public Service Law (Law No. 261 of 1950), sections 36, 37 and 61;</li> <li>(x) The Gas Undertakings Law (Law No. 51 of 1954), section 53;</li> <li>(xi) The Electric Undertakings Law (Law No. 170 of 1964), section 115; and</li> <li>(xii) The Telecommunications Business Law (Law No. 86 of 1984), section 180.</li> </ul>
		<b>Definition of forced or compulsory labour</b>	<b>NIL.</b>
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	<p><b>2015 AR:</b> According to the Government: The 2014 Action Plan to Combat Trafficking in Persons states that consideration should be given to specific groups of people paid by relevant administrative agencies. For example, it says if a foreigner seeks consultation, a response should be made in the foreigner’s mother tongue; if a woman seeks consultation, a female employee should respond.</p>
		<b>Information/ Data collection and dissemination</b>	<p><b>2013 AR:</b> The Government indicated that the number of foreign nationals entering as “Entertainer[s]” continuously decreased to 26,100 in 2011.</p> <p><b>2012 AR:</b> The Government indicated that the number of foreign nationals entering as “Entertainer[s]” continuously decreased to 28,600 in 2010.</p> <p><b>2008 AR:</b> The ITUC observed that according to statistics from public institutes, 106 persons were confirmed as victims of trafficking from January to October 2006.</p> <p><b>2004-2006 ARs:</b> According to the Government: Statistics and information relevant to violations related to the elimination of all forms of forced or compulsory labour are registered during a periodical inspection. Information is available at the Labour Standards Bureau of the Ministry of Health, Labour and Welfare, and at the Maritime Bureau in the Ministry of Land, Infrastructure, Transport and Tourism.</p>



	<b>Prevention/Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2004 AR:</b> According to the Government: In case of violation of the principle and right (PR) of the elimination of all forms of forced or compulsory labour, the Penal Code is enforced. Under the Labour Standards Law, forced labour is prohibited with regard to employers of private undertakings, and penal sanctions are provided in case of violation of this law (sections 5 and 117). Moreover, inspection/monitoring mechanisms and penal sanctions have been implemented in Japan to facilitate the realization of the PR.</p> <p><b>2000-2004 ARs:</b> According to the Government: Instructions are made to establishments deemed to have problems in relation to the implementation of the Labour Standards Law. In case of violations of legal provisions, “correction” is provided by the Ministry of Health, Labour and Welfare.</p>	
	<b>Involvement of the social partners</b>	<p><b>2013 AR:</b> The JTUC-RENGO urged the Government to enhance effectiveness of tripartite consultations to push forward ratification of C.105.</p> <p><b>2004-2005 ARs:</b> According to the Government: Employers’ and workers’ organizations and other stakeholders have been involved in the Labour Policies Commission.</p>	
	<b>Promotional activities</b>	<p><b>2015 AR:</b> According to the Government: In light of the fact that trafficking in persons (TIP) for sexual exploitation or forced labour continues to occur in the world, the Human Rights Organs of the Ministry of Justice have carried out various promotion activities, such as distributing leaflets about TIP, a serious crime and a grave violation of fundamental human rights, under the slogan "Stop Trafficking in Persons" as one of its annual priority matters of promotion activities.</p> <p><b>2004 AR:</b> According to the JTUC-RENGO: A tripartite consultation was held on 10<sup>th</sup> April 2007 and the ratification of C.105 was argued.</p>	
	<b>Special initiatives/Progress</b>	NIL.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers’ organizations</b>	<p><b>2001 AR:</b> According to NIKKEIREN: Tripartite consultations should be established to assess the difficulties and obstacles as regards the ratification of C.105 and the appropriate measures to address them.</p>

		<p><b>Workers' organizations</b></p>	<p><b>2013 AR:</b> The JTUC called upon the Government to take immediate steps to list the laws and practices that must be amended and collect good examples from other countries on how to ensure consistency with C.105.</p> <p><b>2010 and 2012 ARs:</b> The JTUC-RENGO reiterated its appeal to the Government to ratify C.105, and regretted that no progress was made in this regard. It believed that it would be necessary for the Government to promote Diet Members' understanding of the importance of a core Convention such as C.105 so as to activate discussion at the Diet toward ratification of this instrument (for instance, the Government could make thorough explanation of purport and background of the Convention, the importance of ratifying core Conventions, etc.).</p> <p><b>2009 AR:</b> According to the JTUC-RENGO: The Bill Stipulating Civil Service Reform was enacted on 6 June 2008. This Bill provides, "the Government should show the people the whole picture of the reform, including the costs and benefits in such a case that the range of public service employees who have the rights to conclude collective agreements were expanded, and with the people's understanding, the Government should provide the transparent autonomous labour-management relations system (section 12)", and "the Government should take necessary legislative measures within three years after this Bill be enforced (section)". However, this law does not refer to the issue of penal servitude of public employees who engaged in political acts, or participated in/conspired/instigated/incited strike actions. Also, it seems this issue has not been raised as a point to be resolved. Therefore, there have been no progress on this issue and no solution of the issue yet in sight.</p> <p><b>2008 AR:</b> The JTUC-RENGO indicated that during the tripartite consultation of April 2007, the Ministry of Labour and Welfare listed the following points where further study was needed as regards to compliance between C.105 and national laws: (i) sections 102.1 and 110.19 of the National Public Service Law (NPSL) prescribes penal servitude to public workers engaged in political acts; (ii) section 53.3 of the Gas Business Act, section 115.3 of the Electricity Business Act and article 79 of the Postal Act, which provide that workers who have not performed without justifiable grounds be punished by imprisonment with labour; and (iii) sections 98.2 and 110.17 of the National Public Service law (NPSL) and sections 37.1 and 61.4 of the Local Public Service Law (LPSL) provide that public workers who attempt, conspire, instigate or incite strike action be punished by imprisonment with labour.</p>
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			<p>During the WTO Trade Policy review in Japan in January-February 2007, the ITUC observed that there trafficking of people into Japan for the purpose of forced prostitution and forced work is still a problem. Women and girls, primary from Asian countries are trafficked into the country for sexual exploitation. Women sometimes enter legally under entertainer visas and many of those are exploited by criminal groups. According to statistics from public institutes, 106 persons were confirmed as victims of trafficking from January to October 2006. According to the ITUC, the Government of Japan revised the Immigration Control Law and Criminal Law in order to prevent and prohibit trafficking of persons in the country.</p> <p><b>2007 AR:</b> According to JTUC-RENGO: A major barrier to the ratification of C.105 is that the National Public Service Law (NPSL) and the Local Public Service Law (LPSL) provide as follows: (i) <i>“Personnel shall not strike or engage in delaying tactics or other acts of dispute against the public represented by National Government as employer, or resort to delaying tactics which reduce the efficiency of government operations, nor shall personnel or other persons attempt, conspire to effect, instigate or incite such illegal actions.”</i>; and (ii) <i>“A person who conspires to effect, instigates or incites the illegal action defined in the first part of paragraph 2 of section 98 (NPSL) and the in the first part of paragraph 1 of section 37 (LPSL) or attempts such action shall be sentenced to panel servitude not to exceed three years or fined not to exceed one million yen (section 110, NSPL) and one hundred thousand yen (section 61, LSPL)”</i>.</p> <p><b>2006 AR:</b> According to JTUC-RENGO: During consultations in May 2005 between the Prime Minister and JTUC-RENGO, the JTUC-RENGO raised the issue of fundamental trade unions rights in the public sector, in particular for civil service workers. The Government assured JTUC-RENGO that it would continue to secure the framework of Government-trade union consultations to address reforms of the public service system. However, since May consultations, there have been no Government-trade union consultations, and reforms of the public service system have completely stalled.</p> <p>The ICFTU raised the following challenges: Although forced labour is prohibited by law and does not generally occur in Japan, the National Public Service Law and the Local Public Service Law, which provide that public employees who incite strike action be fined or sentenced up to three-year imprisonment, or possibly dismissed, reprimanded with a pay cut or disciplined, are not in line with C.105 as it prohibits penal servitude as a punishment for having participated in strikes.</p> <p><b>2000-2005 ARs:</b> JTUC-RENGO raised the following challenges: (i) Japan should ratify C.105; (ii) the prohibition of strike for administrative employees, manual workers, employees of state and municipal enterprises; (iii) the punishment by forced labour for strike action; (iv) imprisonment and fine for leaders of “illegal” strikes; (v) the prohibition of political activities to white-collar employees of State and municipalities; (vi) the sanctions (dismissal and fines or sentences) imposed on public employees in case of strike action do not comply with C.105 as it prohibits penal servitude as a punishment for having participated in strikes; (vi) amendments to the National</p>
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		<p>Public Service Law and the Local Service Public Law are needed; (vii) during tripartite consultations held in May, June and July 2004, trade unions expressed the need to ensure trade union rights in the public sector, in particular promoting the right to organize for fire fighters and prison staff and abolishing penalties including imprisonment for workers involved in strike.</p>
	<p><b>According to the Government</b></p>	<p><b>2009 AR:</b> In response to the ITUC’s observations reflected under the 2007 AR, the Government indicated the following: Japan established the Inter-Ministerial Liaison Committee (Task Force) at the Cabinet Secretariat in April 2004, and the Task Force adopted the National Action Plan in December 2004, which focuses on preventive measures, law enforcement and support for victims of human trafficking. Based on the Action Plan, the Government of Japan has taken various actions to combat human trafficking. The Diet approved the conclusion of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime on 8 June 2005. Trafficking in persons will be prohibited and punished by the “Penal Code”, “the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children”, the “Child Welfare Law” and other statutes. The Penal Code was amended to criminalize the conduct of buying and selling of persons, and to raise the statutory penalty for kidnapping of minors. Furthermore, sexual or labour exploitation shall be punished by the “Penal Code”, the “Prostitution Prevention Law”, the “Child Welfare Law”, the “Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children”, the “Employment Security Law”, the “Labour Standards Law”, etc. Because the Government of Japan has detected and prosecuted those crimes, its efforts produce the effect to eliminate those contraventions. The Immigration Control and Refugee Recognition Act was also amended to stipulate the definition of the term “trafficking in persons” and that a special permission for landing or residence can be given to a victim of trafficking in persons even if the person violates the above Act such as illegal entry in perspective of the purpose of protection, as well as a foreign national who is a perpetrator of trafficking in persons is to be refused landing in Japan or deported. With regard to prevention, in order to rigorously deal with the application case of entrance and residence in the purpose of activities as the residence status of “Entertainer” which is included victims of trafficking in persons, a part of the ministerial ordinance relating to “Entertainer” was amended twice in 2005 and 2006 and as a result, the number of foreign nationals entering as “Entertainer” drastically decreased from about 135,000 in 2004 to about 35,000 in 2008. In addition to the revision of the ordinance explained above, Japanese Embassies and Consulates-General overseas have introduced regime of examination of “Entertainer” visa applications. Furthermore, in order to prevent the usage of forged immigration document for trafficking in persons, most of Japanese Embassies and Consulates-General have introduced a system to produce machine-readable visa (MRV) stickers with the bearer’s photograph which possesses high advanced anti-forgery techniques. Regarding the number of victims of trafficking in persons, there is a significant factual error in the figures given by the ITUC as 58 persons were concerned in 2006, as has been released by the National Police Agency of Japan.</p> <p><b>2007 AR:</b> In response to the JTUC-RENGO’s observations, the Government stated the following: If the JTUC-RENGO is of the view that the prohibition of strikes provided for in section 98, paragraph 2, of the National Public Service Law and section 37, paragraph 1, of the Local Public Service Law is a major barrier to Japan’s ratification of C.105, it has to be made clear that as pointed out in previous ILO Report that this Convention merely prohibits the type of forced labour characterized to be “a punishment for having participated in a strike” and does not deal with the issue of the right of workers to strike per se.</p>

		<p>The persons who conspire, instigate or incite other public employees to strike or make such an attempt are the main persons concerned with the illegal act, their act to cause other public employees to undertake illegal activity is in itself of high illegality, and therefore penal sanctions, including imprisonment, may be imposed upon them under the National Public Service Law or the Local Public Service Law. These provisions do not refer to forced labour as a punishment for having participated in a strike. Regarding the ratification of C.105, the Government of Japan considers that the interpretation of the precise scope of forced labour prohibited by the Convention is not clear enough and therefore a careful study is still needed with respect to, among other things, consistency between the provisions of the Convention and of the relevant national laws and regulations in force in Japan. In relation to observations made on the Civil Service Reform by the JTUC-RENGO the Government stated that it regarded Civil Service Reform as an important issue that should be worked on promptly, because the public is highly concerned about public service employees these days. The Government of Japan also recognizes that it is necessary to hold sufficient exchanges of views with relevant parties regarding the reform. The Government of Japan held the ministerial-level meetings with the Japanese Trade Union Confederation (JTUC-RENGO) in January, March and May 2006. Based on these meetings, the Government of Japan established the “The Special Examination Committee of the Headquarters for the Promotion of Administrative Reform”. Having held its first meeting on 27 July [2006], the Committee has held five meetings altogether so far, and it has examined the scope of government affairs in a simple and efficient government; the classification of personnel who carry out government affairs; what those government affairs and personnel should be; and based on these examinations, the prospective labour-employer relationship in the public sector, including the fundamental labour rights of public service employees.</p> <p><b>2006 AR:</b> In response to the JTUC-RENGO’s observations, the Government stated that during the May 2005 meeting, it acknowledged it was necessary to continue to hold meetings with JTUC-RENGO on the Civil Service Reform.</p> <p>In response to the ICFTU’s observations, the Government mentioned that under the National Public Service Law or the Local Public Service Law, penal sanctions, including penalty of imprisonment, might be imposed upon the persons who conspire, instigate or incite other public employees to strike or make such an attempt, and upon the main authors of such illegal act. The Government further indicated that these provisions did not refer to forced labour as a punishment for having participated in a strike.</p> <p><b>2004 AR:</b> In response to JTUC-RENGO’s comments, the Government raised the following observations: (i) the interpretation of the precise scope of forced labour prohibited by the Convention is not clear and a study is still needed mainly with respect to compliance between the provisions of the Convention and national laws and regulations in Japan; (ii) the prohibition of strikes as provided for in national laws is not an obstacle to the ratification of C.105; (iii) the Public Service Law and the Local Public Service Law provide for punishment for the main conspirators or instigators of highly unlawful acts.</p> <p><b>2001 AR:</b> In response to the JTUC-RENGO’s comments, the Government raised the following observations: (i) asking governments to make observations on comments presented by workers’ organizations, and reflecting these comments and observations in the compilation of annual reports, are contrary to the overall purpose of the annual follow-up; (ii) the Government would like to know the position of the Office in this respect; (iii) the appropriateness of discussing the aforementioned questions in the Governing Body; (iv) comments submitted by JTUC-RENGO should not be taken into account in the annual follow-up; (v) the follow-up should not lead to the establishment of a new supervisory machinery and should not create the duplication of the reporting system on non-ratified Conventions already established in the Constitution.</p>
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<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> The Government and JTUC-RENGO expressed the need for ILO’s technical cooperation on providing information of good examples of how countries which have ratified C.105 ensured consistency between their domestic laws and the Convention.</p> <p><b>2014 AR:</b> According to the JTUC-RENGO: ILO technical cooperation is needed to provide information and good examples to non-ratifying states, including Japan, about how countries that ratified C.105 ensure consistency between their domestic laws and the Convention.</p> <p><b>2009, 2010 and 2012 ARs:</b> According to the JTUC-RENGO: ILO technical cooperation is needed in order to ensure consistency between C.105 and the national laws. Also, if ILO expert(s) could visit Japan and illustrate the importance of ratification of this instrument to the Members of Diet, the situation toward ratification will be very much improved.</p> <p><b>2008 AR:</b> According to JTUC-RENGO: The interpretation of the precise scope for forced labour prohibited by the Convention is not clear and ILO technical support would be needed in that regard.</p> <p><b>2004-2007 ARs:</b> According to JTUC-RENGO: Needs for ILO technical cooperation exist in the following two priority areas: (i) the interpretation of the precise scope of forced labour prohibited by the Convention is not clear and a study is needed mainly with regard to compliance between the provisions of the Convention and relevant national laws and regulations.</p>
	<b>Offer</b>	<b>NIL.</b>
<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted that Japanese Trade Union Confederation (JTUC-RENGO) had reported that tripartite consultations held in April 2007 had led to the conclusion that some national labour laws did not comply with the provisions of C.105. However, given that the Government of Japan sent a no change report for the 2008 Annual Review, the IDEAs requested it to provide updated information concerning the JTUC-RENGO’s observations (cf. paragraph 44 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs welcomed the significant increase in the reports of action to combat forced labour in several countries, including Japan, and noted that an increasing number of States were recognizing that forced labour does exist in their country [...]. For the IDEAs, such recognition was indispensable to combating forced or compulsory labour, as it was undoubtedly the first step in what in a daunting but essential task (cf. paragraphs 40 and 41 of the 2007 Annual Review Introduction – ILO: GB298/3).</p> <p><b>2005 AR:</b> The IDEAs reiterated that in cases where countries faced difficulties in identifying the precise scope of forced or compulsory labour, the Government should turn to the ILO for assistance in clarification. They further requested that Japan carry out the study it mentioned in this regard. The IDEAs also considered that the example of regular and constructive contributions by JTUC-RENGO and the AFL-CIO (United States) should be expanded upon, in particular among other national workers’ organizations, as well as employers’ organizations (cf. paragraph 190 of the 2005 Annual Review Introduction - ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs mentioned that in cases where governments were in doubt, they should turn to the ILO, for assistance in clarification. Japan may usefully do so with regard to better clarifying the precise scope of forced labour, and indeed carry out the study it mentions in this respect. The results of such studies would be illuminating (...) (cf. paragraph 112 of the 2004 Annual Review Introduction).</p>	





<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on the Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015) <sup>60</sup>: REPUBLIC OF KOREA**

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , except for the 2003 Annual Review (AR).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (Korea Employers' Federation (KEF)) and the workers' organizations (Federation of Korean Trade Unions (FKTU), the Korean Confederation of Trade Unions (KCTU)) and the Korean Federation of Public Services and Transportation Workers' Union (KPTU) through communication of Government's report.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the KEF. <b>2013 AR:</b> Observations by the KEF. <b>2012 AR:</b> Observations by the KEF. <b>2009 AR:</b> Observations by the KEF. <b>2004 AR:</b> Observations by the KEF.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the KCTU <b>2014 AR:</b> Observations by the KCTU. Observations by the KPTU. <b>2013 AR:</b> Observations by the KCTU. <b>2012 AR:</b> Observations by the KCTU. <b>2010 AR:</b> Observations by the FK TU. Observations by the KCTU.

<sup>60</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



		<p><b>2007 AR:</b> Observations by the KCTU. Observations by the International Trade Union Confederation (ITUC).</p> <p><b>2004 AR:</b> Observations by the KCTU.</p> <p><b>2002 AR:</b> Observations by the KCTU.</p> <p><b>2001 AR:</b> Observations by the ITUC.</p> <p><b>2000 AR:</b> Observations by the FKTU.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>The Republic of Korea has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29), nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b></p>

<p><b>THE PRINCIPLE AND RIGHT</b></p>		<p><b>Ratification intention</b></p>	<p><b>Unable to ratify C.29 and C.105 at this time.</b></p> <p><b>2015 AR:</b> The Government reiterated that the ratification of C.29 and C.105 is not foreseeable in the near future due to disparities between the provisions of ILO Conventions and domestic laws relating to supplementary military service. The Government indicated that it is very difficult to reach agreement with ILO as long as ILO interprets supplementary military service as constituting forced labour. It further reported that it is difficult to ratify the Conventions given the indispensability of the mandatory military service amid the confrontation on the Korean Peninsula. KCTU expressed full support for the ratification of C.29 and C.15, but regretted that no progress has been made in the ratification process.</p> <p><b>2014 AR:</b> According to the government: It is difficult to ratify C.29 and C.105 because ILO interprets ‘supplementary military service’ as constituting forced labour and the Conventions are contrary to the current domestic laws.</p> <p>KEF restated its support for the ratification of the Conventions despite this may not happen any time soon given the need for more time for preparation and consideration of the specific circumstances of the country in relation to forced labour related to the military service.</p> <p>The KCTU and the KPTU reiterated their support for the ratification of C.29 and C.105 by the Republic of Korea. They indicated that no progress had been made over the last year and that there were still no prospects on moving forward in the ratification process.</p> <p><b>2013 AR:</b> According to the Government: The mandatory military service requirement will remain in force until a solid peace between North and South Korea has been established. If the ILO does not consider ‘supplementary military service’ mainly performed as a form of public service as being of a purely military character, it would be difficult to ratify C.29. It is also difficult to ratify C.105 because the current domestic law can be a barrier to complying with Article 1(a) and (d) of this Convention.</p> <p>The KEF reiterated that it had no objection as concerns the ratification of C.29 and C.105 by the Republic of Korea. However, it indicated that no progress had been made in the ratification process over 2011.</p> <p>The KCTU reiterated its support for the ratification of C.29 and C.105 by the Republic of Korea. However, it indicated that the ratification processes are still outstanding and there are no prospects for them moving forward.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b> The Constitution:</p> <ul style="list-style-type: none"> <li>- Article 10 (respect for human dignity and worth): “All citizens shall be assured of human worth and dignity and have the right to pursue happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals”.</li> <li>- Article 12, paragraph 1 (personal liberty): “All citizens shall enjoy personal liberty. No person shall be arrested, detained, searched, seized or interrogated, except as provided by Act. No person shall be punished, placed under preventive restrictions or be subject to involuntary labour, except as provided by Act and through lawful procedures”.</li> <li>- Article 15 (freedom to choose occupations): “All citizens shall enjoy freedom of occupation”.</li> </ul>

		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li> <p><b>Policy:</b></p> <p><b>2004-2005 ARs:</b> According to the Government: There is a national policy to realize the principle and right (PR) of the elimination of all forms of forced or compulsory labour for every citizen and every worker, through the implementation of the Constitution, the Labour Standards Act (LSA), and the Criminal Act. These texts provide for the principle of human dignity and values, physical freedom, prohibition of forced labour, imprisonment under court rulings, and sanctions against violation.</p> </li> <li> <p><b>Legislation:</b></p> <p><b>2000 AR:</b> According to the Government, section 6 (prohibition of forced labour) of the Labour Standards Act (LSA) provides that: “An employer shall not force a worker to work against his/her own free will through the use of violence, intimidation, confinement or by any other means which unjustly restrict mental or physical freedom.” In order to secure implementation of the legal provision, penal sanctions are also contained in national laws and regulations.</p> </li> </ul>
		<p><b>Basic legal provisions</b></p>	<p>(i) Constitution (articles 10, 12 and 15); (ii) Labour Standards Act (LSA), sections 6 and 110; (iii) Criminal Act, sections 123, 324 and 460; and (iv) Criminal Procedure Act.</p>
		<p><b>Definition of forced or compulsory labour</b></p>	<p><b>YES</b>, section 6 of the LSA gives a definition of the term “forced labour” by providing that “[a]n employer shall not force a worker to work against his own free will through the use of violence, intimidation and confinement or by any other means, which unjustly restrict mental or physical freedom”.</p>
		<p><b>Judicial decisions</b></p>	<p><b>2006 AR:</b> According to the Government: There are no cases of judicial decisions resulting from the violation of the PR (under section 6 of the LSA).</p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>Special attention to particular situations and human trafficking</b></p>	<p><b>2014 AR:</b> According to the KCTU: The KCTU continues to pay special attention to migrant workers in the agricultural sector and workers in precarious employment who are at risk of forced labour. Activities are being undertaken to involve the employers in the abolition of forced labour, and particularly to ensure that migrant workers do not end up in dependency of the employers as regards Visa extensions.</p> <p><b>2013 AR:</b> According to the KCTU: Special attention has been given to the agricultural sector with a view to ensuring the abolition of forced labour among vulnerable agricultural workers, in particular migrant workers. Indeed, trade unions have dealt with cases where employers are confiscating the travel documents of migrant workers, who are in poor working conditions which often turn into forced labour in the agricultural sector. If these migrants lose their employment, they will also lose their visa and legal rights to be in the country.</p>
		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2004 AR:</b> According to the Government: Systems for gathering information are established, but there are no meaningful statistics on forced labour because of its non-existence in the country.</p>

	<p><b>Prevention/monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2004-2007 ARs:</b> According to the Government: In realizing the PR, the following measures have been implemented: (i) inspection/monitoring mechanisms; (ii) penal sanctions; (iii) civil or administrative sanctions; and (iv) capacity building. Moreover, the prosecutors' offices and police offices are in charge of sanctions against human trafficking and abuse of power of public servants engaged in the identification, emancipation and/or rehabilitation of persons subjected to forced labour. The Ministry of Labour monitors the implementation of the prohibition of forced labour by employers.</p> <p><b>2001 ARs:</b> According to the Government: The LSA requires employers to comply with the legal obligations concerning the prohibition of forced labour, and imposes penal sanctions in case of non-compliance.</p> <p><b>2000-2005 ARs:</b> According to the Government: Section 460 of the Criminal Procedure Act provides that the sentence of imprisonment shall be executed under the direction of a public prosecutor and in accordance with the court decision. Moreover, the Criminal Act provides for penal sanctions in the following cases:</p> <ul style="list-style-type: none"> <li>- In the case of a public official who, by abusing his official authority, forces a person to do any forced work (section 123 of the Criminal Act: abuse of authority);</li> <li>- In the case of a person who coerces another to do any forced work, by using violence or intimidation (section 324 of the Act: coercion); or</li> <li>- In the case a person who arrests, confines, captures or entices another person as hostage and makes him or her do any forced work (section 324-2 of the Act: coercion by hostage).</li> </ul> <p>The responsibilities for taking action against forced labour are assumed by the police, prosecution and courts.</p> <p>Under section 110 of the LSA, an employer who forces an employee to work against his/her own free will in violation of article 6 of the LSA shall be punished by imprisonment of up to five years or by a fine not exceeding 30 million won [about US \$ 29,300 as of December 2005.] In this regard, if any law is found to be violated or if any violation is alleged, labour inspectors investigate the case and, when relevant, take measures to criminally punish the offender.</p> <p>The Ministry of Labour is responsible for: (i) applying the LSA; (ii) monitoring the implementation of the Act; (iii) ensuring labour inspection at workplace; and (iv) ensuring that measures are taken against violations of the LSA.</p> <p>Under the direction and supervision of the Ministry of Labour, labour inspectors of the 46 regional labour offices conduct workplace inspections, ask employers to make reports or attendances and act as law enforcement officers in case of violation, in order to ensure that employers fully observe their obligations with regard to the prevention and elimination of forced labour.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2014 AR:</b> According to the KCTU: The KCTU is excluded from most social dialogue practices and the ratifications of C.29 and C.105 are not being dealt with through social dialogue.</p> <p><b>2013 AR:</b> According to the KEF: Social dialogue is exercised in the country.</p> <p>According to the KCTU: Forced labour and the ratifications of C.29 and C.105 are not being dealt with through social dialogue.</p> <p><b>2004-2007 ARs:</b> According to the Government: Tripartite examination of related issues has been implemented in realizing the PR.</p> <p>Employers' and workers' organizations have been involved in the development and implementation of government measures. Employers' and employees' organizations were consulted in revising or enacting laws related to the prohibition of forced labour.</p>

	<p><b>Promotional activities</b></p>	<p><b>2014 AR:</b> KEF participates and promotes the interest of its members in various events, social dialogues and seminars including those organised by ILO.</p> <p>The KCTU: An awareness raising campaign on the fundamental principles and rights at work has been conducted in collaboration with the Korean Teachers' and Education Workers' Union (KTU), the Korean Government Employees' Union(KGEU) and the Korean Federation of Public Services and Transportation Workers' Union (KPTU). The campaign included leaflets with information on the situation of workers' rights in the country, and requested labour law amendments to align the national legislation with international labour standards. The leaflet was designed as a letter directed towards the President of the Republic of Korea, urging the President to ratify the non-ratified ILO core Conventions without delay, including C.29 and C.105.</p> <p><b>2013 AR:</b> According to the Government: In March 2012, the Government met with ILO to discuss the ratification of C. 29.</p> <p><b>2012 AR:</b> According to the Government: In March 2009 and 2010, meetings between the ILO and the Government were organized to discuss the ratification of C.29. In addition, the Ministry of Employment and Labour carried out consultations with relevant ministries on the ratification prospects of C.29 and C.105.</p> <p>The KCTU stated that it had been organizing advocacy campaigns for promotion and ratification of C.29 and C.105.</p> <p><b>2010 AR:</b> The Government indicated that it had been cooperating with the ILO since October 2006 concerning the possibility to ratify C.29 taking into account the national context (military service system and current public interest service system).</p> <p><b>2009 AR:</b> According to the Government: The Ministry of Labour has requested the Ministry of National Defense and the Ministry of Justice to consider ILO Conventions in the reform of relevant system.</p> <p><b>2004-2007 ARs:</b> According to the Government: In realizing the PR, the following measures have been implemented: (i) awareness raising/advocacy; (ii) employment creation/income generation; (iii) educational programmes; (iv) rehabilitation following removal from forced labour; and (v) international cooperation programmes or projects.</p>	
	<p><b>Special initiatives</b></p>	<p><b>2008 AR:</b> According to the Government: The Government has requested the advisory assistance of the ILO on provision of interpretation on special types of military system in Korea and received comments from the Office. Moreover, the Government is carrying out inter-ministerial consultation on long-term basis, which is considering possible future changes in the military system.</p> <p><b>2007 AR:</b> The Government organized the International Labour Policy Advisory Board with a view to accelerate the ratification process for these instruments.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014 AR:</b> KEF stated that economic crisis and high unemployment rate for the youth create some sort of burden. It also asserted that although the Korean government tries to ratify the Convention, there is a need for more time for preparation to the ratification process, particularly given the challenges associated with the mandatory military service requirements.</p> <p><b>2013 AR:</b> The KEF indicated that obstacles in the ratification of C.29 and C.105 related to the mandatory military service remain.</p>



		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> KCTU stated that as long as the national mandatory military service persists, it will be very difficult to move forward with the ratification of C.29 and C.105. It further highlighted that attention should be paid to the issues of sex-workers, including young girls, who are subject to various forms of forced labour. In response to this comment, the Government indicated that the in Korea, sexual traffic is illegal. Sexual traffic is considered criminal act and persons who sell and buy sex are punished according to “Act on the Punishment of Acts of Arranging Sexual Traffic (of which the Ministry of Justice is in charge”. According to”Act on the Prevention of Sexual Traffic and Protection, etc. of Victims (of which the Ministry of Gender Equality &amp; Family)”, victims of sexual traffic, including sex workers, are provided with services such as counselling, accommodation, medical and legal service, education on employment and skills, and vocational training in order to help their escape from prostitution.</p> <p><b>2013-2014 ARs:</b> According to the KCTU: As the situation with the national mandatory military service in has not changed, the related challenges remain. By using the pretext of the military service, the provisions of C.29 and C.105 are being violated. Additionally, cases from the cargo transportation sector have illustrated the challenging situation as regards to the right to strike. When situations of strike have arisen, the employers have sent a request to the Minister of Labour who consequently has created a situation of forced labour by forcing workers back to work by referring to a state of emergency. Cases of forced labour are also related to work carried out by prisoners, as the interpretation of forced labour by the Government differs from that of the ILO.</p> <p><b>2012 AR:</b> According to KCTU: The main challenge to the ratification of C.29 and C.105 is the mandatory military service which has exemptions for inapt individuals who are then reoriented towards public services (national parks, teaching, etc.) without any pay or benefits for over two years. However, political will is needed to adjust the military service activities so to make it non-contradictory to C.105. Although forced labour is not widely spread in the country, it has been experienced by trade union members participating in strikes.</p> <p><b>2010 AR:</b> The FKTU and the KCTU observed that despite the general prohibition of forced labour in the country, various forms of forced/compulsory labour were observed (for example, compulsory duties for public servants).</p> <p><b>2004 AR:</b> The KCTU observed that despite the Government’s comment on the general prohibition of forced labour in the country, various forms of forced/compulsory labour were found at workplaces, involving especially migrant workers.</p> <p>No particular challenges were raised in the ITUC’s comments.</p> <p><b>2001 AR:</b> No particular challenges were raised in the ICFTU’s comments.</p> <p><b>2000 AR:</b> According to the FKTU: Some employers abuse the position of those workers who have chosen to work rather than carrying out their military service.</p>
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	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> The Government stated that given lack of conformity between domestic laws and the provisions of C.29 and C.105, it would be very difficult to reach agreement with ILO, and this makes the ratification process slow and complicated. It indicated that regarding C.29, the ILO interprets the services provided by unarmed public service personnel as not purely military and that regarding C.105, the current domestic laws, such as the National Security Act and the Criminal Act, are contrary to the Convention.</p> <p><b>2014 AR:</b> According to the Government: Regarding C.29, supplementary military service is not included as ‘work of a purely military character’ under Article 2. Given that imprisonment comes with prison labor based on criminal law, punishments under the National Security Act and etc. can be understood as forced or compulsory labour under C.105.</p> <p><b>2013 AR:</b> According to the Government: Regarding C.29, the ILO interprets the services provided by non-armed public service personnel as being of a non-purely military and non-voluntary nature. Regarding C.105, under current domestic law those convicted of violating the National Security Act or participating in unprotected strikes involving violence and destruction of property are subject to imprisonment and prison labour. In response to the KCTU’s observations, the Government indicated the following: (i) Reorientation towards public services doesn’t mean the “exemption” from military service but an “alternative” to military service; (ii) Public service personnel do get paid; (iii) The reason why Korea is currently unable to ratify C.105 is not related to the need to maintain mandatory conscription; (iv) With regard to the sentence, “it has been experienced by trade union members participating in strikes,” it shouldn't be understood as meaning that trade union members participating in legitimate and peaceful strikes have experienced forced labour. It actually means workers engaging in unprotected strikes involving violence and destruction of property are subject to imprisonment and prison labour.</p> <p><b>2010-2012 ARs:</b> According to the Government: The challenges remain as follows: (i) the military service system; (ii) the current public interest service system; and (iii) the fact that the criminal punishment of political criminals and workers’ strikes includes forced prison labour.</p> <p><b>2008 AR:</b> With regards to the KCTU’s observations in the 2004 AR alleging that various forms of forced/compulsory labour were found at workplaces involving especially foreign workers, the Government indicated that in 1992, in order to respond to labour shortage and to reduce the number of undocumented workers, Korea introduced the Industrial Trainee System (ITS), which was in force until January 2007. However, as the ITS was a system which was more focused on training foreign trainees, it had certain limits as an employment system for foreign workers. Therefore, in 2004 the Korean Government introduced a new system for foreign workers’ employment, the Employment Permit System. Under this system in force since 2004, the rights of foreign workers was significantly reinforced and much of the problems have been resolved, thanks to the provision on non-discrimination against foreign workers in the EPS Act, which allowed labour-related laws to be applicable equally to foreign workers and nationals, providing equal level of protection in case of infringement of foreign workers’ rights.</p> <p><b>2007 AR:</b> According to the Government: Because of its unique military situation, such as military confrontation with North Korea, the Republic of Korea adheres to the universal conscription system (compulsory military service). In this respect, it is needed to interpret and review special types of military service, etc.</p> <p><b>2004 AR:</b> In response to KCTU’s comments, the Government indicated that separate statistics on forced labour were expected to be compiled owing to the computerization of labour inspection. With regard to forced labour of migrant workers, the Government mentioned that it had made active efforts to prevent employers from forcing foreign workers to work.</p> <p><b>2002 AR:</b> In response to KCTU’s comments, the Government observed that, in line with the objectives of the 1998 ILO Declaration, the follow-up should be of a strictly promotional nature and for technical cooperation, which would help ILO member States to implement effectively the core Conventions. In this regard, the KCTU’s comments under the 2002 Annual Review were not compatible with the basic objectives of the 1998 ILO Declaration and its follow-up.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> The Government reiterated the statement it made under the AR 2014.</p> <p>According to the KCTU, there is a need for ILO technical cooperation to support and promote a permanent social dialogue with the Government on military services issues and its connections with various forms of forced labour.</p> <p><b>2014 AR:</b> According to the Government: The Government may need ILO’s support when preparing for the ratification of the Conventions, for example in interpreting whether domestic legislation is in conformity with the Conventions. The Government will request support from the ILO if the need occurs.</p> <p>KEF advised that ILO should provide support by conducting research in relation to labour law reform and in terms of devising initiatives to address high unemployment rate.</p> <p>The KCTU reiterated its request for technical cooperation made in the 2012-2013 ARs, re-emphasizing the need to find a solution to how the Government should deal with forced labour as concerns military services.</p> <p><b>2013 AR:</b> The Korean Government may need ILO’s support when preparing for the ratification of C.29 and C.105, for example in interpreting whether domestic legislation is in conformity with the Conventions. The Government will request support from the ILO, should this need arise.</p> <p>The KCTU reiterated its request for technical cooperation made in the 2012 AR emphasizing that the crucial need to find a solution to how the Government should deal with forced labour as concerns military services.</p> <p><b>2012 AR:</b> According to the Government: ILO advisory assistance would be requested concerning the compliance of domestic legislation to the PR, when considering the ratification of the C.29 and C.105.</p> <p>The KEF requested the ILO to provide training on the PR.</p> <p>According to the KCTU: ILO’s technical assistance is needed in finding a solution to how the Government should deal with the issue forced labour as concerns military services.</p> <p><b>2010-2011 ARs:</b> According to the Government: ILO’s technical support concerning the compliance of the current military system vis-à-vis the PR may be needed, and would be requested by the Government in due course.</p> <p>According to the KCTU: ILO’s technical cooperation is needed for public awareness raising campaign and for a better understanding of the PR.</p> <p><b>2008 AR:</b> According to the Government: The Government requests further advisory assistance in its process of considering the ratification of the conventions including the interpretation of whether special types of military services constitute compulsory labour or not.</p> <p><b>2007 AR:</b> The Government requested the ILO to provide advisory assistance in interpreting special types of military service.</p>
	<p><b>Offer</b></p>	<p>ILO, ILO/IPEC.</p>

<p><b>EXPERT-ADVISERS' RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed the Republic of Korea among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step forward towards universal ratification. In particular, the IDEAs encouraged the Government of the Republic of Korea (and four other governments) to initiate or finalize their national labour law review processes. In strengthening and reforming their legal framework in compliance with international labour standards, these countries would allow a better implementation of the principle and right. Finally, the IDEAs noted that a number of governments, employers' or workers' organizations in various countries, including the Republic of Korea, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO. (cf. paragraphs 12, 41, 43 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs encouraged the Government of the Republic of Korea (and four other governments) that had expressed their intention to ratify C.29 and/or C.105 to complete the process. The IDEAs also welcomed the significant increase in the reports of action to combat forced labour in several countries, including the Republic of Korea, and noted that an increasing number of States were recognizing that forced labour does exist in their country [...]. For the IDEAs, such recognition was indispensable to combating forced or compulsory labour, as it was undoubtedly the first step in what is a daunting but essential task (cf. paragraphs 40 and 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The IDEAs listed the Republic of Korea among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (cf. paragraph 13 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2015)** <sup>61</sup>: LAO PEOPLE'S DEMOCRATIC REPUBLIC

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2005, 2006 and 2011 Annual Reviews (ARs).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Lao National Chamber of Commerce and Industry (LNCCI) and the Lao Federation of Trade Union (LFTU) through consultations or communication of Government's report.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2015 AR:</b> Observations of the LNCCI.</p> <p><b>2014 AR:</b> Observations of the LNCCI</p> <p><b>2013 AR:</b> Observations by the LNCCI comprised of 28 affiliates.</p> <p><b>2012 AR:</b> Observations by the LNCCI comprised of 28 affiliates.</p> <p><b>2008 AR:</b> Observations by the LNCCI comprised of 23 affiliates.</p> <p><b>2006 AR:</b> Observations by the LNCCI.</p>
	<b>Workers' organizations</b>	<p><b>2015 AR:</b> Observations of the LFTU.</p> <p><b>2014 AR:</b> Observations by the LFTU</p> <p><b>2013 AR:</b> Observations by the LFTU.</p> <p><b>2012 AR:</b> Observations by the LFTU.</p> <p><b>2010 AR:</b> Observations by the LFTU.</p> <p><b>2008 AR:</b> Observations by the LFTU.</p> <p><b>2006 AR:</b> Observations by the LFTU.</p>

<sup>61</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	The Lao People's Democratic Republic has ratified the Forced Labour Convention, 1930 (No. 29) (C.29). However, it has not ratified the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).
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		<p><b>Ratification intention</b></p>	<p><b>YES, since 2002, for C.105.</b></p> <p><b>2015 AR:</b> According to the Government: There is a need to assess the implications and requirements of C.105 before any further steps can be taken in the ratification process.</p> <p>The LNCCI indicated that an assessment of the implications of the ratification of C.105 would allow for an informed decision concerning the instruments.</p> <p>The LFTU reaffirmed its support for the ratification of C.105 and indicated that more awareness-raising is needed for its members to understand the Convention.</p> <p><b>2014 AR:</b> The Government indicated that they studied the requirements and the situation in 2010; however, for the ratification to happen they will need to reach an agreement on legislation about prison workers.</p> <p>LNCCI underscored that it will agree on ratification of the Conventions as long as they are beneficial.</p> <p>LFTU reaffirmed its support for ratification and expressed that, although there has not been forced labour in the past, there is a need to monitor issues of forced labour in the future given that the government opened the country to foreign investors.</p> <p><b>2013 AR:</b> According to the Government: The future adoption of a new degree on skilled development for prisoners is paving the way to the future ratification of C.105 by Lao PDR. Moreover, a new study on the impact of the ratification of C.105 in the country would be welcomed.</p> <p>The LNCCI and the LFTU reiterated their support for the ratification of C.105 by Lao PDR.</p> <p><b>2012 AR:</b> The Government indicated that ratification of C.105 would be in the agenda of the Tripartite Committee for Labour Relations in July 2011.</p> <p>The LNCCI reiterated its support for the ratification of C.105 while indicating that it would refer the results of the forthcoming tripartite discussions.</p> <p>The LFTU reiterated its support for the ratification of C.105 by Lao PDR.</p> <p><b>2010 AR:</b> The Government reiterated its commitment to ratify C.105.</p> <p>The LFTU indicated that it had no objection to the ratification of C.105, which was expected.</p> <p><b>2009 AR:</b> According to the Government: Ratification of C.105 is expected shortly.</p> <p><b>2008 AR:</b> The Government confirmed its intention to ratify C.105.</p> <p>The LNCCI and the LFTU expressed their support for the ratification of C.105 and indicated that a tripartite consultation would accelerate the process.</p> <p><b>2006 AR:</b> The Government confirmed its intention to ratify in a near future C.105.</p> <p>The LNCCI and the LFTU supported the ratification of all the fundamental Conventions by Lao PDR, particularly C.105.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): the Government intends to ratify C.105.</p>
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	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Constitution</b>	<p><b>YES.</b></p> <p>The Constitution (article 6) guarantees the right to freedom and democracy that is inviolable. Pursuant to this article, any authoritative act and harassment that could jeopardize one's physical or moral integrity, dignity, life, conscience or property, is prohibited. According to the Government, the principle and right (PR) is enshrined in the Constitution by prohibiting any forms of compulsory or forced labour.</p> <p>According to the Government: The provisions of the Constitution are in compliance with the PR.</p> <p><b>2014 AR:</b> The Government indicated that C.105 is already covered in the Constitution, the labour law as well as in discrimination and criminal law.</p>
		<b>Policy, legislation and/or regulations</b>	<p><b>Legislation:</b></p> <p><b>2015 AR:</b> According to the Government: Amendments to the Labour Law which contains provisions relevant to C. 105 have been approved by Parliament and are now awaiting signature by the President of the Republic.</p> <p><b>Policy:</b></p> <p><b>2014 AR:</b> The Government specified that with support from ILO they are undertaking studies to change the labour law.</p> <p>LNCCI and LFTU also expressed that the labour law is being improved. All of the tripartite partners anticipate that the revised labour law legislation will be submitted to members of the Cabinet during 2013 and then to the National Assembly for adoption by the end of the year.</p> <p><b>2005 AR:</b> According to the Government: The PR includes every category of persons or activities and there is also a national policy for its realization.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2008 AR:</b> A new Labour Code was adopted in 2006 with specific provisions on the prohibition of forced labour.</p> <p><b>2006 AR:</b> According to the Government: The PR is expressly recognized in the Labour Code, which prohibits any forms of compulsory and forced labour.</p>
		<b>Basic legal provisions</b>	(i) Constitution (article 6); (ii) Labour Code (articles 1 et 4); and (iii) Penal Code (article 5).
		<b>Definition of forced or compulsory labour</b>	<b>2005 AR:</b> According to the Government: Forced labour is defined as all work, which is exacted from any person and for which the said person has not offered himself voluntarily in violation with the law.
	<b>Exercise of the principle and right</b>	<b>Judicial decisions</b>	<b>NIL.</b>
		<b>Special attention to particular situations and human trafficking</b>	<b>2005 AR:</b> According to the Government: The situation of girls and boys.

		<b>Information/ Data collection and dissemination</b>	<b>NIL.</b>
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2015 AR:</b> According to the Government: A tripartite committee including labour inspectors can review complaints and act upon them.</p> <p><b>2005 AR:</b> According to the Government: The PR is realized through: (i) inspection and monitoring; (ii) penal, civil and administrative sanctions.</p>	
	<b>Involvement of the social partners</b>	<p><b>2015 AR:</b> According to the Government, LNCCI and LFTU: Regular tripartite committee meetings take place every 2-3 months.</p> <p><b>2005 AR:</b> According to the Government: Tripartite consultations are being envisaged.</p>	
	<b>Promotional activities</b>	<p><b>2015 AR:</b> According to the Government: There is an annual action plan on the ratification of C. 105, which is expected to be implemented soon.</p> <p><b>2014 AR:</b> The Government deploys various ways to promote fundamental principles and rights at work and related conventions including through holding workshops, utilising TV and radio; organising and participating in tripartite meetings and by regularly keeping the social partners informed.</p> <p>LNCCI participates in tripartite workshops both at national and regional level, takes turn to organise tripartite meetings and organises employers workshop supported by legal consultants from Bangkok.</p> <p>LFTU undertakes promotional activities by organising and participating in tripartite meetings and seminars, and sharing and communicating relevant information to members. In July 2013, LFTU plans to participate on a seminar for trade unions organised in cooperation with ILO.</p> <p><b>2010 AR:</b> The Government indicated that a Senior Officer of the Ministry participated in the May 2009 ILO/Turin Course on International Labour Standards during which issues concerning the Declaration and its follow-up had been addressed, including those relating to C.105.</p> <p><b>2008 AR:</b> The LNCCI indicated that it collaborates with the Government and trade unions on that issue and participates regularly to activities and workshops organized by the Government of Lao PDR.</p> <p><b>2005 AR:</b> According to the Government: The following measures have been taken for the realization of the PR: (i) employment creation, skills training and income generation; (ii) teaching programmes; (iii) re adaptation of persons subjected to forced labour; (iv) international cooperation programmes and projects.</p>	
	<b>Special initiatives/Progress</b>	<p><b>2006 AR:</b> The Government indicated that is had organized several national workshops on C.29, C.105 and the other fundamental conventions, in collaboration with the ILO.</p> <p>The LNCCI stated that it had initiated its awareness raising activities on national legislation and international labour standards (ILS) in 2003, with the support of the ILO and the Australian Chamber of Commerce. It further mentioned that its was training its members on the same issues since 2004.</p>	



<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to social partners</b>	<b>Employers' organization</b>	<p><b>2014 - 2015 ARs:</b> LNCCI reaffirmed that lack of sufficient awareness of the requirements of the Conventions remains a challenge.</p> <p><b>2008 AR:</b> The LNCCI indicated that the issue of migrant workers is affecting the employers and that they need a larger workforce.</p>
		<b>Workers' organization</b>	<p><b>2014 - 2015 ARs:</b> LFTU identified limited knowledge and experience sharing on the concepts and requirements of the Conventions and lack of financial resources to facilitate LFTU's activities as main challenges.</p>
	<b>According to the Government</b>	<p><b>2014 AR:</b> The Government expressed that lack of technical experts skilled in the Conventions and financial constraint to implement the national plan for decent work programme are existing challenges. However, as C.105 is already covered in the Constitution, the labour law as well as in discrimination and criminal law, there is no specific problem as such except for the need for legislation.</p> <p><b>2013 AR:</b> The Government mentioned the following challenges to the realization of the PR in the country: (i) lack of capacity building for responsible Government institutions; (ii) lack of training facilities for prisoners; and (iii) lack of funding for skilled development programme.</p> <p><b>2010 AR:</b> According to the Government: The informal sector is a major problem for the country.</p> <p>In the aspect of ratification, according to Government, the ratification of C.105 expected to be done shortly. Promotional activities are nil.</p>	

<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: There is a need for ILO technical assistance to raise awareness of employers’ and workers’ organizations on the content and implications of C. 105.</p> <p>The LNCCI highlighted the need for experience sharing across countries/regions on the PR..</p> <p>The LFTU requested ILO technical assistance on capacity building activities, the organization of consultations and workshops on the PR.</p> <p><b>2014 AR:</b> According to the Government: The Government requires technical assistance from ILO in various aspects of the Convention including advisory from technical experts. The Government also seeks technical and financial support to implement the country’s national plan for decent work programme.</p> <p>LNCCI requested ILO assistance in organising awareness creation workshops for individual partners before holding a national level event.</p> <p>LFTU sought ILO’s support to undertake experience sharing on the concepts and requirements of the Convention. It further requested ILO financial support to facilitate its activities.</p> <p><b>2013 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Lao PDR exist in the following areas: (i) skilled development programme; (ii) capacity building for responsible government institutions; (iii) funding of training school; (iv) a national study on the PR, and; (v) training on drafting legal document.</p> <p>The LFTU reiterated the statement it made under the 2012 AR and requested ILO’s support in organizing a national tripartite workshop to discuss the realization of C.105.</p> <p><b>2012 AR:</b> The Government, the LNCCI and the LFTU requested ILO’s support in organizing a national tripartite workshop on the Declaration and its follow-up so as to sensitize tripartite bodies on the fundamental principles and rights at work (FPRW), with a focus on unratified fundamental Conventions. This tripartite activity should be preceded by separate workshops for labour administration, employers’ associations and trade unions.</p> <p><b>2010 AR:</b> The Government would welcome any ILO technical support in policy advice, capacity building to tripartite partners and dissemination of the FPRW. In particular, Labour Inspection capacity should be strengthened with a view to better ensuring the realization of these principles and rights at national level.</p> <p>The LFTU requested ILO technical assistance for the training and capacity building of workers’ organizations.</p> <p><b>2009 AR:</b> According to the Government: Technical cooperation is needed to bring national compliance with the PR and disseminate it.</p> <p><b>2008 AR:</b> According to the Government: ILO technical assistance is needed for conducting a country assessment and seminars on the PR and the Declaration follow-up.</p> <p><b>2006 AR:</b> The Government called for ILO technical assistance for the realization of the PR and ILO fundamental conventions in Lao PDR. It supported moreover the requests mentioned by the LNCCI and the LFTU.</p> <p>The LNCCI requested ILO support for the strengthening of sensitization activities on the national legislation and international labour standards.</p> <p>The LFTU requested ILO technical cooperation for the realization of the PR among the workers.</p> <p><b>2005 AR:</b> According to the Government: ILO technical cooperation is needed in the following areas, in order of priority: (1) Awareness-raising, legal literacy and advocacy; strengthening data collection and capacity for statistical collection and analysis; training of other officials (e.g. police, judiciary, social workers, teachers); development of social protection systems; (2) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle; sharing of experiences across countries/regions; policy advice; legal reform (labour law and other relevant legislation); capacity building of responsible government institutions; strengthening capacity of employers’ and workers’ organizations; employment creation, skills training and income generation for vulnerable workers; cross-border cooperation mechanisms; rural development policies (for example, land reform, rural infrastructure, agricultural extension, marketing, microfinance).</p>
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	<b>Offer</b>	<b>2005 AR:</b> ILO-IPEC Mekong Sub-regional Project to Combat Trafficking in Children and Women.
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed the Lao PDR among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step forward towards universal ratification. The IDEAs welcomed the adoption of new laws relating to forced or compulsory labour in the Lao PDR (and another country). Finally, they further noted that a number of governments, employers' or workers' organizations in various countries, including the Lao PDR, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO (cf. paragraphs 41, 43 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs welcomed the significant increase in the reports of action to combat forced labour in several countries, including the Lao PDR, and noted that an increasing number of States were recognizing that forced labour does exist in their country [...]. For the IDEAs, such recognition was indispensable to combating forced or compulsory labour, as it was undoubtedly the first step in what is a daunting but essential task (cf. paragraph 41 of the 2007 Annual Review Introduction - ILO: GB.298/3).</p> <p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) expressed satisfaction concerning the concrete information received on progress made in the elimination of all forms of forced or compulsory labour in Nepal in cooperation with the ILO (paragraph 192 of the 2005 Annual Review Introduction). They recommended that the Special Action Programme to combat forced labour (SAP-FL) receive a substantive additional support from donors in order to help the country make further progress in promoting and realizing the PR (cf. paragraph 192 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)**<sup>62</sup>: MALAYSIA

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2000 Annual Reviews (AR). No-change report for the 2002 and 2012 ARs.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Malaysian Employers' Federation (MEF) and the Malaysian Trade Union Congress (MTUC) and the National Union of Bank Employees (NUBE), through communication of the Government's report.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the MEF <b>2014 AR:</b> Observations by the MEF <b>2013 AR:</b> Observations by the MEF. <b>2012 AR:</b> Observations by the MEF. <b>2010 AR:</b> Observations by the MEF. <b>2007 AR:</b> Observations by the MEF.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the MTUC Observation by the NUBE <b>2014 AR:</b> Observations by the MTUC Observation by the NUBE <b>2012 AR:</b> Observations by the MTUC. Observations by the NUBE. <b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU) (late observation for the 2006 AR). <b>2001 AR:</b> Observations by the ICFTU.

<sup>62</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p>Malaysia ratified the Forced Labour Convention, 1930 (No. 29) (C.29) in 1957, and the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105) in 1958. However, it denounced C.105 in 1990 “due to divergences with the ILO in the interpretation of national legislation with regard to this Convention”.</p>
		<p><b>Ratification intention</b></p>	<p><b>NO for C.105 since 2013.</b></p> <p><b>2015 AR:</b> According to the Government: Malaysia still does not intend to ratify C.105 in the near future. According to MEF: MEF still cannot support the ratification of C.105, especially because of the training of prisoners which should not be treated as forced labour. However, ratification is being discussed now due to the pressure arising from the Transpacific Partnership Agreement. MEF is not worried about forced labour practices, in case of foreign workers for example, passport can be taken away only in agreement signed with the employee. Nevertheless, MEF supports the observations of the principles contained in the Convention. MTUC and NUBE reiterated the statement they made under the previous review in favour of ratification of C.105</p> <p><b>2014 AR:</b> According to the Government: Malaysia does not intend to ratify C.105 in the near future. According to MEF: MEF claims C.105 is very much a question of interpretation and difference in opinion. Currently, public authorities do not have the capacity to train prisoners so if private companies deliver training to prisoners, this should not be seen as forced labour as ILO may consider it so. In terms of prisoners, MEF supports the need to provide training for prisoners so that they can assimilate to society better and providing training be it by a private company or a government institution should not be seen as forced labour. Some existing practices are such that employers provide practical training to prisoners and pay small token to the prison authority. In other cases, workers agree to some money and accommodation, hence if the hotel rules prohibit not going out after 10 pm, this should not be seen as non-compliance to the requirements of the convention. MTUC and NUBE expressed their support for the ratification of C.105 and indicated that they had been in continuous dialogue with the Government as to why the Convention was denounced in the past and on the future course of progress in ratification.</p> <p><b>2013 AR:</b> According to the Government: Malaysia denounced Convention C105 in 1990 due to the divergences with the ILO’s interpretation of national legislation with regard to the Convention. The rehabilitation programme of offenders which is geared towards the preparation of inmates for their eventual reintegration into the community as law-abiding and socially productive persons is deemed to be forced labour. The MEF reiterated the statement it made in the 2012 AR, and C.105 was too idealistic and not realistic as ratifying it would not allow the implementation of the government programme on prison labour.</p>



			<p><b>2012 AR:</b> According to the MEF: The reasons why the ratification of C.105 has been denounced are mainly related to differences in interpretation of C.105 between the ILO and the Government. There is no forced labour in Malaysia.</p> <p>According to the MTUC and the NUBE: The MTUC and the NUBE jointly express their full support for the ratification of C.105 by Malaysia, and welcome the Government's decision to open a dialogue with employers' and workers' organizations, with a view to reconsidering its decision concerning the denunciation of this instrument. Furthermore, the MTUC and the NUBE look forward to the ratification of C.105 before the next Review. The MTUC mentions in particular that the ratification process of C.105 was close to finalization, but then denounced by the Government, arguing that the country's rehabilitation programme for prisoners is in contradiction with C.105. However, what is important for the MTUC is to amend this rehabilitation programme with a view to bringing it into conformity with the principle and right (PR).</p> <p><b>2009 AR:</b> The Government indicated that it would open a dialogue with employers' and workers' organizations with a view to reconsider its decision concerning the denunciation of C.105.</p> <p>The MEF indicated that it had no objection to the ratification of C.105.</p> <p><b>2001 AR:</b> The ICFTU mentioned that the Government should provide legal guarantees for protection against forced labour and again ratify C.105.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p><b>2001, 2004 and 2014 ARs:</b> The Federal Constitution of Malaysia provides that no forced labour is allowed, except as provided for by national law according to article 6 of the Constitution. Under this provision: (1) no person shall be held in slavery; (2) all forms of forced labour are prohibited, but Parliament may, by law, provide for compulsory service for national purposes; and (3) incidental work to the serving of sentence of imprisonment imposed by a court of law shall not be taken to be forced labour.</p>

		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b> <p><b>2015 AR:</b> According to the MEF: There is a 5 years action plan 2010-2015 by the Home Affairs Ministry which includes a stronger monitoring mechanism through the National Council.</p> <p><b>2007 AR:</b> According to the MEF: There is no prison labour in Malaysia. Prisoners are taught living skills while undergoing their imprisonment term so that it is easier for them to go back to society when they are released from prison. Importing skills to the prisoners should not and cannot be considered as forced labour even though some of the skills training may be carried out in collaboration with the private sector employers.</p> <p><b>2001 AR:</b> According to the Government: A prison labour scheme has been implemented by the Malaysian Prisons Department for the purpose of reformation and rehabilitation of offenders. About 8,000 prisoners have been involved in the vocational programme. Moreover, measures have been taken to provide better working conditions to inmates. With a view to promoting effective vocational training and rehabilitation, a new approach has been initiated, consisting in joint venture schemes with the private sector.</p> </li> <li>• <b>Legislation:</b> <p><b>2014 AR:</b> Malaysia has made comprehensive amendments to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007. Under this Act, trafficking in persons is defined as follows: the recruiting, transporting, transferring, providing or receiving of a person for the purpose of exploitation. Exploitations would mean to cover all forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, any illegal activity or the removal of human organs.</p> <p>Effective 1<sup>st</sup> April 2012, amendment to Employment Act 1955 makes it mandatory for employers to pay wages through bank account to eliminate the elements of forced labour.</p> <p>MTUC stated that presently, the country is in the middle of transformation and labour law amendment is being considered and MTUC is worried about the issues of modernisation and flexibility that are being raised as it does not know the real content of the amendments yet. As it stands now, the way the labour law is put is very much in favour of employers. MTUC claims if there are going to be changes in law and practices, they should be in line with fair labour laws and for the betterment of the law.</p> <p><b>2013 AR:</b> According to the Government: In Malaysia there are various pieces of legislation which govern the expression of political views or views ideologically opposed to the established political, social or economic system. The punishment of imprisonment under these laws automatically brings with it the necessity to work in prison. These laws are: (i) Printing Presses and Publications Act 1984; (ii) Penal Code; (iii) Internal Security Act 1960 (ISA); (iv) Industrial Relations Act 1967; (v) Sedition Act 1948.</p> </li> </ul>
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		<p><b>Basic legal provisions</b></p>	<p>(i) The Federal Constitution of Malaysia (article 6); 9ii) The Anti-Trafficking in Persons Act (ATIP) 2007; (iii) The Anti-Smuggling of Migrants Act 2007 (Act 670); (iv) The Printing Presses and Publications Act 1984; (v) The Penal Code; (vi) The Internal Security Act 1960 (ISA), and; (vii) Industrial Relations Act 1967; (v) Sedition Act 1948.</p>
		<p><b>Definition of forced or compulsory labour</b></p>	<p><b>2003-2005 and 2014 ARs:</b> According to the Government: Although there are no definitions of forced or compulsory labour in national legislation or judicial decisions, all forms of forced or compulsory labour are prohibited, except those provided by the Law.</p>
		<p><b>Judicial decisions</b></p>	<p><b>NIL.</b></p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>Special attention to particular situations and human trafficking</b></p>	<p><b>2011 AR:</b> According to the Government: Special attention is paid to human trafficking and the eradication of forced labour and slavery.</p>
		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2006 AR:</b> According to the Government: The number of cases of abuse reported to the Labour Department has decreased.</p>
	<p><b>Prevention/Monitoring, enforcement and sanctions mechanisms</b></p>		<p><b>2015 AR:</b> According to the MEF: There is a 5 years action plan 2010-2015 by the Home Affairs Ministry which includes a stronger monitoring mechanism through the National Council.</p> <p><b>2011 AR:</b> According to the Government: In order to eradicate forced labour and slavery, it has included in its recent amendment labour officers into their list of enforcement officers to combat forced or compulsory labour which already included police officer, immigration, any officer of customs and any officer of the Malaysian Maritime Enforcement Agency.</p> <p><b>2006 AR:</b> The Government stated that the Ministry of Human Resources was responsible for enforcing the labour laws.</p> <p><b>2003-2005 ARs:</b> According to the Government: The following measures have been implemented to realize the PR of the elimination of all forms of forced or compulsory labour: (i) legal reform; (ii) inspection/monitoring mechanisms; (iii) penal sanctions; (iv) civil or administrative sanctions; and (v) special institutional machinery.</p>

	<p><b>Involvement of the social partners</b></p>	<p><b>2015 AR:</b> According to the Government: Dialogue is ongoing with civil society organizations and NGOs, but not with employers.</p> <p><b>2013 AR:</b> According to the MEF: There is no ongoing social dialogue on ratification of C.105 as forced labour is not an issue in Malaysia.</p> <p><b>2012 AR:</b> According to the MEF: Employers are working closely with the Government by assisting it in rehabilitation processes for prisoners, which include labour. The purpose of this rehabilitation is for the prisoners to acquire technical skills, and this should not be regarded as forced labour.</p> <p><b>2010 AR:</b> According to the MEF: The Decent Work Agenda is being implemented in Malaysia on a voluntary tripartite basis.</p> <p><b>2009 AR:</b> The Government indicated that it would open a dialogue with employers’ and workers’ organizations with a view to reconsider its decision concerning the denunciation of C.105.</p>
	<p><b>Promotional activities</b></p>	<p><b>2014 AR:</b> According to the Government: To combat trafficking in persons, the Government is continuously pursuing efforts to strengthen the capacity of the labour inspectorate to identify victims and to deal effectively with the complaints received. Various capacity building courses have been conducted in collaboration with the ILO and its TRIANGLE Project in 2013, including: (i) Workshop on Sharing Experiences and Innovations in Labour Inspection between Malaysia and Brazil; (ii) Workshop on Indicators of Forced Labour; (iii) Workshop on ‘Introduction to Enforcement’; (iv) Training of Trainers on ‘Enforcement of ATIPSOM’; (v) Investigation and Management of Crime Course; (vi) Convention of Strengthening Enforcement Team. In 2012 and 2013, the Department of Labour collaborated with other agencies, such as the Council for Anti Trafficking in Persons and Anti-Smuggling of Migrants to conduct courses and workshops to enhance the skills, knowledge and experiences of the enforcement officers on combating trafficking in persons.</p> <p>According to MTUC: MTUC undertakes campaigns to ensure the respect of labour issues and rights; specifically, its President always engages with the government in all labour and related issues of interest. MTUC promotes workers’ interest through participation and organisation of events, workshops and social dialogues; it also works with NGOs to obtain help for its campaigns.</p> <p><b>2013 AR:</b> According to the Government: The Ministry of Human Resources (MOHR) organized a workshop on the core Conventions which have not been ratified by Malaysia in March 2011 in Bangkok, in collaboration with ILO. The objective of this workshop was to enhance the understanding of these instruments with a view to ratifying them. The workshop was attended by 30 officers from the relevant ministries and agencies.</p> <p><b>2012 AR:</b> According to the MTUC: In June 2011, an amendment of the Employment Act was presented to Parliament to cover the concerns of domestic workers. At this stage, situations of forced labour are regulated in the national legislation, allowing the Government to take actions against this phenomenon, except for when it comes to domestic workers.</p> <p><b>2010 AR:</b> According to the MEF: The Decent Work Agenda is being implemented in Malaysia on a voluntary tripartite basis.</p> <p><b>2003-2005 ARs:</b> According to the Government: The following measures have been implemented to realize the PR: (i) awareness-raising/advocacy; (ii) capacity building; (iii) employment creation/income generation; (iv) educational programmes; (v) rehabilitation following removal from forced labour; (vi) international cooperation programmes or projects; and (vii) tripartite examination of related issues.</p> <p><b>2001 AR:</b> According to the Government: Rehabilitation programmes are organized for prisoners.</p>



	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to MEF: the Government is currently undertaking a survey in the plantation industry on possible forced labour practices. The outcome of this survey is expected by the end of 2014</p> <p><b>2014 AR:</b> According to the Government: Malaysia has also ventured into bilateral cooperation based on in eliminating forced and compulsory labour, particularly government-to-government (G to G) trafficking in persons. The Department of Labour (ATIP Team) has joined the team building courses with other Enforcement Agencies such as APMM/MAPO to enhance capacity building of enforcement officers. The Department of Labour introduced guidelines on Indicator of Forced Labour. These guidelines will assist enforcement officers in identifying and investigating forced labour cases</p> <p><b>2012, 2014 AR:</b> According to the Government: The Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 have been strengthening the implementation of the PR through: (i) a Council of Anti-Trafficking in Persons, responsible on policy formulation regarding the PR and (ii) the adoption of a National Action Plan on Trafficking in Persons intended to create public awareness. The National Action Plan has also set key performance target to better implement and realize the PR via 9 programmes areas: (i) strengthening the legal mechanism; (ii) integrated actions among enforcement agencies; (iii) public awareness and prevention; (iv) protection and rehabilitation; (v) combating labour trafficking; (vi) capacity building; (vii) information management; (viii) smart partnership; and (ix) measuring performance and sustainability.</p> <p><b>2011 AR:</b> According to the Government: New amendments to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 have been made to strengthen the implementation of the PR in the country and Malaysia is also venturing into bilateral cooperation with other countries in combating transnational crime, particularly trafficking in persons.</p> <p><b>2003-2005 ARs:</b> According to the Government: Clause 3 of article 6 of the Malaysian Federal Constitution was amended in 2001 regarding work or service as consequence of a conviction of guilt in a court of law (11 January 2001).</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014 AR:</b> According to MEF: MEF claims most of the challenges arise from interpretation and lack of flexibility of the Convention to be in line with the special circumstances of the country, and therefore suggests that the Convention should be re-examined.</p> <p><b>2012-2013 ARs:</b> According to the MEF: C.105 is at this stage not relevant for Malaysia, as the only case of forced labour in the country, is related to the work of prisoners undertaken during their rehabilitation process. Vocational training for prisoners to help them reintegrate back into the society. Employers who provide vocational training for prisoners do not pay salaries, but pay to the prison authorities which in its turn give allowances to the prisoners in the vocational training programme.</p> <p><b>2010 AR:</b> According to the MEF: Forced labour is not an issue in Malaysia.</p>

		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> In response to MEF comments under ratification of C.105, MTUC and NUBE considered that under Malaysia national legislation no one is allowed to be in possession of another person's passport. As employers are not exempted from the law, the Government should prosecute the employers who violate this law.</p> <p><b>2014 AR:</b> According to MTUC: MTUC considers that the Government is a little bit reluctant to ratify the Convention. MTUC has been campaigning for the last decade but no acceptance by the Government yet.</p> <p><b>2012 AR:</b> According to the MTUC: Malaysia has adopted an Anti-trafficking in Persons Act, but this Act is slow in its implementation, and has its own limitations as it only covers the criminal aspect of trafficking in persons. Recently, the Government gave licenses to employers for outsourcing migrant workers, allowing for agents to bring these workers into the country and collect their salary from the employer. Therefore, trafficking in persons is considered to be legitimized and approved by the Government. The issue of forced labour also concerns prison labour and domestic workers, but in practice, forced labour is not a widespread phenomenon in Malaysia.</p> <p><b>2001 AR:</b> The ICFTU raised the following challenges: (i) the extremely abusive treatment of migrant workers; (ii) the existence in Malaysia of compulsory prison labour for the expression of views in opposition to the established political, social or economic order.</p>
	<p><b>According to the Government</b></p>		<p><b>2013 AR:</b> After careful deliberation with the ILO, it has been suggested that the Government may undertake any of the following courses of action to bring the prisons framework in line with provisions of C. 105: (i) it has been suggested by ILO that the introduction of two regimes, i.e. one, for prisoners who have been charged and sentenced for "expressing political views or views ideologically opposed to the established political, social or economic system" who will not be required to work, and another for all other prisoners who are required to work, is preferable; (ii) the Government may also undertake to amend Regulation 72(1) of the Prisons Regulations to replace the word "shall" with the word "may" to indicate that all prisoners will be given the option to be employed while in prison. The amendment will read as follows: "(1) Every convicted prisoner may be required to work at any labour authorised by the Officer-in-Charge and for which he is certified as fit by the Medical Officer." However, should the Government decide to pursue this alternative it should be highlighted that all prisoners without distinction will be given the option of whether to be employed. This will defeat the purpose of prison labour which was introduced to rehabilitate prisoners.</p> <p><b>2010 AR:</b> The Government also considered that forced labour was not an issue in Malaysia.</p> <p><b>2006 AR:</b> The Government reiterated that all the workers, local and foreigners were subject to the same laws.</p> <p><b>2001 AR:</b> In response to ICFTU's comments, the Government raised the following observations: (i) all the workers, local and foreigners, are subject to the same labour laws; the Ministry of Human Resources is responsible of enforcing the labour laws; (ii) the allegation that migrant workers face an extremely abusive situation is baseless and actions will be taken by the Government against the violators if there is proof of any such abuses; (iii) the incidence of employers retaining passports of migrant workers is not a common occurrence; it applies only for the purpose of safe keeping and these passports are replaced with special identification cards issued by the Immigration Department and returned to the workers upon completion of their contract of service; (iv) no compulsory labour is imposed, in any form, either within or outside the prison grounds.</p>

<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2014 AR:</b> According to the government: Malaysia welcomes technical cooperation from ILO regarding the trafficking in person as and when necessary.</p> <p>According to the MTUC: MTUC has been obtaining assistance from ILO Bangkok and presently requires support in terms of international lobby with ILO and Global Union Federation (BWI – Building Workers International, PSI – Public Service international). It requires assistance to run campaigns and workshops.</p> <p><b>2012-2013 ARs:</b> According to the MTUC and the NUBE: ILO support is needed to strengthen the tripartite dialogue for reconsidering the denunciation of C.105 by Malaysia.</p> <p><b>2010 AR:</b> The MEF indicated that training programme was needed as Malaysia was selected as a model country within the Decent Work Agenda.</p> <p><b>NIL.</b></p>
	<b>Offer</b>	ILO.
<b>EXPERT-ADVISERS' RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that the governments of Malaysia (and another government), which earlier denounced C.105, had not yet opened a dialogue with the Office and its employers' and workers' organizations with a view to reconsidering its decision. They urged Malaysia to take action in this regard (cf. paragraph 42 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs reiterated their hope that Malaysia, which denounced C.105, would open a dialogue with the Office and its national tripartite partners with a view to reconsidering this decision (cf. paragraph 40 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2006 AR:</b> The IDEAs reiterated their hope that Malaysia, which denounced C.105, would open a dialogue with the Office and its national tripartite partners in order to reconsider this decision (cf. paragraph 44 of the 2006 Annual Review Introduction – ILO: GB.295/5).</p> <p><b>2005 AR:</b> The IDEAs hoped that Malaysia, which denounced C.105, would reconsider its position in this respect (cf. paragraph 185 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2009-2015)<sup>63</sup>: MARSHALL ISLANDS**

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , for the first time under the 2012 Annual Review (AR), but not under the previous reviews (i.e. 2009-2011 ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (the Marshall Islands Chamber of Commerce (MICC)) and workers' organizations (Marshall Islands Teachers' Union (MITU)) by means of consultation and communication of a copy of the government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> Observations by MICC.	
	<b>Workers' organizations</b>	<b>2012 AR:</b> Observations by MITU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Marshall Islands has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29) nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b>
		<b>Ratification intention</b>	<p><b>YES, since 2011, for both C.29 and C.105.</b></p> <p><b>2015 AR:</b> The Government indicated that it may consider ratification of C.29 and C.105. However, it would need further ILO training for relevant government officials and social partners on the fundamental principles and rights at work (FPRW) and the content of C.29 and C.105.</p> <p><b>2013 -2014 ARs:</b> The Government reiterated the statement it made under the 2012 AR</p> <p><b>2012 AR:</b> The Government mentioned its intention to ratify C.29 and C.105, and make relevant legal reform, in consultation with national stakeholders, and with ILO technical support. In this regard, tripartite capacities on ILO issues should be strengthened, including on fundamental principles and rights at work and international labour standards.</p> <p>According to MICC: It is critical to have C.29 and C.105 ratified by the Republic of the Marshall Islands (RMI), as "RMI needs to have a good business community in a good playing field".</p> <p>According to MITU: As a matter of human rights, human dignity and freedom from slavery or involuntary servitude as per the Bill of Rights in the RMI Constitution, the MITU supports the ratification of all ILO fundamental Conventions by RMI, including C.29 and C.105.</p>

<sup>63</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.

	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> , the Constitution of the Republic of the Marshall Islands (RMI), 1979, article II (Bill of Rights), section 2 on Slavery and Involuntary Servitude provides that: (1) No person shall be held in slavery or involuntary servitude, nor shall any person be required to perform forced or compulsory labor. In the same Article, section 6 (3) mentions that “[n]o person shall be subjected to torture or to inhuman and degrading treatment, to cruel and unusual punishment, or to excessive fines or deprivations; and that (2) “[n]o sentence of imprisonment at hard labor shall be imposed on any person who has not attained the age of 18 years”. Section 10 observes that “[n]o person shall be imprisoned for debt; nor shall any person be imprisoned for failure to pay a fine assessed as punishment for a crime unless he has been afforded a reasonable time to make payment and has been found to have the means to do so”. Section 11 indicates that “[n]o person shall be conscripted to serve in the armed forces of the Republic of the Marshall Islands except in time of war or imminent danger of war as certified by the Cabinet, and no person shall be conscripted if, after being afforded a reasonable opportunity to do so, he has established that he is a conscientious objector to participation in war”. Finally, The Constitution, article II, section 1, on Freedom of Thought, Speech, Press, Religion, Assembly, Association, and Petition, mentions that “(c) the restrictions do not penalize conduct on the basis of disagreement with the ideas or beliefs expressed”.
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation:</b> (iii) The Penal Code.</li> </ul>
		<b>Basic legal provisions</b>	(i) The Constitution, 1979 (article II, sections 2, 6, 10 and 11).
		<b>Judicial decisions</b>	NIL.
		<b>Definition of forced or compulsory labour</b>	<b>AR 2012:</b> There is no legal definition of forced labour in Marshall Islands. However, exceptions to forced labour are defined by the Constitution, 1979, article II, section 2 (2), which provides that “the term “forced or compulsory labor” does not include: (a) any labor required by the sentence or order of a court; (b) any other labor required of a person lawfully detained if reasonably necessary for the maintenance of the place of detention; (c) any service required by law in lieu of compulsory military service when such service has been lawfully required of others”.
		<b>Judicial decisions</b>	NIL.
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	NIL.
		<b>Information/ Data collection and dissemination</b>	NIL.



	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2012 AR:</b> According to the Government: The Labor Division is in charge of monitoring, enforcing and providing sanctions in case of infringement to the legal provisions concerning forced labour. These cases may also be referred to courts for the same purposes. No cases of infringements have been recorded so far in this regard.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Involvement of the social partners</b>	<b>2012 AR:</b> The Government indicated that the MICC and the MITU had been involved in the current process of formulation of the DWCP (including the fundamental principles and rights at work), in cooperation with ILO.	
	<b>Promotional activities</b>	<p><b>2012 AR:</b> According to the Government: The Government, the MICC and the MITU participated in the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010 where the fundamental principles and rights have been promoted. Moreover, the labour officers of the Labour Division of the Ministry of Foreign Affairs were trained, among others, on the fundamental principles and rights at work and International Labour Standards during ILO's assistance in reporting issues carried out in October 2011.</p> <p>The MICC and the MITU confirmed their participation in such activities and indicated that they had been sensitized on the same issues during this October 2011 ILO Mission.</p>	
	<b>Special initiatives/Progress</b>	NIL.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	
		<b>Workers' organizations</b>	<b>2012 AR:</b> According to the MITU: (i) Labour laws should be reformed to better cover the principle and right and the lack of definition of forced labour, and (ii) In particular, the Child Abuse and Neglect Act, 1991/130 should be revised to cover forced child labour.
	<b>According to the Government</b>	<b>2012 AR:</b> The Government mentioned the following challenges concerning the realization of the PR in Marshall Islands: (i) Lack of public awareness and/or support; (ii) lack of capacity of responsible government institutions; (iii) lack of capacity of employers' and workers' organizations; and (iv) lack of social dialogue on the PR Moreover, the Government indicated that few cases of prostitution may exist on board ship.	



<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2014-2015 ARs:</b> According to the Government: The Government appreciates the technical support provided by the ILO in 2011 on reporting on the fundamental principles and rights at work (FPRW). This technical support should be strengthened by further training of RMI officials and social partners on FPRW and the content of ILO core Conventions so as to consider possible ratifications. The Government would also welcome tripartite experience-sharing with other countries on FPRW and reporting issues, including participation in the ILO training in Turin.</p> <p><b>2013 AR:</b> According to the Government: The Government would appreciate ILO technical support in promoting the fundamental principles and rights at work (FPRW), including the content of all core Conventions so as to consider possible ratifications. This support could also include international tripartite training so as to share experience with other countries.</p> <p><b>2012 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of this PR in Marshall Islands, in particular in the following areas, in order of priority: (1) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; legal reform (labour law and other relevant legislation); (2) strengthening data collection and capacity for statistical analysis;); developing labour market policies that promote equality of opportunity; developing policies regarding equal remuneration; and (3) sharing of experiences (best-practices) across countries/regions; training of other officials (e.g. police, judiciary, social workers, teachers).</p> <p>The MICC and MITU supported the government's requests for ILO technical cooperation, and in particular the strengthening of their capacity building on the fundamental principles and rights at work and the need for related labour law reform. The MICC further requested a permanent ILO presence in RMI. The MITU stressed the need for a holistic approach on the fundamental principles and rights at work and labour law reform.</p>
	<p><b>Offer</b></p>	<p>ILO (Decent Work Country Programme; and Assistance in fulfilling reporting obligations to ILO, including under the Declaration's AR).</p>



<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>	NIL.
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW ( 2000-2015) <sup>64</sup>: MYANMAR**

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPUSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2000, 2001 and 2002 Annual Reviews (ARs). No change reports under the 2006 and 2007 ARs.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of employers's organization such as the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI), and workers organisations such as: the Confederation of Trade Unions of Myanmar (CTUM) [formely know as the Federation of Trade Union of Myanmar (FTUM) and the Federation of Trade Unions – Burma (FTUB)], the Workers' Welfare Associations and the Ceramic Industrial Labour Organization (CILO), the Myanmar Trade Union Federation (MTUF), and the Agriculture and Farmers Federation of Myanmar (AFFM).	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the UMFCCI. <b>2014 AR:</b> Observations by the UMFCCI and the most representative employers' organizations <b>2013 AR:</b> Observations by the UMFCCI. <b>2012 AR:</b> Observations by the UMFCCI. <b>2010 AR:</b> Observations by the UMFCCI. <b>2008 AR:</b> Observations by the UMFCCI.	
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the CTUM. Observations by the MTUF. <b>2014 AR:</b> Observations by the FTUM and the most representative workers' organizations.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Myanmar ratified in 1955 the Forced Labour Convention, 1930 (No. 29) (C.29). However, it has not ratified the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b>

<sup>64</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

		<p><b>Ratification intention</b></p>	<p><b>Under consideration, since 2012, for C.105.</b></p> <p><b>2015 AR:</b> According to the Government: The ratification of C. 105 would be considered at the appropriate time. The Government indicated that Myanmar is in the process of studying the alignment of its national laws to the requirements of the Convention, and hence ratification would be considered at an appropriate time in the future.</p> <p>UMFCCI reiterated its support for the ratification of C.105, but emphasized that ratification alone is not sufficient and building capacity for implementation is important.</p> <p>CTUM expressed support to the ratification of C.105 and continued to lobby the Government to move ahead with ratification.</p> <p>MTUF expressed its support for the ratification of C.105.</p> <p><b>AR 2014:</b> The Government reiterated that ratification of C.105 would be considered at the appropriate time.</p> <p>The UMFCCI and the FTUM expressed their support for the ratification of C.105.</p> <p><b>2013 AR:</b> The Government stated that ratification of C.105 would be considered at the appropriate time.</p> <p>The UMFCCI expressed its full support for the ratification of C.105 by Myanmar and mentioned that new laws are being discussed to create adequate institutional bodies to better enforce the principle and right (PR) in the country.</p> <p><b>2010-2011 ARs:</b> According to the Government: The new States Constitution adopted in May 2008 reflects the Government's intention to ratify C.105, and ILO should cooperate with Myanmar for the ratification of all ILO fundamental Conventions. Ratification of C.105 would be considered in appropriate time to do so.</p> <p>The UMFCCI considered that Myanmar was not enough institutionally mature to ratify C.105.</p> <p><b>2008 AR:</b> The UMFCCI supported the ratification of C.105.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>2010:</b> According to the Government: The new State Constitution adopted in May 2008 reflects the Government’s intention to ratify C.105.</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li> <p><b>Policy:</b></p> <p><b>2015 AR:</b> According to the Government: The PR is being implemented by enacting new Labour Laws, reviewing and amending the existing Labour Laws in cooperation with ILO and other international organizations as a national policy.</p> <p><b>2013 – 2014 AR:</b> According to the Government: The PR is being implemented in Myanmar as a national policy.</p> <p><b>2003-2005 ARs:</b> According to the Government: The PR is recognized in Myanmar and is supported by a national policy.</p> </li> <li> <p><b>Legislation:</b> The Penal Code, covered by the existing laws, orders and regulations.</p> <p><b>2013 AR:</b> According to the Government: The Penal Code (Section 374), the Ward or Village Tract Administration Law, the Amendment Law to Ward or Village Tract Administration Law.</p> <p><b>2012 AR:</b> According to the Government: New drafts are being drawn, to replace the Village Act 1907 and the Town Act 1908 in compliance with C.29.</p> </li> <li> <p><b>Regulations:</b> Order No. 1/99 of 14/05/199 and its Supplementing Order of 27/10/2000.</p> </li> </ul>
		<p><b>Basic legal provisions</b></p>	<p>(i) Penal Code (section 374); (ii) The Amendment Law to Ward or Village Tract Administration Law (section 27(a)); (iii) The Law to Ward or Village Tract Administration Law; (iv) Order No. 1/99 of 14/05/1999, and; (v) Supplementing Order No. 1/99 of 27/10/2000.</p>
		<p><b>Definition of forced or compulsory labour</b></p>	<p><b>2005 AR:</b> According to the Government: Forced labour is defined as a situation in which a person is forced to work without his/her consent and contrary to law.</p>
	<p><b>Judicial decisions</b></p>	<p>NIL</p>	
	<p><b>Exercise of the principle and right</b></p>	<p><b>Special attention to particular situations and human trafficking</b></p>	<p><b>2015 AR:</b> There is a Central Body for Suppression of Trafficking in Persons, a Coordinated Mekong Ministerial Initiative Against Trafficking in Persons (COMMIT), and an ‘Action Plan under the Joint Strategy for the Elimination of Forced Labour by 2015 in Myanmar’.</p> <p><b>2013 AR:</b> According to the Government: There is: (i) A Plan of Action on the Prevention against recruitment of minors for military service, and; (ii) A central government body for the suppression of human trafficking.</p> <p><b>2011 AR:</b> According to the Government: The Committee for the Prevention of Military Recruitment of Under-Aged Children and the Trafficking in Persons Preventive Committee have been established.</p>



		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> According to the Government: There is a Joint Strategy for the Elimination of Forced Labour by 2015 in Myanmar led by the Union Minister for Ministry of Labour, Employment and Social Security, comprising of the representatives from Ministry of Home Affairs, Ministry of Defense, Supreme Court, Attorney General Office, Ministry of Foreign Affairs, Ministry of Agriculture and Irrigation. ILO (Yangon) disseminates the PR by holding awareness raising seminars around the country cooperating with ILO liaison officer.</p> <p><b>2011 AR:</b> According to the Government: The ILO Working Group led by Deputy Minister for Labour comprising of the representatives from Supreme Court, Attorney General Office, Ministry of Foreign Affairs, Ministry of Home Affairs disseminate the PR by holding awareness raising seminars around the country cooperating with ILO liaison officer.</p> <p><b>2004 AR:</b> According to the Government: The Department of General Administration collects statistics and other information relevant to the PR.</p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>		<p><b>2015 AR:</b> According to the Government: A monitoring process is being implemented by the Joint Strategy Working Group under the Joint Strategy for the Elimination of Forced Labour by 2015 in Myanmar and ILO Working Group under the Supplementary Understanding 2007. Complaints on forced labour can be referred to relevant court.</p> <p><b>2013 AR:</b> According to the Government: Complaints on forced labour can be referred to relevant Courts in accordance a complaint mechanism established in cooperation with ILO.</p> <p><b>2011 AR:</b> According to the Government: In instances where the PR has not been respected, Order No. 1/99 and its Supplementing Order explicitly provide that action will be taken against offenders under section 374 of the Penal Code (charges of negligence and public nuisance, respectively). Complaints can be referred to Peace and Development Councils, the Courts and the Police.</p> <p><b>2008 AR:</b> According to the Government: The Government and the ILO reached an agreement on 26 February 2007 that the Supplementary Understanding (SofU) and others matters relating to C.29 would be covered under the mechanism dealing with the complaint of forced labour under the SofU. Up to June 2007, the liaison officer received 21 cases, and 9 out of them have been transmitted to the Deputy Minister for Labour, Chairman of the Working Group (WG) for further investigations. This WG is headed by the Director General of the Department of Labour and also comprised of officials from related departments.</p> <p><b>2003-2005 ARs:</b> According to the Government: In instances where the PR has not been respected, Order No. 1/99 and its Supplementing Order explicitly provide that action will be taken against offenders under section 374 of the Criminal Code (charges of negligence and public nuisance, respectively). Complaints can be referred to Peace and Development Councils, the courts and the police. Furthermore, the following measures have been implemented: (i) legal reform; (ii) inspection/monitoring mechanisms; penal sanctions; and (iii) civil/administrative sanctions.</p>

	<p><b>Involvement of the social partners</b></p>	<p><b>2015 AR:</b> According to the Government: Workers' and employers' organizations are being involved in the process together with ILO, UN bodies, <b>CBOs and CSOs</b>.</p> <p><b>2013 AR:</b> The Government indicated that the employers' and workers' organisations were being involved in the implementation of the PR in the country along with civilian society, ILO and other UN bodies.</p> <p><b>2010-2011 ARs:</b> According to the UMFCCI: Promotional activities are being carried out through tripartite consultations.</p> <p><b>2003-2004 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in the development and implementation of government measures.</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: The agreement for the extension of the Supplementary Understanding for an additional one year trial period until 2016 has been signed between Myanmar and ILO to eradicate forced labour.</p> <p><b>2014 AR:</b> The Government indicated that a tripartite delegation of Myanmar had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards held in May-June 2013 where issues concerning the PR were addressed.</p> <p><b>2013 AR:</b> According to the Government: A Memorandum of Understanding (MOU) signed with ILO in March 2012 has drawn a Plan of Action for the elimination of all forms of forced or compulsory labour in Myanmar by 2015. Moreover, national awareness raising seminars were organised in cooperation with ILO, and various publications on the PR in multiple languages were distributed on these occasions.</p> <p><b>2012 AR:</b> According to the Government: In August 2011, ILO Liaison Officer delivered a lecture, organized by the Ministry of Home Affairs, on the promotion and realization of the PR. Moreover, an easily understandable brochure on the PR has been widely distributed in Myanmar language.</p> <p><b>2011 AR:</b> The Government indicated that training programmes and awareness raising campaigns were jointly organized by the Government and the ILO Liaison Officer.</p> <p><b>2009 AR:</b> According to the Government: Several training and awareness-raising activities were organized by the Government and the ILO Liaison Officer in 2008.</p> <p><b>2008 AR:</b> The Government indicated that it had translated the Order No. 1/99 and its Supplementing Order prohibiting the requisition of forced labour into many languages such as Kachin, Kayar, Kayin (Pole, Sakaw), Mon, Shan and Chin (Tetai, Hacha, Matubi, Mintub), and subsequently transmitted to the relevant states and divisions of the country.</p> <p><b>2003-2004 ARs:</b> According to the Government: Awareness raising/advocacy have been implemented to promote the PR.</p>

	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: A Stakeholders Forum on Labour Law Reform was conducted on 18-19 May 2015 in Yangon in cooperation with United States, Japan, Denmark and the International Labour Organization (ILO). The Stakeholder Forum (SF) was intended to complement and strengthen domestic tripartite consultations and existing labour-related initiatives, provide international support for Myanmar’s labour reforms, and foster collaboration among international and domestic stakeholders. Ultimately, this engagement was intended to contribute towards constructive industrial relations and progressive improvement of worker rights and working conditions as Myanmar’s economy integrates with the global economy.</p> <p><b>2014 AR:</b> According to the Government: A joint Action Plan to combat forced labour is successfully being implemented in the framework of the Myanmar/ILO MOU signed in March 2012. The joint strategy is to eliminate forced labour in Myanmar 2015. The Army has issued new instructions referring to sanctions under the Penal Code, section 374, instead of military rules and regulations.</p> <p>The FTUM further states that since then the situation of forced labour has significantly improved in the country.</p> <p><b>2013 AR:</b> According to the UMFCCI: The suspension of the international embargo will facilitate the implementation and realization of the PR.</p> <p><b>2008 AR:</b> According to the Government: The Government and the ILO reached an agreement on 26 February 2007 that the SofU and others matters relating to C.29 would be covered under the mechanism dealing with the complaint of forced labour under the SofU.</p> <p><b>2005 AR:</b> According to the Government: Successful example: field inspections were carried out based on allegations and measures were taken.</p> <p><b>2004 AR:</b> According to the Government: The major change concerning the PR consisted in the acceptance in October 2002 of an ILO Liaison Officer in the country; and a Joint Plan of Action was launched subsequently.</p> <p><b>2003 AR:</b> According to the Government: Successful example: Adoption of Order No. 1/99 and its Supplementing Order (in case of negligence, public nuisance, etc.).</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2015 AR:</b> According to UMFCCI: The country’s transition process has been delaying the pace of progress in the ratification of C.105.</p> <p><b>2010-2011 ARs:</b> According to the UMFCCI: The international embargo is the main difficulty that Myanmar is facing.</p> <p><b>2008 AR:</b> According to the UMFCCI: The economic conjuncture is very fragile due to the economic embargos and sanctions placed on Myanmar by several western countries.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2015 AR:</b> According to MTUF: Existing poor economic conditions pose challenges that undermine the ratification of C.105.</p> <p><b>2014 AR:</b> According to the FTUM, although the situation of forced labour has substantially improved, some challenges have to be overcome in very remote rural areas.</p>

	<b>According to the Government</b>	<p><b>2015 AR:</b> The Government indicated insufficient capacity and awareness of government staff and the private sector as an issue to be addressed. Employees and staff members who are responsible for the reporting process should have access to the International Training.</p> <p><b>2014 AR:</b> In response to the FTUM's observations, the Government indicated that high ranking military officials were being sensitized on the need to eradicate forced labour in all its forms, including in recruitment cases.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> According to the Government, UMFCCI, FTUM and MTUF: There is a need for technical cooperation to increase awareness at different levels, and to build up technical capacity of tripartite partners.</p> <p><b>2014 ARs:</b> According to the Government, the UMFCCI and the FTUM: There is a need for ILO technical cooperation to facilitate the realization of PR in Myanmar, in particular in the following areas: (i) sharing of experiences across countries/regions; (ii) capacity building of responsible government institutions and employers' and workers' organisations; (iii) training of other officials (police, judiciary, social workers, teachers), and; (iv) awareness-raising campaign on the PR and dissemination in local languages.</p> <p><b>2013 AR:</b> According to the Government and the UMFCCI: There is a need for ILO technical cooperation to facilitate the realization of this PR in Myanmar, in particular in the following areas: (i) sharing of experiences across countries/regions; (ii) capacity building of responsible government institutions and employers' and workers' organisations; (iii) training of other officials (police, judiciary, social workers, teachers), and; (iv) awareness-raising campaign and dissemination in local languages.</p> <p><b>2012 AR:</b> The UMFCCI requested ILO's support with a view to strengthen the capacity of employers, in particular in training of trainers (TOT) on the fundamental principles and rights at work (FPRW).</p> <p><b>2011 AR:</b> According to the Government: Training courses should be provided by the ILO for the capacity enhancement of the responsible governmental institutions.</p> <p><b>2010 AR:</b> According to the Government: Collaboration between ILO and Myanmar for the ratification of Core Conventions needs to be continued.</p> <p><b>2005 AR:</b> According to the Government: To facilitate the realization of the PR in Myanmar, ILO technical cooperation would be needed in the following areas: (1) awareness-raising, literacy and advocacy; (2) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the PR; and (3) sharing of experiences across countries/regions.</p>
	<b>Offer</b>	ILO.
<b>EXPERT-ADVISERS' RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were also concerned that Myanmar (and another State) had not yet expressed their intention to ratify C.29 and/or C.105. They also reminded all the governments that it was of their primary responsibility to ensure that forced labour does not exist in their countries for any reason (cf. paragraphs 42 and 44 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAS urged the Government of Myanmar and another government to express their intentions concerning ratification of C.29 and/or C.105 (cf. paragraph 40 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>

**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2014-2015)<sup>65</sup>: REPUBLIC OF PALAU**

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, for the first time under the 2014 Annual Review (AR). Palau joined ILO in May 2012.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>		
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>		
	<b>Workers' organizations</b>		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Palau has ratified neither the Forced Labour Convention, 1930 (No.29) (C.29) nor the Abolition of Forced Labour Convention, 1957 (No105) (C.105).</b>
		<b>Ratification intention</b>	<b>Under consideration for both C.29 and C.105</b> <b>2015 AR:</b> The Government stated that ratification of C.29 and C.105 is under consideration <b>2014 AR:</b> The Government has requested ILO technical assistance to help it consider ratification of all fundamental Conventions, including C.29 and C.105.
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES,</b> According to the Government: The Fundamental Rights are spelled out in Article IV of the Constitution of Palau, 1979.
		<b>Policy, legislation and/or regulations</b>	
		<b>Basic legal provisions</b>	

<sup>65</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



		<b>Judicial decisions</b>	
		<b>Definition of forced or compulsory labour</b>	
		<b>Judicial decisions</b>	
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	
		<b>Information/ Data collection and dissemination</b>	
	<b>Monitoring, enforcement and sanctions mechanisms</b>		
	<b>Involvement of the social partners</b>		
	<b>Promotional activities</b>		
	<b>Special initiatives/Progress</b>		
	<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>
<b>Workers' organizations</b>			
<b>According to the Government</b>			



<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> According to the Government: Following the Government’s request, ILO is currently undertaking a gap analysis on labor laws policies and practices related to ILO’s 8 fundamental Conventions. Tripartite partners are involved in the consultation process.</p> <p><b>2014 AR:</b> According to the Government: Given that Palau is a new member State, the Government wishes to request ILO technical assistance for: (i) better understanding and reporting on the Fundamental Principles and Rights at Work, and (ii) reviewing its national legislation to assess compliance with ILO fundamental Conventions on forced labour(C.29 and C.105).</p>
	<b>Offer</b>	<b>NIL.</b>
<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>	<b>NIL.</b>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	
<b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link:<a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>	





**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)** <sup>66</sup>: SINGAPORE

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , except for the 2000 Annual Review (AR). No change reports for the 2005 and 2011 ARs.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Singapore National Employers' Federation (SNEF) and the Singapore National Trade Union Congress (SNTUC) through communication of the Government's report.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the SNEF <b>2013 AR:</b> Observations by the SNEF. <b>2012 AR:</b> Observations by the SNEF. <b>2009 AR:</b> Observations by the SNEF. <b>2008 AR:</b> Observations by the SNEF.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the SNTUC <b>2014 AR:</b> Observations by the SNTUC <b>2013 AR:</b> Observations by the SNTUC. <b>2012 AR:</b> Observations by the SNTUC. <b>2009 AR:</b> Observations by the SNTUC. <b>2001 AR:</b> International Confederation of Free Trade Unions (ICFTU)'s observations.

<sup>66</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<p>Singapore ratified in 1965 the Forced Labour Convention, 1930 (No. 29) (C.29) and the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105). However, it denounced C.105 in 1979, “due to divergences with the ILO in the interpretation of national legislation with regard to this Convention”.</p>
		<b>Ratification intention</b>	<p><b>Under review, since 2005, for C.105.</b></p> <p><b>2015 AR:</b> The Government indicated that there was no change since the 2014 AR. SNTUC reiterated its support for the ratification of C.105 and indicated that progress has been made to align national laws with the requirements of C.105 and that the Convention will be ratified in 2016.</p> <p><b>2014 AR:</b> The Government reiterated the statement it made under the previous review. SNTUC urged the Government to ratify C.105 as soon as possible.</p> <p><b>2013 AR:</b> The Government expressed hope that ILO would provide it with more information on legal experiences of other countries in complying with C.105 so as to allow Singapore to review more comprehensively the re-ratification of this instrument. The SNTUC reiterated the statement it made under the previous review.</p> <p><b>2012 AR:</b> According to the Government: More cross-border experiences would be needed to understand the legislative amendments necessary to implement the PR in relation with C.105. According to the SNTUC: The Government should consider ratifying C.105 and explore the removal of any obstacle(s) to the ratification of this instrument as soon as possible.</p> <p><b>2010 AR:</b> According to the Government: Following technical consultations between the ILO and Singapore with a view to exploring options on re-ratifying C.105, Singapore met with the Office on the sidelines of the November 2008 Governing Body session for further discussions on the same topic. The Office offered to provide, for Singapore’s reference, examples of clauses adopted by other member States in their legislation that allow detainees to volunteer for work. Singapore will continue to study the issue and consult the ILO on how C.105 can be re-ratified, taking into consideration of Singapore’s view and position.</p> <p><b>2009 AR:</b> According to the Government: The ILO and the Ministry of Manpower held technical consultations with a view to exploring options regarding re-ratification of C.105 (cf. GB.300/LILS/7, paragraph 31). Follow-up clarifications with regard to specific provisions of this instrument would be conducted. The SNTUC observed that although there is no forced or compulsory labour, it had been continuing to urge the Government to ratify C.105.</p> <p><b>2005 AR:</b> The Government indicated that the ratification of C.105 was under review.</p>
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal</b>	<b>Constitution</b>	<p><b>YES</b>, the Constitution, article 10(1), provides that slavery and all forms of forced labour are strictly prohibited.</p>

	<b>provisions)</b>	<b>Policy, legislation, and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2014 AR:</b> According to SNTUC: The Government is reviewing the Employment Act in consultation with employers and trade unions to better protect the rights of Professionals, Managers and Executives (PMEs) who will turn 2/3 of the workforce in 2030.</p> <p><b>2012-2013 ARs:</b> According to the Government: The Destitute Persons Act’s key objective is to provide accommodation, care and rehabilitation of destitute persons. As part of care and rehabilitation, life skills programmes including social and work skills are conducted in the welfare homes. The work skill programmes in the homes are designed to prepare the individuals for reintegration into society by teaching them work-related and independent living skills. Residents are only assigned placements in work schemes in the community after they have been assessed to be medically fit to carry out the work and with their consent. Residents also receive an income or allowance for the work done under the work programmes. Hence, the work programme referred to in the Act is strictly rehabilitative and for the purpose of reintegration with residents’ cooperation and commitment with no coercion involved.</p> <p><b>2008 AR:</b> The Government indicated that section 13 of the Destitute Persons Act would be subject to regular review very shortly.</p> <p>According to the SNEF: The SNEF understands that Singapore has strict laws and enforcement agencies to prevent the smuggling/trafficking of persons for slavery. As for destitute persons, work performed by them under section 13 of the Destitute Persons Act is not considered forced labour because (i) the person resides in a welfare home; (ii) the person is engaged in suitable work, for which the medical officer of the home certifies him to be capable and (iii) the person is contributing to his maintenance in the welfare home. As for work performed by prisoner under the Prison Rules, it does not constitute “forced labour” under the said Convention, as prisoners are not compelled to work. Furthermore, such work is for the purpose of rehabilitation.</p> <p><b>2005 AR:</b> The Government indicated that it would review the legislation and design better enforcement procedures in consultation with employers and unions.</p>
		<b>Basic legal provisions</b>	(i) Constitution (article 10(1)); (ii) the Women’s Charter; (iii) the Children and Young Persons Act; (iv) the Penal Code; (v) the Destitute Persons Act (DPA); and (vi) the Prisons Act.
		<b>Definition of forced or compulsory labour</b>	<b>C.29 is ratified.</b>
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	<p><b>2015 AR:</b> According to the Government: Singapore has continued to enhance its framework to combat Trafficking in Persons (TIP).</p> <p><b>2014 AR:</b> According to the Government: Singapore's National Plan of Action (NPA) adopts a "4P" strategy to proactively combat trafficking in persons (TIP): Prevention, Prosecution, Protection and Partnership. Key initiatives and achievements by the Singapore Inter-Agency Taskforce on Trafficking in Persons in the past year is documented at the government website. A</p>

		<p>dedicated budget of Singapore S\$80,000 has been secured to fund various TIP initiatives, strengthening inter-agency coordination and heightening awareness of TIP amongst Government officials, workers and members of the public. The inter-agency taskforce has increased the number of frontline officers and has sharpened their enforcement capabilities through training. It has also further enhanced internal referral processes between enforcement agencies to expedite investigations. The emphases on training and referral processes are important as they create a strong foundation that empowers our frontline officers to accurately detect and swiftly deal with TIP cases in the pursuit of justice. Singapore remains committed to combat human trafficking as it progressively implements the NPA initiatives in the coming years. Its small geographical size and tough laws have generally, and will continue to, deter crime syndicates from operating in Singapore.</p> <p><b>2013 AR:</b> According to the Government: Singapore's first National Plan of Action (NPA) to coordinate anti-trafficking activities was launched in March 2012. The NPA lists Singapore's strategy to combat human trafficking over the next four years through the following: (i) <i>Prevention:</i> To reduce the incidence of trafficking in persons (TIP) through early detection and reporting of potential cases and the raising of awareness of TIP amongst key stakeholders not limiting to government officials, employers, workers and the general public; (ii) <i>Prosecution:</i> To enhance the effectiveness of investigation and prosecution of TIP cases, and pursue commensurate criminal penalties and deterrent sentencing against perpetrators in serious cases, consistent with local laws; (iii) <i>Protection:</i> To enhance the management of victims through proactive identification of victims and the setting up of a protection and care system supportive of victims' needs, and; (iv) <i>Partnership:</i> To create strong partnerships with foreign governments, businesses, media, academia and civil society so as to maximize resources in combating TIP. The NPA contains 31 initiatives and the taskforce has already embarked on some of the listed initiatives involving partnerships with NGOs, academics and other interested parties.</p> <p><b>2012 AR:</b> According to the Government: Singapore takes seriously the issue of human trafficking in persons and its related crimes. National laws, policies and enforcement practices are constantly being reviewed to better combat this issue and actions to ensure closer coordination between government agencies. An Inter-Agency Taskforce has been established to coordinate anti-trafficking initiatives, policy alignment and the development of the National Plan of Action in 2012 to combat trafficking in persons.</p> <p><b>2009 AR:</b> According to the SNEF: SNEF notes that through very strict laws and effective enforcement, the Government has eliminated the smuggling/trafficking in persons for slavery. These include sale and trafficking of children for serfdom, illicit activities and use for armed conflicts.</p>	
		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>NIL.</b></p>

	<p><b>Prevention/Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2015 AR:</b> According to the Government: Singapore has continued to undertake initiatives to prevent the occurrence of TIP. These include stepped-up training for frontline officers, increased education efforts (E.g. pre-departure information for foreign workers coming to Singapore, settling-in programmes for foreign domestic workers) for foreign workers and employers. To better understand the international TIP situation, the Taskforce has initiated study trips to Taiwan, Indonesia, Thailand, the United States and Viet Nam, as well as regularly touching base with partners such as Embassies in Singapore. Singapore continued working with partners from United Nations Office on Drugs and Crime (UNODC), Group of Friends (GoF) United Against Human Trafficking in New York and Geneva, and Heads of Specialist Units (HSU) on Trafficking and Senior Officials Meeting (SOMTC) Working Group on TIP of the Association of Southeast Asian Nations (ASEAN).</p> <p><b>2014 AR:</b> According to the Government: Recognising the importance of public education in the prevention of TIP, the Taskforce launched a TIP public awareness grant in early 2013. Organisations and individuals were invited to submit proposals to promote and develop anti-TIP efforts in Singapore. In July, three proposals were selected to receive co-funding from the Taskforce to support their TIP public education efforts. Some of the initiatives proposed include a photography exhibition, E-surveys for data collection, and seminars for various stakeholders. For more information on the list of initiatives, please refer to our press release at <a href="http://www.mom.gov.sg/newsroom/Pages/PressReleasesDetail.aspx?listid=515">http://www.mom.gov.sg/newsroom/Pages/PressReleasesDetail.aspx?listid=515</a>.</p> <p><b>2013 AR:</b> According to the Government: The Inter-Agency Taskforce has worked intensively over 2011 to create Singapore's first NPA. Many NGOs, TIP researchers, academia and interested individuals came forward to share their views and lend support. Singapore will also enhance the management of TIP victims, particularly the prosecution witnesses. This will come in the form of clearer victim identification procedures and enhanced victim-care services. The Government will also facilitate the re-entry of victims to their home countries. The Taskforce is committed to review the adequacy of current shelter facilities and will make the necessary recommendations by 2013.</p> <p><b>2012 AR:</b> According to the Government: The Government actively engages NGOs, as well as the foreign embassies in Singapore, and is looking forward to closer partnerships to improve upstream victim identification and protection, as well as successful enforcement against syndicates of trafficking in persons.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2008 AR:</b> According to the Government: There is no forced labour in Singapore. Work in prisons is voluntary and part of the prisoner's rehabilitation programme. The principle of C.105 is well respected although not yet ratified.</p> <p><b>2001-2005:</b> According to the Government: An active social dialogue is engaged with the employers' and workers' organizations to ensure that: (i) forced or compulsory labour does not exist in the country; (ii) the legislation is reviewed; and (iii) better enforcement procedures are designed.</p> <p><b>2003 AR:</b> According to the Government: Both the SNTUC and the SNEF were consulted in the development and implementation of various measures concerning the principle and right (PR).</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: The TIP Taskforce leveraged on the media such as national newspapers to highlight cases of errant employers and unlicensed employment agents who had flouted the law and subsequently convicted for relevant offences. The enforcement agencies also actively engage the media to highlight and showcase cases of interest with TIP elements to raise public awareness.</p> <p><b>2014 AR:</b> According to the Government: Public education efforts were undertaken in relation to preventing trafficking in person (TIP). SNEF indicated that it promotes the interest of its members by participating in tripartite meetings.</p>



		<p>SNTUC indicated that it had both organized and participated in tripartite meetings and consultations on labour issues.</p> <p><b>2009 AR:</b> According to the SNEF: The Government has eliminated the smuggling/trafficking in persons for slavery through very strict laws and effective enforcement.</p> <p>According to the SNTUC: Convening tripartite meetings on labour issues is mandatory.</p> <p><b>2005 AR:</b> The Government mentioned its plan to step up public education through tripartite efforts, with a view to raising awareness on employers’ and workers’ rights and obligations.</p> <p><b>2003 AR:</b> According to the Government: The work programme is an integral part of the Prisons Rehabilitation Programme and aims at providing prisoners with some basic skills and training in a voluntary basis.</p>	
	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: Singapore has continued to undertake initiatives to prevent the occurrence of TIP. These include stepped-up training for frontline officers, increased education efforts (E.g. pre-departure information for foreign workers coming to Singapore, settling-in programmes for foreign domestic workers) for foreign workers and employers. To better understand the international TIP situation, the Taskforce has initiated study trips to Taiwan, Indonesia, Thailand, the United States and Viet Nam, as well as regularly touching base with partners such as Embassies in Singapore. Singapore continued working with partners from United Nations Office on Drugs and Crime (UNODC), Group of Friends (GoF) United Against Human Trafficking in New York and Geneva, and Heads of Specialist Units (HSU) on Trafficking and Senior Officials Meeting (SOMTC) Working Group on TIP of the Association of Southeast Asian Nations (ASEAN). Also, the Government has taken specific steps to combat TIP, namely in: i) adopting specific TIP Bill to come into force in early 2015; ii) providing additional grant of \$80,000 for three proposals on TIP public awareness in 2014; and iii) building internal capacities and partnerships against TIP. The TIP Taskforce has continued to work closely with various stakeholders in the implementation of the initiatives in the National Plan of Action. The Government provides funding to selected entities that provide services for TIP victims.</p> <p><b>2014 AR:</b> According to the Government: Singapore remains committed to combat human trafficking and to progressively implement the National Plan of Action (NPA) initiatives in the coming years. The Singapore Inter-Agency Taskforce on Trafficking in Persons has built up the momentum and will continue to work closely with civil society organisations and other institutions to tackle this issue and deliver the NPA initiatives.</p> <p><b>2013 AR:</b> According to the Government: An Inter-Agency Taskforce was set up to reduce the incidence of TIP by detecting potential cases early and raising awareness amongst key stakeholders. This will include running structured training programmes for government officers, embarking on public education initiatives and conducting research studies. The Government will also strengthen the case referral mechanism, and explore the setting up of a TIP hotline.</p> <p><b>2012 AR:</b> According to the Government: An Inter-Agency Taskforce was set up to coordinate anti-trafficking initiatives, policy alignment and the development of the National Plan of Action in 2012. Moreover, the Government actively engages NGOs, as well as the foreign embassies in Singapore, and is looking forward to closer partnerships to improve upstream victim identification and protection, as well as successful enforcement against syndicates of trafficking in persons.</p> <p><b>2007 AR:</b> The Government reported that it would be reviewing the necessity to amend section 13 of the Destitute Persons Act, with a view to articulating better the voluntary nature of the work performed by Destitute Persons under this Act. This exercise should be completed by early 2008.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2012-2015 ARs:</b> According to the SNEF: Work performed by destitute persons under section 13 of the Destitute Persons Act and by prisoners under the Prisons Rules does not constitute “forced</p>

			labour” and is for rehabilitative purposes only.
		<b>Workers’ organizations</b>	<p><b>2014-2015 ARs:</b> According to SNTUC: SNTUC recognises that serious difficulties exist as the current legislations are not in compliance with the conventions. SNTUC stated that the Government views some provisions, such as giving the Registrar of Trade Unions powers to check union accounts, as not an encumbrance but necessary to protect the interest and welfare of ordinary workers as they pay union subscriptions.</p> <p><b>2012-2013 ARs:</b> According to the SNTUC: The Government should consider ratifying C.105 as soon as possible and explore the removal of any obstacle(s) related to this ratification.</p> <p><b>2009 AR:</b> According to the SNTUC: The Government should set the ratification of C.105 as a priority</p> <p><b>2001-2002 ARs:</b> The ICFTU raised the following challenges: Although forced labour is prohibited in Singapore, any destitute person may be required to reside in a welfare home and engaged in suitable work, or face penal sanctions (the Destitute Persons Act, 1989, sections 3, 13 and 16).</p>
	<b>According to the Government</b>		<b>2001-2002 ARs:</b> In response to the ICFTU’s observations, the Government stated that despite such provisions, admittance of persons to a welfare home and their possible employment was on an entirely voluntary basis. It further mentioned that no indication of forced labour of a significant scale had been noticed in Singapore.
<b>TECHNICAL COOPERATION</b>	<b>Request</b>		<b>NIL.</b>
	<b>Offer</b>		<b>NIL.</b>
<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>			<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAS) were concerned that the governments of Singapore (and another government), which earlier denounced C.105, had not yet opened a dialogue with the Office and its employers’ and workers’ organizations with a view to reconsidering its decision. They urged Singapore to take action in this regard (cf. paragraph 42 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAS reiterated their hope that Singapore, which denounced C.105, would open a dialogue with the Office and its national tripartite partners with a view to reconsidering this decision (cf. paragraph 40 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2006 AR:</b> The IDEAs reiterated their hope that Singapore, which denounced C.105, would open a dialogue with the Office and its national tripartite partners in order to reconsider this decision (cf. paragraph 44 of the 2006 Annual Review Introduction – ILO: GB.295/5).</p> <p><b>2005 AR:</b> The IDEAs hoped that Singapore, which denounced C.105, would reconsider its position in this respect (cf. paragraph 185 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>			<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular</p>





	<p>importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>





**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2004-2015) <sup>67</sup>: TIMOR-LESTE**

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the 2006 Annual Review (AR). Timor-Leste joined the ILO in 2003.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Chamber of Commerce and Industry of Timor-Leste (CCI-TL) de Timor-Leste (Employer's Forum/Chamber of Commerce of Timor-Leste. Employer's organization – resulted of the fusion of the main organizations in the country), Timor-Leste Trade Unions Confederation (TLTUC) (Konfederasaun Sindikatu Timor-Leste (KSTL), the Trade Union of Timor-Leste (TUTL) by means of consultation and communication of a copy of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations made by the CCI-TL. <b>2013 AR:</b> Observations made by the CCI-TL.
	<b>Workers' organizations</b>	<b>2014 AR:</b> Observations by TLTUC. <b>2013 AR:</b> Observations by TUTL.

<sup>67</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Timor-Leste ratified in 2009 the Forced Labour Convention, 1930 (C.29). However, it has not ratified the Abolition of Forced Labour Convention, 1957 (C.105).</b>
		<b>Ratification intention</b>	<b>YES, in process since 2008 for C.105.</b> <b>2014-2015 ARs:</b> According to the Government: Ratification of C.105 enjoys tripartite support and no legal obstacles remain in the ratification process. Priority is currently being given to ratification of C.100 and C.111. Once those two instruments have been ratified, ratification of C.105 may follow. CCI-TL reiterated its support for the ratification of C.105, and stated that the Convention is already embedded in the constitution and could possibly be ratified in 2014. According to TLTUC: TLTUC strongly supports the ratification of C.105, and is continually pushing for it. <b>2013 AR:</b> According to the Government: A labour law review process is necessary before the C.105 can be ratified by Timor-Leste. The CCI-TL expressed its support to ratification of C.105. The TUTL fully supported the ratification of all core Conventions including C.105, emphasizing the need to implement the fundamental principles and rights at work (FPRW) in the national legislation after a national study is conducted on the issue. <b>2012 AR:</b> According to the Government: Ratification process for C.105 will eased after the promulgation of the new Labour Code, which provides protection against forced labour. <b>2008-2009 ARs:</b> According to the Government: ILO technical assistance in order to better understand international labour standards (ILS) and the Declaration and a labour law review are necessary before the process of ratification of C.29 and C.105 can be initiated in Timor-Leste. However, the country has received the appropriate technical support from the ILO and ratification of C.29 has been discussed at tripartite level, submitted and approved by the Council of Ministers and was submitted to Parliament for ratification.
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES.</b> The national Constitution (amended in 2012), Part II, includes provisions on forced labour in section 28 (Right to resistance and self-defence), and section 30 (Right to personal freedom, security and integrity). <b>2014 AR:</b> TLTUC affirmed that the Constitution protects fundamental rights of work as stipulated in its Article 50.

		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b>  <b>2006 AR:</b> According to the Government: All forms of forced or compulsory labour are prohibited in the country. The principle and right (PR) of the elimination of all forms of forced or compulsory labour applies to all categories of persons or activities, but there is no national policy for its realization. The Government intends, however, to adopt a policy on this subject by 2006, and would appreciate receiving ILO assistance in this respect.</li> <li>• <b>Legislation:</b>  <b>2014 AR:</b> The Government reported that the Labour Code (Law No. 4/2012) had been adopted. Chapter II on Fundamental Principles includes provisions on forced labour in section 8 (Prohibition of forced labour).            CCI-TL expressed that the existing legal framework already covers the issues of the convention and that there were no changes in laws since last year's report.            TLTUC reported that the labour law was reformed last year and the reform was based on ILO conventions.  <b>2012 AR:</b> According to the Government: The new Penal Code adopted in 2010 and the draft Labour Code contain provisions to fight against forced labour, human trafficking and the worst forms of child labour, such as child slavery and servitude.  <b>2011 AR:</b> According to the Government: The draft Labour Code, approved by the Government in 2010, contains the main principles provided for in foreseen in Convention No. 105. It has been submitted to the Parliament for approval and should become law in 2011.            Section 9.2 of the Labour Code (Regulation No. 2002/5) prohibits forced labour – <i>“Forced Labour is hereby prohibited.”</i></li> <li>• <b>Regulations:</b>  <b>2013 AR:</b> The Government and the CCI-TL indicated that new regulations are being drafted to revise the status of the labour inspectorate in Timor-Leste:</li> </ul>
		<p><b>Basic legal provisions</b></p>	<p>(i) The Labour Code (Law No. 4/2012) (section 8) and (ii) The Criminal Code (Decree-Law No. 19/2009).</p>
		<p><b>Definition of forced or compulsory labour</b></p>	<p><b>YES</b>, section 8 of the Labour Code (Law No. 4/2012) defines forced or compulsory labour as follows: “Forced labour means all work or service that is extracted from any person under the threat or penalty and is not offered voluntarily.”</p>
		<p><b>Judicial decisions</b></p>	<p><b>NIL.</b></p>

<p><b>Exercise of the principle and right</b></p>	<p><b>Special attention to particular situations and human trafficking</b></p>	<p><b>2012 AR:</b> The Government pays particular attention to the fight against human trafficking, especially across national boundaries, and in cooperation with neighbouring countries.</p> <p><b>2006 AR:</b> According to the Government: Women and children, including a specific training awareness raising/training programme on women issues.</p> <p><b>2008:</b> The Government has launched a campaign to raise awareness about human trafficking.</p>
	<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> According to the Government: The Labour Market Department is preparing a database that includes information on forced labour, in cooperation with ILO.</p> <p><b>2014 AR:</b> CCI-TL assists organizations that are formally constituted; most members are national companies. So far, 113 companies are registered with CCI-TL as members out of a total of about 2000 potential companies. CCI-TL mentioned that it also assists entities involved in the informal sector.</p> <p><b>2006 AR:</b> According to the Government: The Government collects demographic data as well as data on forced labour in the country.</p>
<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2015 AR:</b> According to the Government: The Labour Inspectorate with Immigration Police had been operating in the field, doing inspections to workplaces, identifying irregular workers and applying monetary sanctions to the employers.</p> <p><b>2014 AR:</b> According to the Government: A legal study will be conducted with a view to develop a guide for law enforcement and training of labour inspectors with a special focus on the abolition of forced labour.</p> <p><b>2011 AR:</b> According to the Government: Decree-Law 19/2010 has established the General Labour Inspectorate that has the mandate to monitor and enforce the application of the Labour Law. Moreover, the Labour Inspection Department has conducted inspections targeting especially foreign workers; however, it has not found any case of forced labour.</p> <p><b>2006 AR:</b> According to the Government: The following measures have been implemented to promote and realize the PR: (i) legal reform (labour law and other relevant legislation); (ii) inspection/monitoring mechanisms; and (iii) civil or administrative sanctions. The National Labour Board established under the Labour Code includes two representatives each from employers' and workers' organizations and the responsible Government institution, as well as one representative of the population. Mandates of the National Labour Board include, <i>inter alia</i>, policy advice and dispute settlement. The Immigration Police and the Department of Labour are responsible for the identification, emancipation and/or rehabilitation of victims of forced labour.</p> <p>The Government has yet to find cases where the principle has not been respected; it is currently in the process of developing an instrument and mechanism in this regard.</p>	



<p><b>Involvement of the social partners</b></p>	<p><b>2015 AR:</b> According to the Government: Employers and workers' organizations and NGOs are fully involved in the regular meetings and activities of the National Commission Against Child Labour (NCCL).</p> <p><b>2014 AR:</b> According to the Government: Social dialogue is regularly exercised and tripartite discussions concerning the ratification of C.105 are ongoing through the GAP-Programme.</p> <p><b>2013 AR:</b> According to the Government and TUTL: Tripartite meetings were held on the Decent Work Country Programme (DWCP), including the realization and implementation of the FPRW.</p> <p><b>2010 AR:</b> According to the Government: During the Tripartite Meeting on the Decent Work Country Programme and Timor-Leste Challenges on the Implementation of Ratified Conventions organized in 2009, the social partners decided to develop an action plan in cooperation with the ILO. Moreover, tripartite partners are involved in the elaboration of the new draft Labour Code.</p> <p><b>2006 AR:</b> According to the Government: There is a tripartite examination of issues. Employers' and workers' organizations have been involved in the development and implementation of government measures through their participation in the National Labour Board, which is the responsible government institution for, <i>inter alia</i>, policy advice and dispute settlement.</p>
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	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: From 28 April to 9 May 2014, ILO-IPEC delivered a training for law enforcement agents and other key partners, including labour inspectors, police officers (community and immigration police), local administration representatives and NGO's to give the necessary tools to identify and investigate cases of child and forced labour in Timor-Leste. It further stated that in collaboration with ILO-IPEC, NCCL would coordinate the organization of public awareness raising activities on forced labour issues for the local communities.</p> <p><b>2014 AR:</b> According to the Government: Training activities for Government officials and the social partners will be conducted to build their capacity on how to deal with forced labour and to sensitize them on the content of C.105. Furthermore, a National Action Programme for the elimination of forced labour and child labour will be established in a near future.</p> <p>According to CCI-TL: The Government has always involved Employers and Workers' Organizations to solve issues and concerns that require tripartite consultation as well as to create awareness.</p> <p>According to TLTUC: TLTUC contributes to promoting the PR through advocating the importance of the conventions at various events and meetings especially at the national labour board meetings. TLTUC has also organized workshops to facilitate understanding and awareness creation in cooperation with ILO.</p> <p><b>2011 AR:</b> According to the Government: Seminars and workshops were held throughout the country to promote the PR.</p> <p><b>2010 AR:</b> According to the Government: A Tripartite Meeting on the Decent Work Country Programme and Timor-Leste Challenges on the Implementation of Ratified Conventions was organized in 2009, in cooperation with the ILO. During this meeting, the social partners decided to develop an action plan in cooperation with the ILO. Moreover, a Senior Officer of the Ministry of Labour participated for the first time in the May 2009 ILO/Turin Course on International Labour Standards during which issues concerning the Declaration and its follow-up had been addressed, including those relating to C.29 and C.105.</p> <p><b>2009 AR:</b> The Government indicated that with ILO's assistance, a Seminar on "International Labour Standards" and on the "Declaration of Fundamental Principles and Rights at Work" was carried out in Timor-Leste from 29 to 31 October 2008. The Seminar had a massive participation of Government, Employers and Workers representatives.</p> <p><b>2008 AR:</b> The Government indicated that a government official was trained on International Labour Standards (ILS) and the Declaration Follow-up between May-June 2007 under the sponsorship of the ILO/Turin Centre.</p> <p><b>2007 AR:</b> According to the Government: A workshop on the Labour Code was organized in 2006.</p> <p><b>2006 AR:</b> According to the Government: The following measures have been implemented to promote and realize the PR in Timor-Leste: (i) awareness raising/advocacy; (ii) capacity building; (iii) employment creation/income-generation; (iv) educational programmes; international cooperation programme or projects; and (iv) tripartite examination of issues.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: The NCCL planned for the near future a national assessment on forced labour in 3 or 5 districts with the technical and financial support of ILO-IPEC. The data that will be collected would facilitate the formulation of a National Action Plan.</p> <p><b>2014 AR:</b> According to the Government: A National Action Programme for the elimination of forced labour and child labour will be established in the near future.</p> <p><b>2012 AR:</b> According to the Government: The new Labour Code in process of final adoption by Parliament before promulgation by the President of the Republic in 2012 as well as the new Penal Code, 2010, contain explicit provisions against forced labour, human trafficking and servitude, but also dissuasive sanctions against perpetrators.</p> <p><b>2010 AR:</b> According to the Government: Although forced labour is not common in the country, the Government has included in the scope of the draft new Labour Code the principles of combating forced labour. The process for the establishment of a new Labour Code is undergoing, and the Government will convene a tripartite meeting to finalize the new draft for submission to the Council of Ministers. The Government has received ILO's comments on this draft in March 2009.</p> <p><b>2006 AR:</b> According to the Government: The prohibition of forced labour, under section 9.2 of the Labour Code, can be regarded as successful example in the realization of the PR.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014 AR:</b> According to CCI-TL: There is no problem in terms of the ratification of the Convention. However, CCI-TL is concerned that it has not been receiving any formal document from the government regarding the conventions that have been ratified, and emphasized that lack of such communication creates challenges in terms of following up what has been happening and of implementation issues.</p> <p><b>2013 AR:</b> According to the CCI-TL: Forced labour and human trafficking are no longer occurring in the country. However, as a relatively new independent State, the Government and the social partners need support in order to establish effective organizations and pursue activities that will maintain a situation where forced labour is not a problem.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2014 AR:</b> TLTUC emphasised that there is lack of comprehensive good will for ratification on the part of the Government, and this is partly driven by the fear that implementation might be a problem.</p> <p><b>2013 AR:</b> The TUTL raised the following challenges: (i) lack of capacity of the tripartite partners; (ii) lack of implementation in national legislation; and (iii) lack of understanding of the FRPW including the PR.</p>

	<p><b>According to the Government</b></p>	<p><b>2014 – 2015 ARs:</b> According to the Government: The main challenge in the ratification of C.105 is the lack of capacity to fulfil the ILO reporting obligations. Before Government capacity has been built in this regard, C.105 cannot be ratified. There is also a lack of labour inspection to identify forced labour and ensure the realization of the PR, and a lack of information and data. While no cases of forced labour have been reported to the Government, domestic workers have been identified as a vulnerable group where forced labour may be particularly difficult to identify. Furthermore, the capacity of the workers’ organizations needs to be strengthened.</p> <p><b>2013 AR:</b> The main difficulties encountered in realizing this PR are as follows: (i) lack of information and data; (ii) social values, cultural traditions; (iii) legal provisions; (v) lack of capacity of Government institutions; (vi) lack of capacity of employers’ organizations; and (vii) lack of capacity of workers’ organizations.</p> <p><b>2011 AR:</b> According to the Government: Low training skills, human resources development and facilities are for the time being the main challenges faced in realization the PR in the country.</p> <p><b>2010 AR:</b> According to the Government: There is a general weakness of national labour laws in relation to all the Declaration’s principles and rights.</p> <p><b>2008 AR:</b> The Government indicated the following challenges: (i) legal provisions; (ii) lack of public awareness; (iii) capacity building and (iv) labour inspection is weak.</p> <p><b>2007 AR:</b> According to the Government: The military crisis has affected the country in the last few months.</p> <p><b>2006 AR:</b> The main difficulties encountered in Timor-Leste in realizing this PR are as follows: (i) lack of information and data; (ii) social values, cultural traditions; (iii) social and economical circumstances; (iv) legal provisions; (v) lack of capacity of Government institutions; (vi) lack of capacity of employers’ organizations; (vii) lack of capacity of workers’ organizations; and (viii) lack of social dialogue on this PR.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2014 – 2015 ARs:</b> According to the Government: ILO technical cooperation is needed to (i) support training for labour inspectors, (ii) strengthening the reporting capacity of the Government, (iii) conduct awareness raising campaigns on C.105 for the general public, (iv) strengthen the system for data collection, and (v) build the capacity of the workers’ organizations. The Secretary of State for Vocational Training and Employment Policy (SEFPOPE) prioritizes the need to proceed with a national assessment on forced labour.</p> <p>CCI-TL requires support for promoting labour relations. It has indicated that it requested ILO Bangkok for support to develop a database of employers.</p> <p>TLTUC identified the need for providing knowledge to the tripartite bodies about the conventions they want to ratify, and specific training to officials of the government, in particular to those in the labour relations and inspection since they are the ones who have the primary duty to understand about the conventions.</p> <p><b>2013 AR:</b> The CCI-TL requested ILO support for the capacity building of the Government and the social partners so as forced labour does not occur in Timor-Leste.</p> <p>According to the TUTL: ILO’s technical support is needed to strengthen the capacity of tripartite partners and other specialized institutions, and support the implementation of the DWCP in Timor-Leste and awareness raising campaigns.</p> <p><b>2011-2012 ARs:</b> According to the Government: The Government would very much welcome any ILO support to the newly established General Labour Inspectorate so that it better monitor and enforce the application of labour laws and combat and ensure the implementation of the PR. More generally, ILO technical cooperation would be needed to enhance the Government’s and the employers’ and workers’ organizations capacities in realizing the PR.</p> <p><b>2010 AR:</b> According to the Government: More training and policy advice to tripartite partners concerning the PR, with specific capacity building for the National Division of Labour Relations and the National Division of Labour Inspection so that they can better help promote and realize the Fundamental Principles and Rights at Work (FPRW) in the country. Moreover, ILO technical support would be instrumental in the revision process of national labour laws that include these PRs. Finally, ILO technical cooperation is requested in the process of ratification of other fundamental Conventions and for the development of an Action Plan for the implementation of ratified Conventions, in particular through tripartite workshops/seminars.</p> <p><b>2008 AR:</b> The Government request ILO assistance to carry out a country assessment to be validated by a national tripartite workshop on the FPRW.</p> <p><b>2007 AR:</b> According to the Government: Advisors are required on labour as well as training for staff of the Labour Relations and Inspectors.</p> <p><b>2006 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Timor-Leste, in particular in the following areas, in order of priority: (1) capacity building of responsible government institutions; (2) legal reform (labour law and other relevant legislation); (3) strengthening capacity of employers’ and workers’ organizations; (4) strengthening data collection and capacity for statistical analysis; (5) awareness-raising, legal literacy and advocacy; (6) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; (7) policy advice; (8) development of social protection systems; (9) training of other officials (police, judiciary, social workers, teachers); (10) employment creation, skills training and income generation for vulnerable workers; (11) sharing of experiences across countries/regions; (12) rural development policies (for example, land reform, rural infrastructure; agricultural extension, marketing, micro-finance); (13) cooperation between institutions (e.g. various ministries and relevant commissions); (14) cross-border cooperation mechanisms.</p>
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	<b>Offer</b>	ILO Decent Work Country Programme (DWCP), and assistance in reporting (2005), capacity building workshop and labour law revision)
<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAS) listed Timor-Leste among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step forward towards universal ratification. In particular, the IDEAS encouraged the Government of Timor-Leste (and four other governments) to initiate or finalize their national labour law review processes. In reforming and strengthening their legal framework in compliance with international labour standards, these countries will allow a better implementation of the principle and right. Finally, the IDEAS noted that a number of governments, employers’ or workers’ organizations in various countries, including Timor-Leste, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO. (cf. paragraphs 41, 43 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAS urged the Government of Timor-Leste and another to express their intentions concerning ratification of C.29 and/or C.105. However, the IDEAS welcomed the significant increase in the reports of action to combat forced labour in several countries, including Timor-Leste). An increasing number of States are recognizing that forced labour does exist in their country [...]. Such recognition is indispensable to combating forced or compulsory labour, as it is undoubtedly the first step in what is a daunting but essential task (cf. paragraphs 40 and 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The IDEAS looked forward to receiving a first reply from Timor-Leste (and few other countries) that had never reported under the Declaration Annual Review (cf. paragraph 8 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2009-2015)** <sup>68</sup>: TUVALU

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , for the first time under the 2012 Annual Review (AR), but not from the 2009 to the 2011 ARs. Tuvalu joined the ILO in 2008.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (the Tuvalu National Private Sector Organization, TNPSO) and workers' organizations (the Tuvalu Overseas Seafarers' Union, TOSU) by means of consultation and communication of a copy of the government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> Observations by the TNPSO.	
	<b>Workers' organizations</b>	<b>2012 AR:</b> Observations by the TOSU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Tuvalu has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29) nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b>

<sup>68</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.

		<p><b>Ratification intention</b></p>	<p><b>YES, since 2011, for both C.29 and C.105.</b></p> <p><b>2015 AR:</b> According to the Government: The ratification of C.29 and C.105 would be undertaken in the near future after the relevant labour laws are reviewed in line with the requirements of the ILO Conventions.</p> <p><b>2013 - 2014 ARs:</b> The Government reiterated its intention to ratify all eight core Conventions, including C.29 and C.105, under the currently implemented Decent Work Country Programme (DWCP).</p> <p><b>2012 AR:</b> According to the Government: Following consultations with TNPSO and TOSU, the Government has expressed its intention to ratify soon C.29 and C.105 and all other fundamental Conventions under the Decent Work Country Programme (DWCP) 2010-2012 being currently implemented. This intention was subsequently confirmed during the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010, and during the First National Tripartite Workshop on Tuvalu and ILO held in Funafuti, and where a tripartite call was also made for a prompt ratification of these 8 instruments by Tuvalu.</p> <p>The TNPSO expressed its full support for the ratification of all ILO fundamental Conventions by Tuvalu, including C.29 and C.105, taking especially into consideration the maritime and fishing industry which is so globalized and so important in Tuvalu.</p> <p>The TOSU supported the ratification of all the 8 ILO fundamental Conventions by Tuvalu, including C.29 and C.105 for the same reasons expressed by TNPSO. It further recalled that the Government had expressed its wish to ratify these fundamental Conventions on three occasions, at least: (i) in the current DWCP; (ii) during the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010, and (iii) during the First National Tripartite Workshop on Tuvalu and ILO held in Funafuti, and where a tripartite call was also made for a prompt ratification of these 8 instruments by Tuvalu.</p>
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<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>Tuvalu Constitution, Cap. 1.02, 1978 (Revised 2008), section 18 (1)(e)-(f) expressly mentions that no one shall be held in slavery or servitude or be required to perform forced labour. It further prohibits inhuman treatment (section 19).</p> <p>Under Tuvalu Constitution, section 18(2) provides that slavery or servitude includes slavery or servitude within the meaning of any international or multinational convention or treaty prohibiting slavery or servitude to which Tuvalu is a party. However, forced labour is not explicitly defined. However, section 18(2)(b) of the same text provides for some cases that are not included in forced labour (as a result of a court sentence, in case of emergency, calamity or natural disaster, conscientious objection, civic or normal traditional obligations reasonably required, minor communal works lawfully required, etc.).</p>
	<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Legislation:</b> <ul style="list-style-type: none"> <li>(i) The Employment Act; and</li> <li>(ii) The Penal Code.</li> </ul> </li> </ul> <p><b>2015 AR:</b> According to the Government: The Department of Labour has been reviewing existing labour laws, including the Employment Act of Tuvalu.</p> <ul style="list-style-type: none"> <li>• <b>Regulations:</b> <ul style="list-style-type: none"> <li>(i) Employment Orders.</li> </ul> </li> </ul>
	<p><b>Basic legal provisions</b></p>	<p>(i) The Constitution (sections 18 and 19); (ii) The Employment Act; (iii) The Penal Code; and (iv) The Employment orders.</p>
	<p><b>Judicial decisions</b></p>	<p>NIL.</p>
	<p><b>Definition of forced or compulsory labour</b></p>	<p><b>AR 2008:</b> According to the Government: A definition of unlawful compulsory labour is given under section 374 of the Penal Code, i.e.: when a person is unlawfully compelled to labour against his will. Moreover, the Trafficking and Smuggling of Persons Order, 2004 (section 2) defines: (i) “exploitation” as including any forms of sexual exploitation of another person’s prostitution, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs; (ii) “people smuggling” as arranging or assisting a person’s unlawful entry into any receiving country including Brunei Darussalam, of which the person is not citizen or permanent resident of the receiving country, knowing or having reason to suspect the person’s entry is unlawful, in order to obtain a financial or other material benefit; and “people trafficking” as the recruitment, transportation, transfer, harbouring or receipt of a person for the purpose of exploitation, as set out in section 4 or 5 of this Order (i.e., by means of threat, use of force or other forms of coercion, abduction, fraud, deception, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person).</p>
	<p><b>Judicial decisions</b></p>	<p>NIL.</p>

	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	NIL.
		<b>Information/ Data collection and dissemination</b>	NIL.
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2012 AR:</b> According to the Government: the Labour Department and courts.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Involvement of the social partners</b>	<b>2012 AR:</b> The Government indicated that the TNPSO and the TOSU were involved in the formulation of the DWCP, in cooperation with ILO.	
	<b>Promotional activities</b>	<p><b>2012 AR:</b> According to the Government: The Officer of the Labour Department was trained in the ILO/TURIN May-June 2009 Course on International Labour Standards and the Declaration. Moreover, the Government, the TNPSO and the TOSU participated in the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010 where the fundamental principles and rights have been promoted. Moreover, The new Officer of the Labour Department of the Ministry of Foreign Affairs, Trade, Tourism, Environment and Labour was trained, among others, on the fundamental principles and rights at work and International Labour Standards during ILO's assistance in reporting issues carried out in September 2011. On the same occasion, a first national tripartite workshop on Tuvalu and the ILO was organized where the fundamental principles and rights at work and the Decent Work Country Programme were addressed.</p> <p>The TNSPO and the TOSU confirmed their participation in such activities and indicated that they had been sensitized on the same issues during this September 2011 ILO Mission.</p>	
	<b>Special initiatives/Progress</b>	According to the Government, the TNPSO and TOSU: The reporting exercise and the workshop on Tuvalu and the ILO, supported by the Office were a first successful experience of tripartite activity in Tuvalu. This interesting exercise should continue in the country.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> According to the TNPSO: No problems are being encountered to exercise the PR in the country. However, employers lack capacity building on the PR.
		<b>Workers' organizations</b>	<b>2012 AR:</b> According to the TOSU: There are no major problems to exercise the PR in the country. However, the issue of freedom of association and the right to collective bargaining needs to be further discussed with the Labour Department so as to strengthen the capacity of employers' and workers' organizations and the Labour Department officials.

	<b>According to the Government</b>	<p><b>2015 AR:</b> The Government reported that existing labour laws are currently weak and, therefore, workers' rights are easily violated. Furthermore, public awareness on individuals' rights is very limited.</p> <p><b>2012 AR:</b> The Government mentioned the following challenges concerning the realization of the PR in Tuvalu: (i) Lack of public awareness and/or support; (ii) lack of capacity of responsible government institutions; (iii) lack of capacity of employers' and workers' organizations; and (iv) lack of social dialogue on the PR.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> According to the Government: Technical assistance is required to: i) provide capacity building training for government officials, including for the staff of the Labour Department on the various aspects of the ILO Conventions; and ii) deliver public awareness programmes aimed at building the knowledge of the public on individuals' rights.</p> <p><b>2013 – 2014 ARs:</b> The Government reiterated the request for ILO technical support it made under the 2012 AR.</p> <p><b>2012 AR:</b> According to the Government, TNPSO and TOSU: There is a need for ILO technical cooperation to facilitate the realization of this PR in Tuvalu, in particular in the following areas, in order of priority: (1) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; legal reform (labour law and other relevant legislation); (2) strengthening data collection and capacity for statistical analysis;); developing labour market policies that promote equality of opportunity; developing policies regarding equal remuneration; and (3) sharing of experiences (best-practices) across countries/regions; training of other officials (e.g. police, judiciary, social workers, teachers).</p> <p>In addition, tripartite partners expressed their appreciation regarding the organization of the First National Tripartite Workshop on Tuvalu and ILO, in September 2011, in cooperation with ILO, but also their hope that this first very interesting and fruitful experience of tripartism and social dialogue in Tuvalu would continue, with ILO support.</p>
	<b>Offer</b>	ILO (Decent Work Country Programme; Assistance in reporting under the AR; First National Tripartite on Tuvalu and the ILO).
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	NIL.	





<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)**<sup>69</sup>: UNITED STATES

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , but no changes to reports for the 2001, 2002, 2004 and 2006 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the United States Council for International Business (USCIB), the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and the Change to Win Federation, by means of consultation and communication of the government's reports. In addition, in keeping with longstanding practice, as well as U.S. obligations under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), the draft report was reviewed by members of the Tripartite Advisory Panel on International Labor Standards, a subgroup of the President's Committee on the ILO.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>NIL.</b>	
	<b>Workers' organizations</b>	<b>2004 AR:</b> Observations by the AFL-CIO. <b>2002 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2001 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>The United States ratified the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105) in 1991. However, it has not ratified the Forced Labour Convention, 1930 (No. 29) (C.29).</b>
		<b>Ratification intention</b>	<b>Under review since 2014 for C.29.</b> <b>2015 AR:</b> According to the Government: Following a meeting of the President's Committee on the International Labor Organization (PC/ILO), held in May 2014, one of the conclusions called on the PC/ILO's Tripartite Advisory Panel on International Labor Standards (TAPILS) to intensify its work of reviewing the legal feasibility of U.S. ratification of selected ILO Conventions, including C.29. <b>2013 – 2014 ARs:</b> According to the Government: There are no current efforts to pursue ratification of C. 29 or to further analyze impediments to ratification.

<sup>69</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



			<p><b>2012 AR:</b> According to the Government: There are no current efforts to pursue ratification of C.29.</p> <p><b>2011 AR:</b> According to the Government: There are no current plans to ratify C.29.</p> <p><b>2009 AR:</b> According to the Government: No change.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES,</b> The Thirteenth Amendment to the U.S. Constitution specifically outlaws slavery and involuntary servitude, except as punishment for a person duly convicted of a crime.</p> <p>The Amendment states:</p> <ul style="list-style-type: none"> <li>- Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.</li> <li>- Section 2. Congress shall have power to enforce this article by appropriate legislation.</li> </ul>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2015 AR:</b> According to the Government: On December 31, 2012, and again on December 31, 2013, President Obama issued a Presidential Proclamation declaring January National Slavery and Human Trafficking Prevention Month to shed light on the exploitation and abuse of millions of women, men and children worldwide.</p> <p>In January 2014, the President’s Interagency Task Force to Monitor and Combat Trafficking in Persons (PTIF) released the <i>Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States</i>, which was developed over many months through a collaborative, multi-phase, multi-agency effort. The Plan lays out four goals, each associated with action items for victim service improvements for the next five years: increase coordination and collaboration at the federal, regional, state, Tribal, and local levels; increase awareness of human trafficking among government and community leaders and the general public; expand access to services for victims of human trafficking; and improve outcomes related to health, safety, and well-being. The Plan is available at <a href="http://www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf">http://www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf</a>.</p> <p>Additionally, in April 2014, the PTIF published a report entitled <i>Progress in Combating Trafficking in Persons: The U.S. Government Response to Modern Slavery</i>. It highlights key U.S. efforts to combat trafficking and is available at <a href="http://www.state.gov/j/tip/rls/reports/2014/224598.htm">http://www.state.gov/j/tip/rls/reports/2014/224598.htm</a>. Among other relevant information, the report describes recent accomplishments in policy initiatives, legislative developments, labor inspection/monitoring, judicial decisions, and other related practices, including the:</p> <ul style="list-style-type: none"> <li>• Analysis of investigations, prosecutions, and related penalties for Fiscal Year (FY) 2013;</li> <li>• Establishment of 16 anti-trafficking taskforces nationwide, comprising federal, state, and local law enforcement by the Department of Justice (DOJ) Bureau of Justice Assistance and Office for Victims of Crime (OVC), and other agencies;</li> <li>• Augmentation of Child Exploitation Task Forces, focusing in part on the sex trafficking</li> </ul>



			<ul style="list-style-type: none"> <li>• of children, which now number 69;</li> <li>• Expansion of the authority of the DOJ Office on Violence Against Women to enhance the ability of communities to assist victims of trafficking;</li> <li>• Creation of a referral protocol among federal agencies to enable 50 “fusion centers” to share information related to law enforcement investigations, and the commencement of a pilot project in 10 countries to increase the flow of information about human trafficking overseas with a nexus in the United States;</li> <li>• Implementation by the Department of State (DOS) of a monitoring program to ensure the health, safety, and welfare of participants in the J-1 Summer Work Travel Program; and</li> <li>• Participation by federal agencies in a joint public-private partnership alongside a charitable foundation to address sustainable housing, economic empowerment, and social services.</li> </ul> <p>The 2014 <i>Trafficking in Persons Report</i>, issued by the DOS in June 2014, includes a section on the United States. The report is available at <a href="http://www.state.gov/documents/organization/226849.pdf">http://www.state.gov/documents/organization/226849.pdf</a>, beginning at page 397.</p> <p>In July 2014, DOJ submitted the <i>Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons for Fiscal Year 2012 (2012 Attorney General’s Report)</i>, available at <a href="http://www.justice.gov/ag/annualreports/agreporthumantrafficking2012.pdf">http://www.justice.gov/ag/annualreports/agreporthumantrafficking2012.pdf</a>. The report contains substantial information that responds to this question, including reports on investigations, prosecutions, and sentences in trafficking cases, as well as agency-by-agency analysis of anti-trafficking efforts across the U.S. Government. The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 provides the statutory mandate for the report. The 2005 and 2008 reauthorizations of the TVPRA broadened the required reporting mandate.</p> <p><b>2013 AR:</b> According to the Government: The U.S. Government continually pursues efforts to advance policies and practices regarding the elimination of forced or compulsory labor. Recent efforts to eliminate trafficking in persons are particularly relevant in this regard.</p> <p>On September 25, 2012, the President issued Executive Order No. 13627, “Strengthening Protections Against Trafficking in Persons in Federal Contracts,” which strengthens the efficacy of the U.S. Government’s zero-tolerance policy on trafficking in persons. It is available at: <a href="https://www.federalregister.gov/articles/2012/10/02/2012-24374/strengthening-protections-against-trafficking-in-persons-in-federal-contracts">https://www.federalregister.gov/articles/2012/10/02/2012-24374/strengthening-protections-against-trafficking-in-persons-in-federal-contracts</a>. The Executive Order directs the Federal Acquisition Regulatory (FAR) Council, working with the appropriate agencies, to amend federal contracting regulations to:</p> <ul style="list-style-type: none"> <li>• <i>Prohibit contractors and subcontractors from engaging in specific trafficking-related activities.</i> The Executive Order expressly prohibits federal contractors, subcontractors, and their employees from engaging in certain trafficking-related practices, such as misleading or fraudulent recruitment practices; charging employees recruitment fees; and destroying or confiscating an employee’s identity documents, such as a passport or a</li> </ul>
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			<p>driver's license.</p> <ul style="list-style-type: none"> <li>• <i>Apply new, tailored compliance measures for larger contracts performed abroad.</i> The Executive Order requires that for work exceeding \$500,000 that is performed abroad, federal contractors and subcontractors must maintain compliance plans appropriate for the nature and scope of the activities performed. Such plans must include: an employee awareness program, a process for employees to report trafficking violations without fear of retaliation, and recruitment and housing plans. Each of these contractors and subcontractors must also certify that neither it nor any of its contractors has engaged in trafficking-related activities.</li> </ul> <p>The Executive Order also:</p> <ul style="list-style-type: none"> <li>• <i>Establishes a process to identify industries and sectors that have a history of human trafficking, to enhance compliance on domestic contracts.</i> Once identified, contracting agencies will adopt appropriate safeguards, guidance, and compliance assistance to prevent trafficking in industries or sectors where there is a history or current evidence of trafficking.</li> <li>• <i>Augments training and heightens agencies' ability to detect and address trafficking violations.</i> The Executive Order stipulates that the Administrator for Federal Procurement Policy will provide guidance to agencies on how to improve monitoring of and compliance with actions to prevent trafficking and will implement improved training for the federal acquisition workforce on policies and procedures for combatting trafficking.</li> </ul> <p><b>2003 AR:</b> According to the Government: The United States adopted legislation showing the existence of a national policy for realizing the principle of the elimination of all forms of forced or compulsory labor.</p> <p>The most recent development with regard to the United States national policy was the passage of the Victims of Trafficking and Violence Protection Act of 2000 on 28 October 2000. This law is the culmination of the federal Government's efforts through the Trafficking in Persons and Worker Exploitation Task Force to address the domestic and global dimensions of human trafficking.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2014 AR:</b> On March 7, 2013, the President signed into law the Trafficking Victims Protection Reauthorization Act of 2013 (TVPRA 2013), which was passed by Congress as part of the Violence Against Women Reauthorization Act. (P.L. 113-4). The TVPRA 2013 offers increased support to the Department of State's (DOS) diplomatic engagement, bolsters protections for vulnerable children and domestic workers, and enables effective partnerships to bring services to survivors and prosecute traffickers. Among other things, the law adds fraud in foreign labor contracting to the criminal definition of racketeering and adds a new crime, fraud in foreign labor contracting, to the qualifying criminal activities for "U" visas, nonimmigrant status visas for victims of certain crimes who meet certain requirements.</p> <p>The 2013 <i>Trafficking in Persons Report</i>, issued by DOS on June 19, 2013, includes a section on</p>
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			<p>the United States. The report is available at <a href="http://www.state.gov/documents/organization/210742.pdf">http://www.state.gov/documents/organization/210742.pdf</a>, beginning at page 381. Among other relevant information, the report provides information on: (i) statistics on investigations, prosecutions, and related penalties; (ii) the 2013 TVPRA expansions discussed above; (iii) a policy change at the Department of Justice (DOJ) that allows federal funding for victim services to support U.S. citizen victims of human trafficking as well as foreign national victims; (iv) an increase in the number of Federal Bureau of Investigation (FBI) Violent Crimes Against Children Task Forces; (v) the Department of Education's (ED) new, more comprehensive, program to educate school districts about human trafficking and commercial sexual exploitation of children; (vi) Immigration and Customs Enforcement's expanded forensic interviewing and victim assistance programs and new nationwide automated system to screen for indicators of human trafficking among the detainee population; (vii) the United States' first federal strategic action plan to strengthen services for trafficking victims in the United States under the direction of DOJ, the Department of Health and Human Services (HHS), and the Department of Homeland Security (DHS); (viii) expansions of eligibility of family members of trafficking victims for "T" nonimmigrant status to include certain extended family members of the principal who face a present danger of retaliation; (ix) a DOS Interim Final Rule to implement safeguards that expand the list of ineligible positions, enhance oversight and vetting of sponsors and third parties, and better define cultural activities to vulnerabilities in the "J-1" Summer Work Travel Program that can potentially facilitate human trafficking; and (x) DOS's implementation of new visa procedures that provide added protections to domestic workers employed by foreign diplomatic or consular personnel or by foreign employees of international organizations.</p> <p>In January 2013, DOJ published <i>the U.S. Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011</i> available at <a href="http://www.justice.gov/ag/annualreports/agreporhumantrafficking2011.pdf">http://www.justice.gov/ag/annualreports/agreporhumantrafficking2011.pdf</a>. This report contains substantial information that responds to this question, including reports on investigations, prosecutions, and sentences in trafficking cases, as well as agency-by-agency analysis of anti-trafficking efforts across the U.S. Government. The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 provides the statutory mandate for the report. The 2005 and 2008 reauthorizations of the TVPRA broadened the required reporting mandate.</p> <p><b>2013 AR:</b> According to the Government: The 2012 <i>Trafficking in Persons Report</i>, issued by the U.S. Department of State (DOS) on June 19, 2012, includes relevant information in a section on the United States. See: <a href="http://www.state.gov/j/tip/rls/tiprpt/2012/index.htm">http://www.state.gov/j/tip/rls/tiprpt/2012/index.htm</a>, beginning at page 359. Among other relevant information, the report includes:</p> <ul style="list-style-type: none"><li>- statistics on investigations, prosecutions, and penalties;</li><li>- information about the launching of six new Anti-Trafficking Coordination Teams, through which the Departments of Homeland Security (DHS), Justice (DOJ), and Labor (DOL) streamline coordination among federal prosecutors and agents and enhance federal interagency investigations and prosecutions;</li><li>- an explanation of Internal Revenue Service guidance, issued in January 2012, that</li></ul>
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			<p>makes mandatory restitution payments non-taxable, when they are made to compensate trafficking victims pursuant to the Trafficking Victims Protection Act;</p> <ul style="list-style-type: none"> <li>- DOL guidance, issued in May 2011, that clarifies its February 2010 H-2A regulations that enhanced protections related to nonimmigrant, temporary agricultural workers and U.S. workers who perform the same jobs (specifically, the H-2A regulations prohibit foreign recruiters from charging nonimmigrant temporary agricultural workers certain fees); and</li> <li>- a summary of a new U.S. Agency for International Development (USAID) Counter-Trafficking in Persons Code of Conduct that prohibits all USAID personnel, contractors, and grantees during the period of performance of their employment, contracts, or awards from engaging in trafficking in persons, procuring commercial sex acts, or using forced labor. In February 2012, USAID launched a new Counter-Trafficking in Persons Policy that outlines concrete, measurable principles and objectives to focus USAID’s counter-trafficking efforts.</li> </ul> <p>Subsequent to our previous report, in December 2011, DOJ published the <i>U.S. Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons for Fiscal Year 2010</i>, available at <a href="http://www.justice.gov/crt/about/crm/htpu.php">http://www.justice.gov/crt/about/crm/htpu.php</a>. This report contains substantial information that responds to this question, including detailed analysis of investigations, prosecutions, and sentences in trafficking cases, as well as agency-by-agency analysis of anti-trafficking efforts across the U.S. Government. The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 provides the statutory mandate for the report. The 2005 and 2008 reauthorizations of the TVPRA broadened the required reporting mandate. The report for Fiscal Year (FY) 2011 is expected to be published later this year and will also be available at <a href="http://www.justice.gov/crt/about/crm/htpu.php">http://www.justice.gov/crt/about/crm/htpu.php</a>.</p> <p><b>2010 AR:</b> According to the Government: Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, Pub. L. No. 110-457, among other things, authorized new measures to combat human trafficking, including new and expanded trafficking and forced labor crimes; increased penalties for trafficking and forced labor crimes; expanded remedies for victims to include actions against those who benefit from their illegal activities; enlarged authority to charge and detain offenders; a prohibition on the availability of certain U.S. funds to governments that recruit or use child soldiers; and the requirement that U.S. missions abroad investigate reports of child soldiers.</p> <p><b>2009 AR:</b> According to the Government: section 3205 of the Food, Conservation, and Energy Act of 2008, Pub.L.No. 110-246, was enacted into law on June 18, 2008, establishing a consultative group to develop recommendations on practices that would enable companies to monitor and verify whether the food products they import are made with the use of child or forced labor.</p> <p><b>2007 AR:</b> According to the Government: The Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA), PL 109-164, 119 Stat 3558, was enacted on January 10, 2006, amending the Trafficking Victims Protection Act of 2000 (TVPA), Division A of PL 106-386, 22 U.S.C. § 7101 <i>et seq.</i> The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), Pub. L. No. 108-193, 117 Stat. 2875 (2003), was enacted on December 19, 2003. The United States has</p>
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			<p>specific federal legislation, which requires every employer to pay each of his employees a minimum wage (29 U.S.C. § 206) and requiring overtime pay (29 U.S.C. § 207).</p>
		<p><b>Basic legal provisions</b></p>	<p>(i) US Constitution; (ii) the Trafficking Victims Protection Reauthorization Act (TVPRA), 2008, Pub. L. No. 110-457; and the Food, Conservation, and Energy Act, 2008, Pub. L. No. 110-246.</p>
		<p><b>Definition of forced or compulsory labour</b></p>	<p><b>2003 AR:</b> According to the Government: The Victims of Trafficking and Violence Protection Act of 2000 enacted on 28 October 2000 expands the definition of forced labor to reach the more insidious forms of coercion occurring in contemporary times, thus enabling the government to come to the aid of more victims and to bring more cases than allowed under prior anti-slavery and anti-peonage laws.</p> <p><b>2000 AR:</b> According to the Government: The Supreme Court defined involuntary servitude to mean the control of the labor and services of one man for the benefit of another and the absence of a legitimate right to dispose of one's own person, property, or services. Further, the Thirteenth Amendment's prohibition of "involuntary servitude" has been determined by the Supreme Court to ban the practice of peonage, which is broadly defined as "compulsory service in the payment of a debt". <i>Baily v. Alabama</i>, 219 U.S. 219, 242 (1911).</p>
		<p><b>Judicial decisions</b></p>	<p><i>Civil Rights Cases</i>, 109 U.S. 3, 20 (1883); <i>Clyatt v. United States</i>, 197 U.S. 207 (1905); <i>United States v. Gaskin</i>, 320 U.S. 527 (1944); <i>Yick Wo v. Hopkins</i>, 118 U.S. 356, 369 (1886); <i>Levy v. Louisiana</i>, 391 U.S. 68, 70 (1968); <i>Graham v. Richardson</i>, 403 U.S. 365, 371 (1971).</p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>Special attention to particular situations and human trafficking</b></p>	<p><b>2015 AR:</b> According to the Government: The <i>2014 Trafficking in Persons Report</i> section on the United States and the <i>2012 Attorney General's Report</i> describe protections for both U.S. citizens and foreign nationals who are victims of human trafficking.</p> <p>As discussed in the Government report under the 2013 Annual Review, foreign nationals and their immediate family members who are present in the United States on account of trafficking, are or have been victims of severe human trafficking, would suffer extreme harm if removed from the U.S., and are willing to assist law enforcement in the investigation or prosecution of acts of trafficking, are eligible for "T" visas, or nonimmigrant status visas, which can lead to lawful permanent residence and an opportunity to apply for citizenship after five years. "U" visas, also nonimmigrant status visas, are granted to foreign nationals who were victims of certain crimes, including trafficking, who have suffered substantial physical or mental abuse as a result of those crimes, possess information concerning such criminal activity, and have been helpful, are being helpful, or are likely to be helpful to law enforcement agencies, prosecutors, or judges investigating or prosecuting criminal activity. These visas provide for legal immigration status for up to four years.</p> <p>T visas were granted to 848 victims and 975 eligible family members of victims during the reporting period, representing an increase from 674 and 758, respectively, from the previous period. Further, processing times for T visas decreased during the reporting period. Additionally, DOL employed full-time U visa coordinators in each of five Wage and Hour Division regions and</p>





hosted stakeholder meetings to discuss employment and training for trafficking survivors. DHS added additional resources to adjudicate U visas in the fourth quarter of FY 2013, and provided employment authorization for waitlisted U visa applicants.

In recent years, the federal government has increasingly focused on eliminating human trafficking among the 564 federally recognized Tribes, known to include vulnerable populations. In 2013, the DOJ partnered with a regional training institute to develop a course on human trafficking in Indian Country for state criminal justice officials, as well as a tribal youth peer-to-peer human trafficking curriculum. HHS integrated human trafficking as part of its tribal consultation and announced a funding opportunity that includes services for victims of human trafficking. Additionally, the authorities for the DOJ Office on Violence Against Women were expanded to enhance the ability of communities to assist victims of trafficking, particularly tribal and youth victims of sex trafficking.

Youth are also especially vulnerable to human trafficking, and the U.S. Government has invested additional resources in preventative efforts, as well as in comprehensive care for victims. For example, HHS increased funding during the reporting period to train service providers for runaway and homeless youth and provided formal guidance to states and service providers on addressing child trafficking, particularly as it intersects with the child welfare system and runaway and homeless youth programs.

Finally, as noted above, the DOS expanded efforts to eliminate forced labor by persons in the United States employed as domestic workers by foreign diplomatic or consular personnel, or by foreign employers of international organizations. The DOS separately briefed foreign Deputy Chiefs of Mission and the NGO community on the requirements relevant to mission personnel employing such domestic workers, and updated the current prevailing wage rate for domestic workers.

**2014 AR:** The 2013 *Trafficking in Persons Report* section on the United States describes protections for both U.S. citizens and foreign nationals who are victims of human trafficking.

Foreign nationals and their immediate family members are eligible for “T” visas, or nonimmigrant status visas, which can lead to lawful permanent residence and an opportunity to apply for citizenship after five years. “U” visas, also nonimmigrant status visas, were granted to foreign nationals who were victims of certain crimes, including trafficking, who have suffered substantial physical or mental abuse as a result of those crimes, possess information concerning such criminal activity, and have been helpful, are being helpful, or are likely to be helpful to law enforcement agencies, prosecutors, or judges investigating or prosecuting criminal activity. These visas provide for legal immigration status for up to four years. During the reporting period, the qualifying crimes were expanded by statute to include fraud in foreign labor contracting.

The Department of the Interior’s Bureau of Indian Affairs provides services directly or through contracts, grants, or compacts to 564 federally recognized tribes, known to include populations vulnerable to human trafficking. DOJ’s Bureau of Justice Assistance awarded a grant to develop and pilot training to build awareness of the existence of human trafficking in Indian Country, provide law enforcement and community stakeholders with tools to identify and assist victims,



and hold perpetrators accountable. DHS conducted targeted outreach and training to tribal and territorial law enforcement agencies to raise awareness and to cultivate partnerships. In response to law enforcement concerns about possible human trafficking on the Fort Berthold Reservation in western North Dakota, the U.S. Attorney's Office in North Dakota, the FBI, and multiple tribal organizations created a Human Trafficking Working Group to address the abuse of women and children through prostitution on reservations.

Additionally, the 2011 Attorney General's Report describes measures to increase protection and outreach to vulnerable populations.

**2013 AR:** According to the Government: The 2012 *Trafficking in Persons Report* section on the United States describes protections furnished to victims of human trafficking, including foreign nationals, as well as U.S. citizens. It provides specific information on trafficking victims and their immediate family members who obtained immigration relief through "T" nonimmigrant status visas, which can lead to lawful permanent residence and an opportunity to apply for citizenship after five years as a lawful permanent resident, and "U" nonimmigrant status visas, which allow for legal immigration status for up to four years for victims of certain crimes, including trafficking, who have suffered substantial physical or mental abuse as a result of such crimes and who cooperate or are willing to cooperate with reasonable law enforcement requests in the investigation or prosecution of the qualifying criminal activity. The 2011 Attorney General's report, scheduled to be issued at the end of this year, is expected to describe measures to increase protection and outreach to populations of workers who are particularly vulnerable to being victims of trafficking.

**2012 AR:** According to the Government: The Attorney General's report describes measures to increase protection and outreach to populations of workers who are particularly vulnerable to being victims of trafficking. The *Trafficking in Persons Report* (2011) on the United States describes protections furnished to victims of human trafficking who are foreign nationals without lawful immigration status, as well as victims who are citizens. It also describes prevention efforts focused on certain visa categories, such as the A-3 and G-5 categories that allow persons to enter into the country as domestic workers of foreign diplomatic or consular personnel and of officials of international organizations and the J-1 Summer Work Travel Program, which provides foreign students an opportunity to live and work in the United States during their summer vacation from college or university.

**2011 AR:** According to the Government: The Attorney General's July report describes measures to increase protection and outreach to populations of workers who are particularly vulnerable to becoming victims of trafficking.

**2009 AR:** According to the Government: Focusing on countries identified by the State Department as needing to improve their efforts to combat human trafficking, the US Government provided approximately \$179 million in support during Fiscal Year 2007 to 180 international anti-trafficking programmes in more than 90 countries.

**2003 AR:** According to the Government: the laws are designed to protect all groups.



		<p><b>Information and data collection</b></p>	<p><b>2015 AR:</b> According to the Government: The <i>2014 Trafficking in Persons Report</i>, discussed above, includes information that responds to this question. The drafting of that report included significant engagement with and input from social partners. Among other relevant information, the report notes the following:</p> <p><u>Information/data collection</u></p> <p>The U.S. Government continued efforts to enhance information-sharing among law enforcement officials. For example, as noted in the previous answer, agencies developed a referral protocol to enable 50 “fusion centers” to share information related to law enforcement investigations. Additionally, an interagency pilot project, led by DOS, has commenced at 10 overseas posts designed to combat human trafficking. Within this project, Washington-based experts are working closely with 10 select Law Enforcement Working Groups to ensure that all pertinent embassy staff are properly trained on trafficking issues and to increase United States-host country information-sharing related to trafficking using a variety of methods tailored to each country.</p> <p><u>Training</u></p> <ul style="list-style-type: none"> <li>• The Department of Health and Human Services (HHS) launched the “SOAR to Health and Wellness Network” at the 2013 Clinton Global Initiative meeting, a pilot initiative designed to educate medical and health care providers on how to identify and serve victims in coordination with DOJ, the Department of Homeland Security (DHS), DOS, and the U.S. Agency for International Development (USAID).</li> <li>• The Department of Transportation and DHS partnered with five U.S. commercial airlines and offered training on human trafficking and a referral process to alert federal law enforcement.</li> <li>• DHS also trained all new asylum officers on referral procedures, trained various audiences on immigration benefits, and required Immigration and Customs Enforcement (ICE) officers to screen for human trafficking indicators among the unaccompanied alien child population.</li> <li>• DOJ partnered with a regional training institute to develop a course on human trafficking in Indian Country for state criminal justice officials, as well as a tribal youth peer-to-peer human trafficking curriculum.</li> <li>• The federal government continued to provide victim protection training to federal, state, local, and tribal law enforcement, as well as to non-governmental organizations (NGOs), service providers, and the general public.</li> </ul> <p><u>Awareness-raising</u></p> <ul style="list-style-type: none"> <li>• The Department of Education continued the development of an anti-trafficking guide for schools that includes a victim identification component.</li> <li>• Concerning persons in the United States employed as domestic workers by foreign diplomatic or consular personnel, or by foreign employers of international organizations, DOS separately briefed foreign Deputy Chiefs of Mission and the NGO community on the requirements relevant to mission personnel employing such domestic workers, and updated the current prevailing wage rate for domestic workers.</li> </ul>
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			<ul style="list-style-type: none"> <li>• DOS, at U.S. embassies and consulates worldwide, also distributed a “Know Your Rights” pamphlet and provided verbal briefings for approved student or work-based visa applicants.</li> <li>• HHS funded 11 projects to conduct outreach, public awareness, and identification efforts; the Equal Employment Opportunity Commission conducted more than 250 outreach events, including media interviews, oral presentations, stakeholder input meetings, and counseling sessions with underserved populations.</li> <li>• The Department of Labor (DOL) published an updated list of goods it has reason to believe are produced by child labor or forced labor in violation of international standards;DOL also updated a list of products produced, mined, or manufactured with forced or indentured child labor. DOL received input from stakeholders in creating this list.</li> <li>• The Partnership for Freedom, a public-private partnership with DOJ, HHS, the Department of Housing and Urban Development, and the NGO Humanity United, launched the first of three innovation competitions, “Reimagine: Opportunity,” dedicated to improving the infrastructure of support for survivors of modern slavery, and hosted an Innovation Workshop for the 12 finalists in January 2014.</li> <li>• DHS entered into partnership agreements with the National Association of Counties to promote anti-trafficking awareness and with Western Union to promote awareness about human trafficking at thousands of locations within the United States.</li> </ul> <p><u>Other Activities</u></p> <ul style="list-style-type: none"> <li>• In FY 2013, DOJ and HHScontinued fundingNGO-administered victim assistance programs across the country. Through these grants, HHS supported 138 NGO service providers across the country, increasing assistance to trafficking victims by 20 percent compared to the prior fiscal year.</li> <li>• DHS attended the National Native American Law Enforcement Association’s annual conference to cultivate partnerships with tribal and territorial law enforcement agencies to more effectively address human trafficking within Native American communities.</li> <li>• DOS and New Perimeter, LLC, a non-profit organization established by the global law firm DLA Piper, launched a public-private partnership announced at the White House Forum to Combat Human Trafficking to increase the availability of pro bono legal support and protection in the United States and internationally to combat trafficking.</li> <li>• HHS awarded a grant of \$800,000 to Polaris Project to operate a national human trafficking hotline 24 hours a day, seven days a week, every day of the year. The National Human Trafficking Resource Center provides emergency assistance, makes victim service referrals, passes tips to law enforcement, and provides training and technical assistance on human trafficking.</li> </ul> <p><b>2014 AR:</b> The 2013 <i>Trafficking in Persons Report</i>, discussed above, includes information that responds to this question. Among other related information, the report notes:</p> <ul style="list-style-type: none"> <li>- Information/data collection: The FBI began developing software to capture all human trafficking</li> </ul>
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		<p>case data to ensure uniform reporting at the federal and state levels.</p> <ul style="list-style-type: none"> <li>- Training: The U.S. Government increased its anti-trafficking law enforcement training efforts during Fiscal Year (FY) 2012: DHS collaborated with DOJ, FBI, and the Department of Labor (DOL) to create an advanced training program for its ACTeams; DOJ’s Bureau of Justice Assistance collaborated with law enforcement, judicial, and legal educators to deliver trainings to state judges and prosecutors; the FBI provided training on both child forensic interviewing and child sex trafficking to 200 agents, taskforce officers, and federal, state, and local prosecutors; the Department of Defense continued to mandate online training for its personnel; DHS produced two “roll-call” videos for state and local law enforcement to explain how immigration relief for victims of human trafficking can be beneficial to investigations; and, through a partnership with DHS and the Department of Transportation (DOT), the national passenger rail system announced that all of its employees, including police officers, will be trained on trafficking indicators and referral mechanisms. DOL developed guidance to enhance efforts to provide employment and training services to trafficking victims, trained Wage and Hour Division investigators on human trafficking, and began modifying that training for other enforcement agency staff. ED built a more comprehensive program to educate school districts about human trafficking and commercial sexual exploitation of children.</li> <li>- Awareness-Raising: DOS, through U.S. embassies and consulates worldwide, distributed a “Know Your Rights” pamphlet and provided verbal briefings for approved student or work-based visa applicants. DOT and DHS’s Customs and Border Protection partnered to offer training to U.S. commercial airlines on human trafficking and methods to alert federal law enforcement. The U.S. Agency for International Development (USAID) launched a Campus Challenge that engaged over 2,300 students and scholars representing more than 100 countries, including the United States, in a global online community and supported a contest for the best use of technology to prevent trafficking and assist trafficking victims. USAID, DOS, DHS, ED, and DOL continued other outreach programs as well.</li> <li>- Other Activities: In FY 2012, DOJ and HHS funded non-governmental organization-administered victim assistance programs across the country.</li> </ul> <p>The number of foreign national trafficking victims that received “T” visa immigration relief increased in FY 2012. The 2013 <i>Trafficking in Persons Report</i> includes statistics on this increase.</p> <p><b>2010 AR:</b> According to the Government: The U.S. Attorney General’s June 2009 report to Congress under the TVPRA of 2003, 2005, and 2008 can be found at <a href="http://www.usdoj.gov/olp/pdf/agr-report-fy2008.pdf">http://www.usdoj.gov/olp/pdf/agr-report-fy2008.pdf</a>.</p> <p><b>2009 AR:</b> According to the Government: The US Attorney-General’s May 2008 report to Congress for Fiscal Year 2007 under the Trafficking Victims Protection Reauthorization Acts of 2003 and 2005 can be found at <a href="http://www.usdoj.gov/ag/annualreports/tr2007/agreporhumantrafficking2007.pdf">www.usdoj.gov/ag/annualreports/tr2007/agreporhumantrafficking2007.pdf</a>.</p> <p><b>2008 AR:</b> According to the Government: The US Attorney-General’s May 2007 report to Congress under the Trafficking Victims Protection Reauthorization Acts of 2003 and 2005 can be</p>
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		<p>found at <a href="http://www.usdoj.gov/ag/annualreports/tr2006/agreporhumantrafficking2006.pdf">www.usdoj.gov/ag/annualreports/tr2006/agreporhumantrafficking2006.pdf</a>.</p> <p><b>2003 AR:</b> According to the Government: The principal storehouse of information concerning any labor statistics is the Bureau of Labor Statistics, Washington, D.C. 20212.</p> <p>Moreover, statistics regarding the number of investigations and prosecutions under the Victims of Trafficking and Violence Protection Act of 2000 and other cases involving involuntary servitude, are maintained at the US Department of Justice (Civil Rights Division, Criminal Section, Washington, D.C.20530).</p>
	<p><b>Prevention/monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2008 AR:</b> The U.S. Department of Justice established in March 2007 a Human Trafficking Prosecution Unit within the Civil Rights Division, which will enhance its ability to investigate and prosecute important trafficking and slavery cases. The unit will also serve as a resource for training, outreach, and policy development. Moreover, several states have passed laws to establish research commissions and task forces, and to mandate law enforcement training and the provision of victims' services.</p> <p><b>2007 AR:</b> According to the Government: With respect to the Trafficking Victims Protection Act of 2000, as amended, information on monitoring and enforcement is contained in yearly assessments that may be found at the following URL address: <a href="http://www.usdoj.gov/whatwedo/whatwedo_ctip.html">http://www.usdoj.gov/whatwedo/whatwedo_ctip.html</a>.</p> <p><b>2004 AR:</b> According to the Government: The Trafficking Victims Protection Reauthorization Act of 2003 allows a victim of trafficking to file a civil action in a district court against his/her trafficker and to recover damages and attorney's fees. The law also allows for the prosecution of sex traffickers whose actions affect commerce.</p> <p><b>2003 AR:</b> According to the Government: In realizing the principle of the elimination of all forms of forced or compulsory labor, the following measures have been implemented: (i) legal reform; (ii) inspection/monitoring mechanisms; (iii) penal sanctions; (iv) civil or administrative sanctions; (v) special institutional machinery; (vi) capacity building. The Victims of Trafficking and Violence Protection Act of 2000 increases prison terms for slavery violations from 10 years to 20 years and adds life imprisonment where the violation involves the death, kidnapping, or sexual abuse of the victim. This Act also gives prosecutors and agents new tools to get legal immigration status for victims of trafficking during investigations and prosecutions.</p> <p><b>2000 AR:</b> According to the Government: The provisions of 18 U.S.C. §§ 241 and 242 provide criminal penalties for the exaction of forced labor in violation of the Thirteenth Amendment.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2003 AR:</b> According to the Government: Tripartite examination of issues in realizing the principle and right (PR).</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: The <i>2014 Trafficking in Persons Report</i> and <i>2012 Attorney General's Report</i>, mentioned above, contain information on initiatives and successful anti-trafficking programs conducted by multiple U.S. government agencies.</p> <p>DOL's Bureau of International Labor Affairs (ILAB) also continues to update the <i>List of Goods Produced by Child Labor or Forced Labor</i>, mandated by the TVPRA of 2005. The primary purposes of the List are to raise public awareness about the incidence of child labor and forced labor in the production of goods in the countries listed and to promote efforts to eliminate such practices. On October 1, 2013, ILAB released a fourth update to the initial list. This update removed three goods from the list (tobacco from Kazakhstan, charcoal from Namibia, and diamonds from Zimbabwe), resulting in a current list with a</p>



		<p>total of 134 goods from 73 countries that ILAB has reason to believe are produced by forced labor, child labor or both, in violation of international standards. The report can be found at: <a href="http://www.dol.gov/ilab/reports/child-labor/list-of-goods/">http://www.dol.gov/ilab/reports/child-labor/list-of-goods/</a>.</p> <p>Under the Haitian Opportunity through Partnership Encouragement Act of 2008 (HOPE II), DOL worked with producers in Haiti's apparel sector to raise awareness about prohibitions on forced labor and work with producers to eliminate forced labor, particularly forced overtime, from their factories.</p> <p>As noted above, the U.S. Government continued efforts to train law enforcement officials and enhance information-sharing concerning human trafficking. Federal agencies developed a referral protocol to enable 50 "fusion centers" to share information related to law enforcement investigations, and began a pilot project in 10 countries to increase the flow of information about human trafficking overseas with a nexus to the United States.</p> <p>Additionally, the Federal Government enhanced its protection measures to increase identification of trafficking victims and fund services for identified victims, including by increasing funding for family reunification. OVC continued to administer grant funding and oversee special initiatives, including comprehensive services, for trafficking victims. OVC funding was used to serve both foreign national and U.S. citizen victims, with the number of U.S. citizens served increasing by 25 percent since the previous reporting period. During FY 2013, OVC competitively awarded new funding to 19 victim service organizations across the United States, providing over \$2 million in additional resources as compared to FY 2012. Federal agencies also collaborated to publish the <i>Strategic Action Plan on Victim Services in the U.S.</i>, which was informed by input from survivors of human trafficking and other stakeholders.</p> <p>Finally, USAID, along with Humanity United, hosted an event for donors contributing to anti-trafficking projects in conjunction with the UN General Assembly. The event endeavored to map an agenda for global action that focused on improving data and information-sharing, and increasing innovative use of technology to combat trafficking. This "donor dialogue" brought together, for the first time, public and private donors from Australia, Canada, Finland, Germany, Japan, the Netherlands, Sweden and the United States. USAID also continued its partnership with MTV EXIT (MTV's "End Exploitation and Trafficking" campaign) to support wide-reaching multi-media counter-trafficking campaigns across Asia, and launched an awareness campaign in Ukraine that included a contest for the most effective technology solutions to combat trafficking and culminated in a "hack-a-thon" co-sponsored by Facebook. More information on the project is available at: <a href="http://mtvexit.org/">http://mtvexit.org/</a>.</p> <p><b>2014 AR:</b> The <i>2013 Trafficking in Persons Report</i> and the <i>2011 Attorney General's Report</i>, mentioned above, contain information on initiatives and successful anti-trafficking programs conducted by multiple U.S. Government agencies.</p> <p>In addition to the successful practices listed in these reports, the U.S. Government is engaging in efforts to combat forced labor internationally – both to prevent workers from being trafficked into the United States and to prevent forced labor that is occurring in other parts of the world. For example, DOS's Bureau of Democracy, Human Rights and Labor (DRL) highlights the issue of trafficking in persons in its annual <i>Country Reports on Human Rights Practices</i> (available at <a href="http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper">http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper</a>). DRL funded several programs globally that promote worker rights and address labor violations, including trafficking in persons, such as a project in the Democratic Republic of the Congo to provide assistance to trafficked workers.</p> <p>USAID supported programs to strengthen partnerships between the U.S. Government and countries from which people are trafficked, and to build local capacity to combat trafficking in those countries. For example, USAID provided technical support to the State Congress, in Puebla, Mexico, for the drafting and approval of reforms to anti-trafficking legislation initially passed in 2010. This reform was the first of its kind in Mexico, consolidating several issues related to trafficking into</p>
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		<p>a single legislative package.</p> <p>USAID also supported a six-year program involving ten countries in southeastern Europe with the goal of developing transnational mechanisms and guidelines for comprehensive and appropriate victims' assistance across borders. The program resulted in a set of standard operating procedures for assisting trafficking victims that were agreed to by all governments in the region, strengthened mechanisms for information exchange about specific trafficking cases, and built counter-trafficking partnerships among the participating countries and with other international and local organizations.</p> <p>Additionally, pursuant to Executive Order No. 13126, DOL's Bureau of International Labor Affairs published an update to its <i>List of Products Produced by Forced or Indentured Child Labor</i> on July 23, 2013. Executive Order No. 13126 requires DOL, in consultation with DOS and DHS, to publish and maintain a list of products, by country of origin, which the three Departments have a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor. Under the procurement regulations implementing the Executive Order, federal contractors who supply products on the list published by DOL must certify that they have made a good faith effort to determine whether forced or indentured child labor was used to produce the items listed. The revised list adds six products; cattle from South Sudan, dried fish from Bangladesh, fish from Ghana, garments from Viet Nam, and gold and wolframite from the Democratic Republic of the Congo. This final determination updates the list to comprise 35 products from 26 countries. The list can be found at: <a href="http://www.dol.gov/ILAB/regs/eo13126/main.htm">http://www.dol.gov/ILAB/regs/eo13126/main.htm</a>.</p> <p><b>2013 AR:</b> According to the Government: Early in his Presidency, President Obama declared January as National Slavery and Human Trafficking Prevention Month, calling on the country to acknowledge the existence of modern-day slavery and to recommit ourselves to stopping and preventing human trafficking. In response to that call, and through a broad range of continuing programs and partnerships, the United States has undertaken significant efforts to promote the elimination of all forms of forced or compulsory labor.</p> <p>The 2012 <i>Trafficking in Persons Report</i>, discussed above, includes information that responds to this question. Among other related information, the report notes:</p> <ul style="list-style-type: none"><li>○ <u>Information/data compilation:</u> The Federal Bureau of Investigation (FBI) continued development of technology to incorporate human trafficking offenses in the annual statistics collected from police forces nationwide. The FBI conducted training to ensure that this data is collected and reported beginning in 2013.</li><li>○ <u>Training:</u> The U.S. Government has further increased its law enforcement training efforts. In FY 2011, DOJ held three regional training forums to bring together active DOJ task forces with investigators and victim service providers. DOJ also funded task forces that provided approximately 570 trainings and reached more than 27,000 people. The FBI provided comprehensive anti-trafficking training to more than 760 new agents and support personnel. The DHS Federal Law Enforcement Training Center trained over 2,000 state, local, and federal officers in human trafficking indicators in FY 2011. U.S. Immigration and Customs Enforcement Homeland Security Investigations provided anti-trafficking materials to over 47,000 individuals. The U.S. Citizenship and Immigration Services (USCIS) conducted numerous in-person and web-based trainings and presentations on human trafficking and immigration benefits for victims. The Department of Defense (DOD) also provided mandatory online training to all of its personnel.</li><li>○ <u>Awareness-raising:</u> In March, 2011, DOJ conducted training on human trafficking for over 30 State Farmworker Monitoring Advocates, where they learned how and where to refer complaints filed by migrants and seasonal farmworkers alleging human trafficking violations. Through a grant from DOS, an NGO developed a web-based application that helps users understand how their lives intersect with modern slavery and calls on consumers to</li></ul>
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		<p>change their purchasing habits. DHS, in collaboration with DOS, also created an online, interactive training on trafficking which is available to the public. The Department of Health and Human Services (HHS) continued to fund an NGO to operate a national human trafficking hotline that received over 16,000 phone calls in FY 2011, a 43 percent increase from the previous fiscal year. DHS, DOS, DOL, and DOD continued other outreach efforts as well.</p> <ul style="list-style-type: none"> <li>○ <u>Other programs</u>: The U.S. Government supported victims of trafficking by increasing the number of victim assistance coordinators assigned to field offices to assist victims cooperating in trafficking investigations and prosecutions. It also provided funding to victim service providers to support eligible victims during the criminal justice process.</li> </ul> <p>The number of foreign national trafficking victims that received immigration relief as a result of a trafficking-related visa program increased in FY 2011. The 2012 <i>Trafficking in Persons Report</i> includes statistics on this increase.</p> <p>In FY 2011, DHS and DOJ funded NGO-administered victim services projects across the country.</p> <p>The <i>U.S. Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons for Fiscal Year 2010</i>, discussed above, also contains substantial information that responds to this question.</p> <p><b>2012 AR:</b> According to the Government: The U.S. Attorney General's Fiscal Year 2010 Report (June 2011) to Congress under the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, 2005 and 2008 can be found at: <a href="http://www.justice.gov/ag/publications.htm">http://www.justice.gov/ag/publications.htm</a> This report describes the ongoing measures to implement the TVPRA of 2005 and the TVPRA of 2008, including strengthening enforcement, improving training, obtaining research data, and improving public outreach.</p> <p><b>2011 AR:</b> According to the Government: The U.S. Attorney General's Fiscal Year 2009 Report (July 2010) to Congress under the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, 2005 and 2008 can be found at: <a href="http://www.justice.gov/crt/crim/trafficking_report_2009.pdf">http://www.justice.gov/crt/crim/trafficking_report_2009.pdf</a>. This report describes the continuing measures to implement the TVPRA of 2008, including strengthening enforcement, improving training, obtaining research data, and improving public outreach.</p> <p><b>2008 AR:</b> The Government indicated that the U.S. Department of Justice convened a National Conference on Human Trafficking in 2006, bringing together federal, state, and local law enforcement and prosecution officials, victims' advocates, academics, and non-governmental victim service providers to discuss human trafficking issues and develop strategies for combating slavery and human trafficking more effectively. Moreover, the Human Trafficking Prosecution Unit will also serve as a resource for training, outreach and policy development.</p> <p><b>2003 AR:</b> According to the Government: In realizing the principle and right of the elimination of all forms of forced or compulsory labor, the following measures have been implemented: (i) awareness raising/advocacy; (ii) employment creation/income generation; (iii) educational programs; (iv) rehabilitation following removal from forced labor and (v) international cooperation programs/projects.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2013 AR:</b> According to the Government: The 2012 <i>Trafficking in Persons Report</i> and the U.S. Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons, mentioned above, contain information on initiatives and successful anti-trafficking programs conducted by multiple U.S. Government agencies.</p> <p>In addition to the many important successful practices listed in these reports, the U.S. Government is engaging in additional efforts to combat forced labor internationally – both to prevent workers from being trafficked into the United States and to</p>



		<p>prevent forced labor that is occurring in other parts of the world. DOJ is taking steps to forge and to strengthen partnerships across borders. For example, by working with Mexican law enforcement authorities, DOJ dismantled sex trafficking networks operating on both sides of the U.S.-Mexico border – bringing freedom to the victims, and securing landmark convictions and substantial sentences against the traffickers in these high-impact bilateral cases. DOJ is also working with their counterparts in Southeast Asia, Eastern Europe, Africa, Australia, and beyond, to establish similar partnerships – and to ensure that the global movement to end human trafficking has the attention, resources, and political support it deserves.</p> <p>Additionally, DOL’s Bureau of International Labor Affairs (ILAB) continues to update the List of Goods Produced by Child Labor or Forced Labor, mandated by the TVPRA of 2005. On September 26, 2012, ILAB released a third update to the initial list. This update adds four new goods (baked goods, beef, fish and thread/yarn) from three new countries (South Sudan, Suriname and Viet Nam) to the list, for a total of 134 goods from 74 countries that ILAB has reason to believe are produced by forced labor, child labor or both, in violation of international standards. The report can be found at: <a href="http://www.dol.gov/ILAB/programs/ocft/tvpra.htm">http://www.dol.gov/ILAB/programs/ocft/tvpra.htm</a>.</p> <p>ILAB also released a revision to its List of Products Produced by Forced or Indentured Child Labor, pursuant to Executive Order No. 13126 on September 27, 2012. Executive Order No. 13126 requires DOL, in consultation with DOS and DHS, to publish and maintain a list of products, by country of origin, which the three Departments have a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor. Under the procurement regulations implementing the Executive Order, federal contractors who supply products on the list published by DOL must certify that they have made a good faith effort to determine whether forced or indentured child labor was used to produce the items listed. The revised list of products adds four new goods (dried fish, wolframite, cattle and fish) and three new countries (South Sudan, Suriname and Viet Nam). According to this initial determination, the list is comprised of 35 products from 26 countries. This list can be found at: <a href="http://www.dol.gov/ILAB/regs/eo13126/main.htm">http://www.dol.gov/ILAB/regs/eo13126/main.htm</a>.</p>
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		<p><b>2012 AR:</b> According to the Government: The <i>Trafficking in Persons Report</i> (2011), issued by the U.S. Department of State, outlines the challenges for countries across the globe in addressing trafficking in persons and forced labour, including the United States. This report, which may be found at: <a href="http://www.state.gov/g/tip/rls/tiprpt/2011/index.htm">http://www.state.gov/g/tip/rls/tiprpt/2011/index.htm</a>, also includes, <i>inter alia</i>, special recommendations for improving law enforcement data collection on human trafficking cases at the state and local levels in the United States. Moreover, the U.S Department of Labor (DOL) Bureau of International Labor Affairs (ILAB) published on December 15, 2010 a report in accordance with the TVPRA of 2005 that included a list of products and the country of origin for each that are produced by forced and child labor. The report can be found at <a href="http://www.dol.gov/ilab/programs/ocft/TVPRA.htm">http://www.dol.gov/ilab/programs/ocft/TVPRA.htm</a>.</p> <p><b>2011 AR:</b> According to the Government: The <i>Trafficking in Persons Report</i> (2010), issued by the U.S. Department of State, outlines the challenges for countries across the globe in addressing trafficking in persons and forced labour. For the first time, this report includes a section on the United States. This report, which may be found at: <a href="http://www.state.gov/g/tip/rls/tiprpt/2010/index.htm">http://www.state.gov/g/tip/rls/tiprpt/2010/index.htm</a>, also includes, <i>inter alia</i>, special recommendations for improving law enforcement data collection on human trafficking cases at the state and local levels in the United States.</p> <p><b>2010 AR:</b> According to the Government: New Acts concerning the principle and right (PR) have been adopted, such as: (i) the Trafficking Victims Protection Reauthorization Act (TVPRA), 2008, Pub. L. No. 110-457; and (ii) the Food, Conservation, and Energy Act, 2008, Pub.L.No. 110-246. Moreover, the United States published on September 10, 2009 a report pursuant to the TVPRA of 2005 that included a list of products and the country of origin for each that are produced by forced and child labor. The report can be found at <a href="http://www.dol.gov/ilab/programs/ocft/PDF/2009TVPRA.pdf">http://www.dol.gov/ilab/programs/ocft/PDF/2009TVPRA.pdf</a>.</p> <p><b>2009 AR:</b> According to the Government: Focusing on countries identified by the State Department as needing to improve their efforts to combat human trafficking, the US Government provided approximately \$179 million in support during Fiscal Year 2007 to 180 international anti-trafficking programs in more than 90 countries.</p> <p><b>2008 AR:</b> According to the Government: The Office of Victims of Crime in the US Department of Justice in 2006 awarded more than \$12 million to 30 organizations around the country to help them continue working collaboratively with law enforcement task forces to ensure that comprehensive services are provided to victims of human trafficking. Moreover, the US Department of Justice continues to promote a Model State Anti-Trafficking Statute, which would expand anti-trafficking authority to the states. As of November 1, 2006, twenty seven (27) states had passed anti-trafficking legislation and 15 more had legislation pending. Several other states have passed laws to establish research commissions and task forces, and to mandate law enforcement training and the provision of victim’s services.</p> <p><b>2003 AR:</b> According to the Government: the cases brought under the Victim of Trafficking and Violence Protection Act of 2000 can be regarded as successful examples of the elimination of forced or compulsory labor in the United States.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>NIL.</b></p>
		<p><b>Workers’ organizations</b></p>	<p><b>2004 AR:</b> The AFL-CIO expresses its strong disagreement with the updated report by the Government on this PR.</p> <p><b>2003 AR:</b> Observations of the AFL-CIO: The labour performed by prisoners involving private sector violates the ILO Convention on forced labour</p>



		<p><b>2001-2002 ARs:</b> Observations of the ICFTU: (i) the minimum wage does not apply to prisoners; (ii) prisoners who refuse to work lose their chance for early release, are deprived of privileges or sent to higher-security institutions and may be locked in their cells 23 hours a day; (iii) with regard to forced domestic labour, there are reported cases of migrant domestic workers facing working conditions that are close to slavery; (iv) forced labour occurs in the garment industry within the United States territories, such as the Northern Mariana Islands; (v) an estimated 18,000 to 20,000 people are trafficked to the US every year (most are employed in the sex sector); (vi) trafficking cases are difficult to discover due to their clandestine nature and to language and cultural barriers which isolate the victims; (vii) many foreign workers are paid less than the minimum wage and, under the terms of their visa, face deportation if they leave their employer to escape from these oppressive conditions.</p>
	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> According to the Government: The <i>2014 Trafficking in Persons Report</i> discusses challenges for countries around the globe in addressing trafficking in persons and forced labor. The United States section notes challenges in eliminating trafficking and forced labor and makes specific recommendations for improvement. The <i>2012 Attorney General's Report</i> also contains information that is responsive to the challenges.</p> <p><b>2014 AR:</b> The <i>2013 Trafficking in Persons Report</i> discusses challenges for countries around the globe in addressing trafficking in persons and forced labor. The United States section notes challenges in eliminating trafficking and forced labor and makes specific recommendations for improvement. The 2011 Attorney General's Report also includes relevant recommendations.</p> <p><b>2013 AR:</b> According to the Government: The <i>2012 Trafficking in Persons Report</i> discusses challenges for countries around the globe in addressing trafficking in persons and forced labor. The section on the United States notes challenges and difficulties in this country as well as specific recommendations for improvement. The <i>U.S. Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons for Fiscal Year 2010</i> also includes relevant information.</p> <p><b>2012 AR:</b> According to the Government: <i>The Trafficking in Persons Report (2011)</i> issued by the U.S. Department of State, outlines the challenges regarding trafficking in persons and forced labour. This report may be found at: <a href="http://www.state.gov/g/tip/rls/tiprpt/2011/index.htm">http://www.state.gov/g/tip/rls/tiprpt/2011/index.htm</a>.</p> <p><b>2011 AR:</b> The Government indicated that the challenges regarding trafficking in persons and forced labour were outlined for the first time in <i>The Trafficking in Persons Report (2010)</i> issued by the U.S. Department of State. This report may be found at: <a href="http://www.state.gov/g/tip/rls/tiprpt/2010/index.htm">http://www.state.gov/g/tip/rls/tiprpt/2010/index.htm</a>.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2014 AR:</b> According to the Government: No technical cooperation requests are foreseen.</p> <p><b>2004 AR:</b> According to the ICFTU: There is a need for the effective elimination of forced prostitution and trafficking of women and children. A stronger enforcement of the law is needed as well as effective cooperation with the countries these women come from.</p>
	<p><b>Offer</b></p>	<p><b>NIL.</b></p>



<p><b>EXPERT-ADVISERS' RECOMMENDATIONS/OBSERVATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers were concerned that the United States was not actively considering ratification of Convention No. 29, and urged it to take action in this regard. However, they noted that some reporting States had developed programmes and mechanisms to combat forced labour in their countries, whether it took the form of classic slavery or bonded labour, trafficking, forced child labour, serfdom, or others. In this respect, they considered, in particular, that the United States and another State had taken certain positive measures, and encouraged them to engage in the ratification process of C.29 (cf. paragraphs 42 and 49 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2006 AR: The IDEAs hoped that the United States (and another State) would consider ratification of C.29 (cf. paragraph 44 of the 2006 AR Introduction – ILO: GB.295/5).</p> <p><b>2005 AR:</b> The IDEAs listed United States among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification. They also considered that the example of regular and constructive contributions by AFL-CIO and the JTUC-RENGO (Japan) should be expanded upon, in particular among other national workers' organizations, as well as employers' organizations (cf. paragraphs 13 and 190 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS/RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101st Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director-General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316th Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the Resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015 <sup>70</sup>: VIET NAM**

***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2003 and 2004 Annual Reviews (ARs).No change report under the 2001 AR.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Viet Nam Chamber of Commerce and Industry (VCCI), the Viet Nam Cooperative Alliance (VCA), the Viet Nam Cooperatives Alliance of Small and Medium Enterprises (VCASME), the Viet Nam National Council of Cooperatives (VNC) and the Viet Nam General Confederation of Labour (VGCL) and through consultations and communication of government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> Observation by the VCCI. <b>2011 AR:</b> Observations by the VCCI. Observations by the VCA. <b>2008 AR:</b> Observations by the VCCI. <b>2007 AR:</b> Observations by the VCCI.
	<b>Workers' organizations</b>	<b>2013 AR:</b> Observations by the VGCL. <b>2012 AR:</b> Observations by the VGCL. <b>2011 AR:</b> Observations by the VGCL. <b>2008 AR:</b> Observations by the VGCL. <b>2007 AR:</b> Observations by the VGCL. <b>2006 AR:</b> Observations by the VGCL.

<sup>70</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Viet Nam ratified the Forced Labour Convention, 1930 (No. 29) (C.29) in 2007. However, it has not yet ratified the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>YES, since 2000, for C.105.</b></p> <p><b>2015 AR:</b> The Government mentioned that C.105 was submitted to the National Assembly for ratification.</p> <p><b>2013 AR:</b> The Government indicated according to the ratification plan, C.105 is expected to be ratified in the period 2012 - 2015.</p> <p><b>2012 AR:</b> According to the Government: Viet Nam has conducted the feasibility study on C.105. The VCCI and the VGCL expressed their full support for the ratification of C.105 by Viet Nam.</p> <p><b>2011 AR:</b> The Government indicated that ratification of C.105 was scheduled for 2010. The VCCI, the VCA and the VGCL supported this ratification.</p> <p><b>2009 AR:</b> According to the Government: The final ratification of C.105 will be processed upon completion of the labour law review and the strengthening of the national legal system. The VCCI and the VCA agreed with the Government’s views.</p> <p><b>2008 AR:</b> According to the Government: the ratification of C.29 was approved by the President on 29 January 2007 and was submitted to ILO on 5 March 2007. As for C.105, amendments are currently being made to the Labour Code in order to comply with the International Labour Standards (ILS). Once the law review is completed, C.105 will be ratified. The VCCI supports the ratification of C.105. The VGCL indicated that the ratification of C.29 had already been completed and supported the ratification of C.105, which is currently being discussed between the social partners.</p> <p><b>2007 AR:</b> According to the Government: section 5 of the Labour Code clearly prohibits all forms of forced or compulsory labour. In that spirit, an interagency taskforce (Ministry of Labour, Invalids and Social Affairs (MoLISA), Ministry of Justice; Ministry of Public Security; VCCI and VGCL) has been established. The MoLISA has been cooperating with the ILO in conducting comparative analysis between national laws and the provisions of C.29 and C.105, as part of a move to ratify these instruments. The VCCI and the VGCL support ratification of these Conventions.</p> <p><b>2006 AR:</b> According to the Government: After the resolution of technical differences, it is likely that Viet Nam will ratify C.29 and C.105. The survey on the status of forced or compulsory labour is proceeding to its second phase, which consists in comparing the country’s legislation with the provisions of both Conventions to lay foundation for their ratification (starting with C.29). The VGCL mentioned that it was developing and implementing an action plan to move forward the ratification of C.29 and C.105 by Viet Nam.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government confirmed its intention to ratify C.29 and C.105.</p>



			<b>2000 AR:</b> The Government considered that it was “high time” to ratify C.29 and C.105 “in order to prevent misunderstandings”.
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>NIL.</b>
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy:</b> <b>2005 AR:</b> According to the Government: National policy to eliminate all forms of forced and compulsory labour is enshrined in section 5 of the Labour Code.</li> <li>• <b>Legislation:</b> <b>2006 AR:</b> According to the Government: The Labour Code prohibits forced labour under any form and manifestation.</li> <li>• <b>Regulations:</b> <b>2012 AR:</b> Decree on Human Trafficking, 2009. <b>2006 AR:</b> The Government indicted that it had issued regulations against the different forms of forced labour in consultation with the social partners. The VGCL stated that it had participated actively in the formulation of regulations on the various forms of forced labour.</li> </ul>
		<b>Basic legal provisions</b>	(i) Labour Code (section 5); (ii) Resolution No. 44/2003/ND-CP of 9 May 2003 (provision 1, section 11); and (iii) Decree No. 47/2010/ND-CP of 6 May 2010
		<b>Definition of forced or compulsory labour</b>	<b>2005 AR:</b> “Maltreatment and forced labour are the case in which a worker is beaten, insulted or forced to work in jobs inappropriate to gender, detrimental to health and dignity” (Resolution No. 44/2003/ND-CP of 9 May, 2003, provision 1, section 11).
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<b>2009 AR:</b> According to the Government: poor people and cross-border trafficking in women and children. <b>2005 AR:</b> According to the Government: Women and children.
		<b>Information/ Data collection and dissemination</b>	<b>2007 AR:</b> According to the Government: A survey is being completed to provide more information on the real situation concerning forced labour. <b>2005 AR:</b> According to the Government: A survey on the extent of forced labour in the country is being conducted.
	<b>Prevention, monitoring,</b>		<b>2011 AR:</b> According to the Government: Decree No. 47/2010/ND-CP dated 6/5/2010 repeals Decree No. 113/2004/ND-CP



	<p><b>enforcement and sanctions mechanisms</b></p>	<p>and reduces the fines to from between 5 million and 15 million VND (i.e., between US\$ 255 and 765).</p> <p><b>2009 AR:</b> According to the VGCL: Activities to monitor law compliance by trade unions have been conducted on a large scale.</p> <p><b>2006 AR:</b> The Government reported that it had been instructing ministries, relevant agencies and local authorities to work jointly with social organizations to prevent and combat proactively cross-border trafficking in women and children. It further indicated that trafficking in persons was considered as a criminal offence under national law and subject to prosecution.</p> <p><b>2005 AR:</b> According to the Government: The following measures have been implemented to realize the principle and right (PR) in Viet Nam: inspection/monitoring mechanisms and penal, civil or administrative sanctions. Where the principle has not been respected (use of forced labour), Resolution No. 113/2004/ND-CP of 16 April 2004 provides for administrative penalties in the form of fines (ranging from VND 15 to 20 million).</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2013 AR:</b> According to the Government: VCCI and VGCL are members of the Editorial Committee on national laws.</p> <p><b>2012 AR:</b> The Government, the VCCI and the VGCL indicated that employers' and workers' organizations had been involved in the drafting and revision of the Labour Code and the Trade Union Law, to bring national laws into conformity with C.105.</p> <p><b>2011 AR:</b> According to the Government: The employers' and workers' organizations have been involved in the reporting process.</p> <p><b>2009 AR:</b> The VCA indicated that it was working in close cooperation with ministries and agencies and local partners to implement poverty reduction programmes and help poor people improve their living standards.</p> <p><b>2005 AR:</b> According to the Government: Involvement of the social partners through tripartite examination of related issues.</p>
	<p><b>Promotional activities</b></p>	<p><b>2014 AR:</b> The Government indicated that one officer of the Ministry of Labour had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards held in May-June 2013 where issues concerning the PR were addressed.</p> <p><b>2013 AR:</b> The Ministry of Labour, Invalids and Social Affairs has organized several national workshops on labour law review in cooperation with ILO.</p> <p><b>2011 AR:</b> According to the Government: In 2008 and 2009, the MoLISA carried out training activities on C.29 for labour inspectors and officials all over the country (64 provinces).</p> <p><b>2009 AR:</b> The Government indicated that awareness-raising activities were carried, and that it was paying much attention to programmes for poverty reduction, preventing and combating cross-border trafficking in women and children.</p> <p>The VGCL and the VCA indicated that they had conducted training activities to raise the awareness of their members.</p> <p><b>2008 AR:</b> According to the Government: a plan of cooperation with the ILO on sensitization on forced labour is already in force. Several trainings are being conducted for labour inspectors, the police and magistrates and two workshops dedicated to workers and employers were organized. Moreover, the current national legal framework is under review for possible ratification of C.105.</p> <p>The VCCI indicated that it was also collaborating in the awareness-raising programmes.</p> <p>The VGCL indicated that it organized on regular basis trainings in order to raise awareness and to explain to workers the PR.</p> <p><b>2007 AR:</b> According to the Government: Workshops have been organized to raise awareness on the PR, in cooperation with the ILO.</p>



		<p><b>2006 AR:</b> The VGCL mentioned its participation in the survey to determine the magnitude of forced labour in the country.</p> <p><b>2005 AR:</b> According to the Government: In realizing the PR, the following measures have been implemented: employment creation/income generation and educational programmes.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2013 AR:</b> According to the Government: In the process of drafting the Labour Code, the Government and National Assembly committees have consulted the employers' and workers' organizations and worked jointly with ILO in Geneva and Bangkok. ILO comments and recommendations were afterwards taken into consideration.</p> <p><b>2012 AR:</b> According to the Government: The Labour Code and the Trade Union Bill were revised, in consultation with the social partners and the ILO, which provided several comments that were taken into consideration in the revision process. This national tripartite exercise allowed the harmonization of domestic laws with related ILO instruments, but also the evaluation of which ILO Conventions may be ratified and adopted by Viet Nam.</p> <p><b>2011 AR:</b> According to the Government: The Ordinance on Community Services was repealed by the National Assembly Standing Committee in 2007.</p> <p><b>2006 AR:</b> According to the Government: Law enforcement agencies have tightened their control to combat trafficking, in particular through: (i) patrols and fight against networks of human traffickers; and (ii) cooperation with mass organizations to disseminate information and raise public awareness on the PR. At the same time, efforts at poverty reduction and employment programmes are designed to prevent women and children from being victims of trafficking. Furthermore, a case study on C.29 and C.105 is being undertaken with ILO assistance by an inter-agency task force (comprising representatives of ministries, agencies and employers' and workers' organizations), with a view to establishing an overview of the legal framework and comparing national laws with relevant ILO Conventions.</p>

<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL.
		<b>Workers' organizations</b>	<p><b>2012 AR:</b> The VGCL indicated that in order for C.105 to be ratified, domestic laws would need to be reviewed.</p> <p><b>2009 AR:</b> According to the VCA: Poverty rate is still high, especially in rural, remote areas and among ethnic minority groups. More effort is needed to combat cross-border trafficking in women and children.</p>
	<b>According to the Government</b>	<p><b>2015 AR:</b> The Government indicated that the implementation will be the next challenge once C.105 is ratified.</p> <p><b>2012 AR:</b> According to the Government: The Labour Code needs to be improved taking into consideration the 68 related comments submitted by the ILO.</p> <p><b>2009 AR:</b> According to the Government: Poverty rate is still high, especially in the rural areas. The prevention and combat against cross-border trafficking in women and children requires time and efforts.</p> <p><b>2008 AR:</b> The Government mentioned the following challenges: (i) lack of capacity building (ii) poverty (iii) lack of training and education on the definition of forced labour. It added that some forms of labour, which are not exempted by C.105 still exist in the country, such as prison labour, minor communal work and services, rehabilitation labour for drug addicts and prostitutes.</p> <p><b>2006 AR:</b> In practice, the majority of victims of trafficking come from poor, rural areas, with low public awareness and insufficient information, therefore the victims are vulnerable to enticement and deception.</p> <p>In response to VGCL's comments, the Government supports VGCL's observations, in particular with respect to ratification and the need to strengthen ILO technical cooperation to promote and realize the PR in the country.</p> <p><b>2005 AR:</b> The main difficulties are as follows: lack of public awareness and/or support; lack of information and data; social and economic circumstances; legal provisions; lack of capacity of employers' organizations; lack of capacity of workers' organizations; and lack of social dialogue on the PR.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> The Government requested ILO technical cooperation in terms of capacity building for tripartite partners, including by addressing implementation challenges and organizing training activities</p> <p><b>2013 AR:</b> According to the Government: ILO assistance is appreciated on policy making (development of guiding documents for the newly adopted Labour Code to be effective and implemented in 2013) and employers' and workers' capacity building on the PR.</p> <p><b>2012 AR:</b> According to the Government: ILO technical assistance is needed in the following areas: (i) Capacity building for labour inspectors in law and policy making; (ii) Awareness raising; and (iii) Training and workshops.</p> <p>According to the VGCL: ILO assistance is needed for awareness raising, capacity building and training programme.</p> <p><b>2011 AR:</b> According to the Government: More ILO technical assistance would be needed to carry out a nationwide survey on forced labour and disseminate and organize training activities on the content of C105 to labour inspectors and labour officials after its ratification.</p> <p><b>2009 AR:</b> According to the Government: ILO technical assistance is highly needed in strengthening managerial capability of the MOLISA for coordinating efforts to monitor, prevent and abolish forced labour in all its forms and manifestation in Viet</p>	

		<p>Nam, in particular: (i) by providing Viet Nam with the opportunity to study experiences of monitoring, preventing, reducing and abolishing all forms of forced labour in other countries; and (ii) by providing technical assistance in promoting activities for improved compliance of the laws and for reduction and abolition of the forced labour in Viet Nam.</p> <p>The VGCL continued to seek technical support from the ILO to organize workshops, training courses to raise awareness about forced labour, and well as to build capacity for trade unions in supervising and monitoring.</p> <p>The VCA requested ILO assistance to help government officials to study and learn experience from other countries in monitoring, preventing and abolishing all forms of forced labour.</p> <p><b>2008 AR:</b> The Government requested ILO technical assistance for the elaboration of training programmes on forced labour.</p> <p>The VGCL requested ILO assistance for awareness-raising activities and that a country assessment is undertaken on the Declaration Follow-up.</p>
		<p><b>2007 AR:</b> The Government thanked the ILO for its active cooperation, and mentioned that it would appreciate further ILO technical cooperation to improve the realization of the PR in the country.</p> <p><b>2006 AR:</b> The Government thanked the ILO for its active cooperation and advice to governmental agencies and social partners and would appreciate receiving further support from the ILO in this regard.</p> <p>The VGCL thanked the ILO for its valued support for the promotion and realization of the PR, and wished the extension of this ongoing technical cooperation.</p> <p><b>2005 AR:</b> According to the Government: ILO technical cooperation is needed to facilitate the realization of the PR in the country in the three following priority areas: (1) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the PR; (2) awareness-raising, legal literacy and advocacy; sharing of experiences across countries/region; strengthening capacity of employers' and workers organizations; employment creation, skills training and income generation for vulnerable workers; and (3) strengthening data collection and capacity for statistical collection and analysis; training of other officials (e.g. police, judiciary, social workers, teachers) and coordination between institutions (e.g. various ministries and relevant commissions).</p>
	<p><b>Offer</b></p>	<p>ILO (awareness raising activities and case study on the PR).</p>



<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAS) welcome the fact that Viet Nam had ratified C.29, and listed Viet Nam among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step towards universal ratification. Concerning the interpretation and application of exemptions by C.105 regarding of some forms of forced labour, the IDEAs requested the Government of Viet Nam to seek ILO assistance for compliance. They further noted that a number of governments, employers’ or workers’ organizations in various countries, including Viet Nam, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO (cf. paragraphs 41, 45 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs encouraged Viet Nam to consider ratification of C.105 (cf. paragraph 40 of the 2007 AR Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The IDEAs hoped that ratification intentions expressed by Viet Nam would be soon realized (paragraph 185 of the 2005 Annual Review Introduction). They are also glad to receive concrete information on progress made in the elimination of all forms of forced or compulsory labour in Viet Nam, in cooperation with the ILO. In this respect, the Special Action Programme to combat Forced Labour (SAP-FL) should receive additional and substantial donor support to help countries make further progress in promoting and realizing the PR. Social Programmes should be maintained and supported to enable the effective elimination of all forms of forced or compulsory labour (cf. paragraph 192 of the 2005 Annual Review Introduction – ILO: GB.294/2).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



## **GENERAL OBSERVATION BY THE INTERNATIONAL ORGANISATION OF EMPLOYERS (IOE) UNDER THE 2015 ANNUAL REVIEW**<sup>71</sup>

As in the 2014 Annual Review, the IOE sent a statement outlining its position and activities with regard to the Declaration and its follow-up, which is reproduced here *in extenso*<sup>72</sup>.

[The IOE] thanks the Office for [the] opportunity to provide comments under the [A]nnual [F]ollow-up concerning [N]on-[R]atified [F]undamental Conventions and to reflect on the relevance of the 1998 ILO Declaration on Fundamental Principles and Rights at Work (the Declaration) for the programmes and activities developed by the International Organisation of Employers (IOE).

This communication intends to give an overview of the most important activities the IOE has undertaken in the past year in its efforts to promote the Declaration and its four principles.

### ***Promotion of the ILO Declaration on Fundamental Principles and Rights at Work***

At a global level, the IOE has had the opportunity across the range of inter-governmental, UN and multilateral system consultations in which it frequently engaged, to reiterate the commitment of business to the promotion of the Fundamental Principles.

Furthermore, the last Governing Body session discussions on the implementation report for the follow-up to the resolution concerning the recurrent discussion on fundamental principles and rights and work (GB.320\_INS\_3\_1) in March 2014 provided a platform for the Employers to re-energize attention, priority and focus on the fundamental principles and rights set out in the Declaration.

The conclusions of this debate reaffirmed the objectives of [the 1998] Declaration, mutually reinforcing strategic objectives and the fundamental principles and rights at work. Key elements of the ILO action plan continue to be [IOE's] focus of attention, as follows:

- Leading the knowledge agenda, advocacy and information dissemination.
- Supporting regional priorities. Capacity building, strengthening the role of social partners.
- Strengthening partnerships with major international actors.
- Ensuring that technical assistance activities have a focus on formalizing the economy, generating employment with particular emphasis to jobs and skills for youth.

### ***Corporate Social Responsibility***

The IOE, through its member Employers' Organisations, continues to work to ensure the proper use of the Declaration within CSR activities, recognizing that the Declaration is a call to member States to promote the Principles.

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<sup>71</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers, the ILO Governing Body and the International Labour Conference.

<sup>72</sup> With some light editing by the Office.



The IOE CSR Newsletter series has attracted contributions from many IOE member federations, highlighting concerns, announcing legal developments around the world and showcasing company experiences and best practices. Furthermore, the deliberations of the IOE Policy Working Group on CSR and Business & Human Rights, capturing the business perspective on challenges and company experiences of implementing the UN Guiding Principles, is providing specific guidance to Employers and Business Organisations on how to apply and support the Declaration in this context.

Major debates within the European Union and at the Office of the High Commissioner on Human Rights (OHCHR) have led the IOE to remain focussed on promot[ing] the incorporation of the fundamental principle and rights in the CSR activities of the business community around the world.

The IOE continues to work closely with the UN Human Rights Council in advancing the implementation of the Guiding Principles on Business and Human Rights through the activities of its Working Group and keeps on ensuring the clear identification of the labour rights aspects of the Declaration in conformity with the intent and purpose behind its creation.

### ***The effective abolition of child labour***

The IOE has continued to work actively with IPEC/ILO [ILO International Programme on the Elimination of Child Labour] and, together, [it] jointly support[s] a business assessment project with SHIFT to help companies eliminate the risk of child labour in their supply chains. In particular, the IOE/IPEC/SHIFT project has a focus on fundamental labour rights in alignment with the UN “Protect, Respect, and Remedy” Framework and its Guiding Principles and aims to provide guidance to companies seeking to demonstrate a proactive, rights-based approach to preventing child labour. The outcome of this project is a Toolkit for Employers on How to do business with respect for Children’s right to be free from Child Labour which is currently under review and its publication is anticipated before the end of 2015.

The IOE also continues to be actively engaged in the development of the Child Labour Platform, a business network aimed at contributing to the eradication of Child Labour from international production chains as a specific follow-up action from the Hague Conference. Please see section on Global Compact for further information.

### ***The elimination of all forms of forced or compulsory labour***

The IOE welcomed the adoption of the new Protocol and Recommendation on supplementing the Forced Labour Convention (C. 29) adopted at the 2014 ILC [International Labour Conference] and fully supports the action framework that these two new instruments will provide to effectively contribute to the elimination of all forms of forced labour and human trafficking. The IOE has produced joint guidance material on the relevance of this new instrument for Business, IOE-ILO Guidance Note on the 2014 Protocol to the Forced Labour Convention, 1930 and supports the ILO 50 for Freedom Campaign as part of the follow-up global initiative.

The Employers look forward to being part of the development of the ILO platform of action for the implementation of these new instruments in alignment with the Principles of the [19]98 Declaration and call on the ILO to assert its unique role as the organisation with the legitimacy and competence to set and deal with [I]nternational [L]abour [S]tandards, and, in doing so, promote policy coherence and collaboration across the multilateral system.

The IOE has continued to strengthen its partnership with the [ILO] Special Action Programme to combat Forced Labour (SAP – FL) and has completed the updating of [the] joint publication: Combating Forced Labour: A Handbook for Employers and Business and [it] continue[s] to target the development of further booklets on critical risk sectors such as agriculture, fishery and manufacturing.





In addition, the IOE supports the ILO's Fair Migration Agenda, including the Fair Recruitment Initiative which was designed in close consultation with employers to support pilot models of fair recruitment and capacity building of private employment agencies in target countries and in different sectors and industries; and in close cooperation with the International Organisation for Migration (IOM) committing to work at a global level and reducing exploitative recruitment practices in international labour migration.

#### ***The elimination of discrimination in respect of employment and occupation***

The IOE is actively involved in addressing various forms of discrimination directly through the activities of [its] policy working groups i.e. Employment; CSR and Business & Human Rights; International Labour Migration, Industrial Relations and Sustainable Development, as well as in cooperation with others as follows:

- With the ILO Bureau for Employers' Activities (ACT/EMP) to provide first-hand support and guidance at country level.
- With the Business and Industry Advisory Committee to the OECD, BIAC, to jointly advance the business case for gender diversity and women's economic empowerment.
- With the International Federation of Business and Professional Women (BPW International) to develop strategies, share networks and promote intercultural understanding to encourage workplace diversity, gender equality and women's empowerment across the business community.
- Through its co-chairing of the B20 Employment Task Force ensuring, for example, the G20 focus on increasing job opportunities for young people, including youth entrepreneurship, and that international organisations support national efforts to this end.
- The IOE has also worked in cooperation with the global trade union movement to jointly identify key priorities for the employment of young people.
- With the support of the ILO, the IOE continues to contribute to the development of the IOE/BIAC Global Apprenticeships Network (GAN), created as a direct outcome of the commitment of the global business community to play its part in addressing the youth employment crisis.

#### ***Global Compact***

With Secretary-General Linda Kromjong on the Global Compact Board, the IOE continues to play a crucial role in influencing the future direction and priorities of the Global Compact and its local networks, many of which are co-ordinated by IOE member federations.

In March 2014, the IOE launched a call to members in selected countries, in conjunction with its partner BPW International, to promote the Women's Empowerment Principles of the UN Global Compact/UN Women and we continue to monitor its development.

#### ***Freedom of Association and the effective recognition of the right to collective bargaining***

One of the IOE's primary means of promoting and upholding the principle of freedom of association for employers remains ensuring that the Governing Body Committee on Freedom of Association (CFA) and the CEACR [Committee of Experts on the Application of Conventions and Recommendations] are relevant, and responsive to the cases brought by the Employers' Group.

It remains a key responsibility of the IOE to defend the rights and interests of employers' organisations in all regions that do not fully enjoy freedom of association by providing assistance, guidance, support and representation.





Whilst freedom for employers prevails in many countries of the world and is largely taken for granted, developments in other parts of the world continue to threaten those rights, requiring the attention of the Employers' Group and the IOE and providing an on-going role for the promotion of the Declaration supported by targeted technical cooperation.

In partnership with the ILO Bureau for Employers' Activities (ACT/EMP), the IOE continues to help ensure infringements of this principle of employers' rights are strongly denounced in the CFA and in the Governing Body as required.

### **Conclusions**

The Employers continue to be fully engaged in the promotion of the Fundamental Principles and Rights at Work which are the cornerstone of [IOE's] framework of action and policy recommendations.

The Employers reiterate their commitment to cooperate with all relevant actors to further promote the realisation of the Principles in accordance with the different national circumstances of [the IOE] member federations.

The Declaration remains an outstanding example of how the ILO should and can react to pressing social issues through its unique process of consensus building. [The IOE] appreciate[s] this opportunity to provide feedback and remain available to answer any questions arising from this document.



**The effective abolition of child labour**

**L'abolition effective du travail des enfants**

**La abolición efectiva del trabajo infantil**



## **20 REPORTING STATES (AND THE CONVENTIONS NOT YET RATIFIED BY THEM)**

1. Australia (C.138)
2. Bangladesh (C.138)
3. Canada (C.138)
4. Eritrea (C.182)
5. India (C.138 & C.182)
6. Iran, Islamic Republic of (C.138)
7. Liberia (C.138)
8. Marshall Islands (C.138 & C.182)
9. Myanmar (C.138 & C.182)
10. New Zealand (C.138)
11. Palau, Republic of (C.138 & C.182)
12. Saint Lucia (C.138)
13. Saudi Arabia (C.138)
14. Somalia (C.138)
15. Suriname (C.138)
16. Timor-Leste (C.138)
17. Tuvalu (C.138 & C.182)
18. United States (C.138)
19. Vanuatu (C.138)



**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>73</sup>: AUSTRALIA**

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, except for the 2002 and 2004 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers organizations in the reporting process</b>	YES, according to the Government: Involvement of the employers' organizations (the Australian Chamber of Commerce and Industry (ACCI) and the Australian Industry Group (Ai Group)) and the workers' organizations (the Australian Council of Trade Unions (ACTU)) through communications of government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL.	
	<b>Workers' organizations</b>	2010 AR: Observations by ACTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	Australia ratified in December 2006 the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). However, it has not yet ratified the Minimum Age Convention, 1973 (No. 138) (C.138).
		<b>Ratification intention</b>	<p><b>Under consideration since 2011.</b></p> <p><b>2015 AR:</b> According to the Government: Ratification is not currently a priority for the current Australian Government.</p> <p><b>2014 AR:</b> According to the Government: The ratification of C. 138 is under active consideration and that the Commonwealth, state and territory governments have assessed their respective jurisdictions as compliant with the Convention. At the time of submitting the report, the Government indicated that a proposal to ratify the Convention was being considered by the Joint Standing Committee on Treaties in the Australian Parliament. However, the Australian Parliament was expected to be prorogued in the near future, and consequently a report by the Committee on C. 138 may be delayed.</p> <p><b>2013 AR:</b> The Government reiterated its statement made under the 2012 AR indicating that all Australian governments have advised that their jurisdictions to comply with C.138 in law and practice, taking into account reliance on the flexibility provisions under Article 3(3) and Article 4 of the Convention. A decision on Australia's future ratification will be made following the completion of consultations with state and territory governments.</p>

<sup>73</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

		<p><b>2012 AR:</b> According to the Government: Australia’s treaty-making policy requires that treaties, such as ILO Conventions, cannot be ratified unless full compliance has been achieved in all jurisdictions. The Australian Government and state and territory workplace relations Ministers agreed to formally consider ratification of C.138 in 2011. The Government is working closely with state and territory governments to determine their respective compliance with the requirements of the Convention. A decision on Australia’s future ratification will be made once this assessment has been finalized.</p> <p><b>2011 AR:</b> According to the Government: While Australia meets the spirit and basic objectives of the Convention, it remains unclear whether Australia complies with every technical requirement of C.138. To this end, the Government is working closely with state and territory governments to determine their compliance with the requirements of this instrument, as well as ILO concerning compliance issues.</p> <p><b>2010 AR:</b> According to the Government: While Australian law and practice fully meets the objectives of C.138, Australia is currently unable to ratify it due to technical compliance reasons. State and Territory governments have been consulted with a view to determining whether and to what extent their legislation complies with the requirements of the convention. The Government is still awaiting responses from a number of States and Territories. Of the Territories and States that have provided practice reports for C.138, some have stated that the ratification of C.138 cannot be supported at this stage or require further consideration. The Australian Government is currently conducting research to determine compliance gaps.</p> <p>The ACTU reiterated its support for the ratification of C.138 by the Australian Government.</p> <p><b>2009 AR:</b> According to the Government: The Government is conducting research to determine whether C.138 is an appropriate target for ratification. State and territory governments will be consulted with a view to determining whether and to what extent their legislation complies with the requirements of C.138.</p> <p><b>2008 AR:</b> The Government indicated that while Australian law and practice fully meets the objectives of C.138, Australia is currently unable to ratify it due to technical compliance reasons.</p> <p><b>2007 AR:</b> According to the Government: Ratification of C.182 by Australia can be expected by the end of 2006. [Ratification was registered on 19 December 2006.]</p> <p><b>Commonwealth Government</b> – Government legislation is fully compliant with C.182.</p> <p><b>New South Wales (NSW)</b> – The NSW Government is fully supportive of ratification of C.182 and NSW legislation is in compliance with C.182.</p> <p><b>Victoria</b> – The Victorian Government strongly supports C.182 and registered agreement to ratification with the Federal Government on 1 December 2000. Victorian legislation is in compliance with C182.</p> <p><b>Queensland</b> – The Queensland Government is fully supportive of ratification of C.182 and Queensland legislation is in compliance with C.182.</p> <p><b>Western Australia</b> – The Western Australian Government is fully supportive of ratification of</p>
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			<p>C.182 and Western Australian legislation is in compliance with C.182.</p> <p><b>South Australia</b> – The South Australian Government is fully supportive of ratification of C.182 and South Australian legislation is in compliance with C.182.</p> <p><b>Northern Territory</b> – The Northern Territory Government is fully supportive of ratification of C.182 and Northern Territory legislation is in compliance with C.182.</p> <p><b>Australian Capital Territory (ACT)</b> – ACT Government is fully supportive of ratification of C.182 and ACT legislation is in compliance with C.182.</p> <p><b>Tasmania</b> – The Tasmanian Government is fully supportive of ratification of C.182 and as of 1 January 2006, Tasmanian legislation is in compliance with C.182.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p> <hr/> <p><b>Policy, legislation and/or regulations</b></p>	<p><b>NIL.</b></p> <hr/> <p><b>2015 AR:</b> According to the Government, the following actions and measures had been taken as part of changes in law, practices and legislation:</p> <p><u><b>New South Wales</b></u></p> <p><i>Entertainment Industry Act 2013</i></p> <p>The New South Wales Government is committed to ensuring that vulnerable young performers in the entertainment industry are protected from all forms of exploitation. The new Entertainment Industry Act 2013 which commenced on 1 March 2014 provides significant information disclosure requirements protecting child performers.</p> <p><i>Explosives Act Regulation 2013</i></p> <p>In addition to the previously advised prohibition on employment of children for underground work in mines, further measures to protect children from dangerous activities are contained in the Explosives Act Regulation 2013:</p> <ul style="list-style-type: none"> <li>• clause 9 prohibits grant of a security clearance for licence purposes to a person under 18 years of age;</li> <li>• clause 83 prohibits the sale of a distress signal, railway track signal, power device cartridge or ammunition to a person under 18 years of age; and</li> <li>• clause 94 prohibits persons under 21 from driving vehicles containing explosives.</li> </ul> <p><u><b>Victoria</b></u></p> <p>In June 2014, a revised Mandatory Code of Practice for the Employment of Children in Entertainment (the revised Code) was made, pursuant to the Child Employment Act 2003 (Vic). The revised Code will continue to protect children from work that could be harmful to their health or safety, moral or material welfare, their development and attendance at school and their capacity to benefit from instruction. The revised Code continues to create binding obligation on employers of children.</p> <p><u><b>Australian Capital Territory</b></u></p> <p>The Children and Young People Act 2008 (ACT) seeks to protect children and young people from exploitation and risks they may face in the workplace and provides standards and regulations which work towards this goal.</p> <p>ACT legislation provides for compulsory education, ensuring the vast majority of children attend school on a full time basis. Under section 10 of the Education Act 2004 (ACT), children in the ACT must attend school if the child is at least 6 years old and remain in full-time education (at least 25 hours per week) until achieving Year 10. The exception to this requirement is if the child or young person has received an exemption certificate from the Government.</p> <p>Further, under section 782 of the Children and Young People Act (ACT), the employment of a child or young person must not adversely affect his or her ability to benefit from their education or training. An employer must not employ a child or young person of compulsory education age</p>
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		<p>during school hours unless:</p> <ul style="list-style-type: none"> <li>• the child or young person has received an exemption from the relevant school authority (this should be a rarity) or</li> <li>• the child or young person is in a registered home school program (as school hours may vary).</li> </ul> <p>Restrictions on the employment of children and young people are principally set out in:</p> <ul style="list-style-type: none"> <li>• the Children and Young People Act 2008 (ACT)</li> <li>• Children and Young People Regulation 2009 (ACT)</li> <li>• Children and Young People (Employment) Standards 2009 (No. 1) (ACT)</li> <li>• Children and Young People (High Risk Employment) Declaration 2009 (No. 1) (ACT).</li> </ul> <p>Further laws that protect children and young people at work in the Territory include the Fair Work Act 2009 (Cth), which is a Commonwealth law that applies wholly in the ACT, and the Criminal Code 2002 (ACT).</p> <p><b>2014 AR:</b> The Government reported that the following actions and measures had been taken as part of changes in law, practices and legislation:</p> <p><b><u>In Commonwealth jurisdictions:</u></b></p> <p><i>National Children’s Commissioner</i></p> <p>Legislation to establish a National Children’s Commissioner within the Australian Human Rights Commission commenced on 1 July 2012 (see Part IIAA of the Australian Human Rights Commission Act 1986, available at <a href="http://www.austlii.edu.au/au/legis/cth/consol_act/ahrca1986373/">http://www.austlii.edu.au/au/legis/cth/consol_act/ahrca1986373/</a>). The Commissioner, Ms Megan Mitchell, commenced her 5-year term on 25 March 2013 and will focus solely on the rights and interests of children, and the laws, policies and programs that impact on them. The establishment of the National Children’s Commissioner is a key action under the National Framework for Protecting Australia’s Children 2009-2020. For further information please see: <a href="http://www.humanrights.gov.au/our-work/childrens-rights">http://www.humanrights.gov.au/our-work/childrens-rights</a>.</p> <p><i>Fair Work Act 2009 (Cth) (Fair Work Act)</i></p> <p>The Fair Work Amendment Act 2013 was passed by the Australian Parliament on 27 June 2013 and contains a number of measures that are relevant to young people:</p> <ul style="list-style-type: none"> <li>• <i>Workplace Bullying:</i> From 1 January 2014, under section 789FC of the Fair Work Act, workers suffering from workplace bullying will be able to make an application to the Fair Work Commission (the Commission) for help to resolve the bullying. The Commission will be required to commence dealing with a matter within 14 days of an application being made. Where the Commission is satisfied that someone has been bullied, and there is a risk that the worker will continue to be bullied at work, the Commission will have the power to make an order to prevent bullying in the workplace in the future. A breach of an order made by the Commission will attract</li> </ul>
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a fine of up to \$10,200, for an individual or \$51,000 for a body corporate.

- *Consultation arrangements for regular rosters and working hours:* The Fair Work Act (ss. 145A and 205) establishes new consultation requirements to ensure that employers genuinely consult with employees about changes to their regular rosters and ordinary hours of work. From 1 January 2014, an employer will be required to provide information to the employees about the change, invite employees to give their views about the impact of the change and to consider any views about the impact of the change given by the employees. The existing dispute resolution mechanisms continue to apply in relation to the new consultation requirements.

*Model Work Health and Safety laws*

In 2013 Safe Work Australia released a draft model Code of Practice for Preventing and Responding to Workplace Bullying for public comment. A final code of practice will likely be released later in 2013.

*Anti-Trafficking measures*

On 27 February 2013 the Australian Government passed the Crimes Legislation Amendment (Slavery, Slavery-Like Conditions and People Trafficking) Act 2013 to amend the Criminal Code Act 1995 to address and reaffirm Australia's commitment to combat forced labour, slavery and slavery like conditions and people trafficking. The Act inserted offences of forced labour, forced marriage, organ trafficking, harbouring a victim and trafficking in children. Penalties for the offences in Divisions 270 and 271 of the Criminal Code Act 1995 range from four years' imprisonment for debt bondage, to 25 years' imprisonment for slavery and trafficking in children.

*Commonwealth Procurement Rules*

The Department of Finance and Deregulation has responsibility for Australian Government procurement policy. The Commonwealth Procurement Rules (CPRs) are issued under Regulation 7 of the Financial Management and Accountability Regulations 1997. The CPRs articulate the Australian Government's procurement policy, and prohibit agencies from seeking to benefit from supplier practices that may be dishonest, unethical or unsafe. This obliges agencies not to contract with suppliers that are known to engage in exploitative labour practices, such as slavery or human trafficking, or that use suppliers that engage in such practices.

In March 2013, the then Prime Minister, Hon Julia Gillard MP, announced the Australian Government Anti-Slavery Initiative which seeks to ensure that no business providing goods or services to the Australian Government is tainted by human slavery, trafficking or related exploitative practices anywhere in the supply chain. The announcement highlighted areas of concern and included strategies for improving Commonwealth procurement arrangements. The Australian Government is developing strategies to implement this initiative, with a particular focus on educating and awareness raising amongst Commonwealth procurement officers to ensure they are aware of their obligations with respect to ethical procurement.

**In all jurisdictions:**

Under the 2009 Compact with Young Australians, all State and Territories have legislated from 1 January 2010 to require young people to participate in schooling (or an approved equivalent) to

		<p>Year 10, and then participate full-time (at least 25 hours per week) in schooling, approved training or employment, or a combination of these activities, until age 17. The Compact is delivered under the National Partnership on Youth Attainment and Transitions, which was established by the Commonwealth and the States and Territories to support the achievement of a national Year 12 or equivalent attainment rate of 90 per cent by 2015. The National Youth Participation Requirement is a minimum national requirement that States can go beyond if they wish. The National Partnership on Youth Attainment and Transitions can be found at: <a href="http://www.coag.gov.au/coag_meeting_outcomes/2009-07-02/docs/NP_youth_attainment_transitions.pdf">http://www.coag.gov.au/coag_meeting_outcomes/2009-07-02/docs/NP_youth_attainment_transitions.pdf</a>.</p> <p><b><u>In Victoria:</u></b></p> <p>In 2012, the Victorian Government announced the Refocusing Vocational Training in Victoria reform package and in 2013, the Next Steps for Refocusing Vocational Training – Supporting a Modern Workforce</p> <p>(See <a href="http://www.education.vic.gov.au/about/department/pages/refocusvet.aspx">http://www.education.vic.gov.au/about/department/pages/refocusvet.aspx</a>).</p> <p>Vocational training is generally provided after schooling is completed and most students are therefore over the age of 17 (i.e. over the age that the Minimum Age Convention applies). Compulsory education requirements in the Education and Training Reform Act 2006:</p> <p>ETR Act effectively means that the minimum age for full-time employment in Victoria is equivalent to the age for completion of compulsory schooling.</p> <p>In Victoria, general education is provided through the school system, which comprises both government run and independently operated schools. Three accredited senior school certificates are available: the Victorian Certificate of Education (VCE), the Victorian Certificate of Applied Learning (which is a more applied alternative to VCE) and the International Baccalaureate. These certificates are administered through the Victorian Curriculum and Assessment Authority (<a href="http://www.vcaa.vic.edu.au">www.vcaa.vic.edu.au</a>).</p> <p>As part of either the VCE or the Victorian Certificate of Applied Learning, young people have the option to include units of Vocational Education and Training in Schools (VETiS), which deliver all or part of the studies required to simultaneously complete nationally accredited vocational certificates.</p> <p>It is also possible to undertake a part-time school-based apprenticeship or traineeship, encompassing completion of at least one day a week with the employer or in training during the normal school week. Most young people undertake Work Experience while at school. Those undertaking VETiS may also undertake Structured Workplace Learning as part of these studies.</p> <p>While the vast majority of young people attend school to complete their senior certificates, the same qualifications are also delivered by some public training institutes and community and adult education providers.</p> <p>Under changes to the Education and Training Reform Act 2006:</p> <ul style="list-style-type: none"> <li>• students undertaking senior secondary certificates with training providers or with senior</li> </ul>
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		<p>secondary providers other than schools can undertake Work Experience or Structured Workplace Learning; and</p> <ul style="list-style-type: none"> <li>• students in post-secondary vocational education and training courses can only undertake Practical Placements.</li> </ul> <p>In general, young people are required to remain in school until they are 17 years of age, unless they have already completed the final year of schooling (Year 12). However, they can leave school following Year 10, as long as they are engaged full-time in further education, training or employment.</p> <p><b><u>In Northern Territory:</u></b></p> <p>While not specifically related to child employment, the NT’s Criminal Code Act was amended in May 2013 specifically recognising an assault on workers as a crime. The new offence provision (section 188A), was inserted in Division 5 (Assaults), and applies when a worker (broadly defined and includes contractors, apprentices, volunteers or students) is unlawfully assaulted whilst he or she is working in the performance of his or her duties.</p> <p><b><u>In South Australia:</u></b></p> <p>The Work Health and Safety Act 2012, Work Health and Safety Regulations 2012 and associated Codes of Practice came into force in South Australia from 1 January 2013. This legislation was developed nationally for the purpose of harmonising workplace health and safety legislation across Australian jurisdictions. The Work, Health and Safety Act 2012 requires systematic procedures to protect the health and safety of all workers, including young workers. The Work, Health and Safety Act 2012 replaced the Occupational Health, Safety and Welfare Act 1986, and Regulations.</p> <p><b>2013 AR:</b> According to the Government: The Work Health and Safety (WHS) Act and the model Work Health and Safety (WHS) Regulations were finalised at the end of 2011 and adopted by the jurisdictions. These standards apply in the Commonwealth, New South Wales, Queensland, the Northern Territory and the Australian Capital Territory from 1 January 2012. As from 1 January 2013, they will also apply in Tasmania and South Australia. In relation to the principle of the effective abolition of child labour, the WHS Regulations have age related restrictions for work considered to be particularly high risk or hazardous. A number of Codes of Practice have been developed to complement the model WHS Act and model WHS Regulations. They provide practical guidance to duty holders on how to meet their obligations under the model WHS laws and are admissible in court proceedings as evidence of whether or not a duty or obligation has been complied with. Courts may also have regard to a Code of Practice as evidence of what is known about a hazard, risk or control and to assist in determining what is reasonably practicable in the circumstances to which the code relates. The Codes of Practice on <i>How to Manage Work Health and Safety Risks</i>, <i>How to Consult on Work Health and Safety</i> and <i>How to Prevent Falls at Workplaces</i> outline specific requirements for considering the vulnerability of young workers. In particular these codes stress the importance of considering young workers when managing risks to health and safety, which is a requirement under the Act.</p>
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		<p><b>Commonwealth</b></p> <p>At the Commonwealth level, legislation to establish a National Children’s Commissioner within the Australian Human Rights Commission commenced on 1 July 2012. The Commissioner will focus on promoting the rights, wellbeing and development of children and young people in Australia and is a key action under the National Framework for Protecting Australia’s Children 2009-2020. The new Commissioner is expected to take office by the end of 2012. Please refer to Part IIAA of the <i>Australian Human Rights Commission Act 1986</i>, available at <a href="http://www.austlii.edu.au/au/legis/cth/consol_act/ahrca1986373/">http://www.austlii.edu.au/au/legis/cth/consol_act/ahrca1986373/</a>.</p> <p><b>2012 AR:</b> According to the Government: In addition to the role of national policy for occupational health and safety and workers’ compensation, Safe Work Australia has developed the model Work Health and Safety (WHS) Act and draft Regulations and Codes of Practice to create a set of uniform laws across Australia. The laws have been developed through a tripartite process involving Commonwealth, State and Territory governments and employer and employee representatives. Each state and territory is in the process of enacting legislation that mirrors the draft model WHS laws by January 1 2012. This legislation will replace current work health and safety laws in the Commonwealth, states and territories. [Safe Work Australia is an Australian Government statutory agency established in 2009, with the primary responsibility of improving work health and safety and workers’ compensation arrangements across Australia. The agency is jointly funded by the Commonwealth, State and Territory governments facilitated through an intergovernmental agreement signed in July 2008].</p> <p><i>The model Work Health and Safety Act</i></p> <p>The model WHS Act has been developed to protect the health and safety of workers and improve safety outcomes in the workplace. It does so by placing duties on persons conducting a business or undertaking, officers and workers to ensure health and safety.</p> <p>Requirements in relation to young workers are implicit in the model WHS Act and are not set out in a specific clause. The primary duty under the model WHS Act requires a person conducting a business or undertaking to ensure the health and safety of all workers while they are at work in the business or undertaking. This means that all workers, including young workers, are protected while at work.</p> <p>This primary duty also requires a person conducting a business or undertaking to provide information, training, instruction or supervision that is necessary to protect all persons from risks to health and safety arising from work carried out as a part of the business or undertaking. In order to meet this duty a person who engages young workers may need to tailor the information and instruction they provide so that young workers can understand. Similarly, a person who engages young workers may need to provide additional supervision for young workers to meet the requirement of adequate supervision under the model WHS Act.</p> <p><i>The draft model Work Health and Safety Regulations</i></p> <p>The draft model WHS Regulations are being developed to complement and support the general duties under the model WHS Act. Importantly, they have age related restrictions for work</p>
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			<p>considered to be particularly high risk or hazardous.</p> <p>The draft model WHS Regulations define high risk work as a class of work requiring a high risk work license, such as scaffolding work, dogging and rigging work, crane and hoist operation, forklift operation and boiler operation. In order to obtain a high risk work license an applicant must be at least 18 years of age and must also complete specified training. If a worker, whether under the age of 18 or not, is undertaking training in a specified unit of competency they are able to carry out the high risk work only if they are under the supervision of a person with a license. The draft model WHS Regulations also require specific safety measures in relation to diving work, which is a type of hazardous work. Under the draft model WHS Regulations a worker must have specific competencies and must be medically fit to carry out the work. A medical practitioner can place conditions on the type of work carried out by a person under the age of 18.</p> <p>The draft model WHS Regulations also place a restriction based on age on who can be a nominated supervisor for asbestos removal work which poses the most significant risks. A nominated supervisor who must be present or readily available during the removal of any friable asbestos or more than 10 square metres of non-friable asbestos must be at least 18 years of age.</p>
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		<p><i>The draft model Work Health and Safety Codes of Practice</i></p> <p>Safe Work Australia has developed a number of draft model Codes of Practice as a part of the harmonization of WHS laws. They provide practical guidance to duty holders on how to meet their obligations under the model WHS Act and draft Regulations. The draft model Codes of Practice on <i>How to Manage Work Health and Safety Risks</i>, <i>How to Consult on Work Health and Safety</i> and <i>How to Prevent Falls at Workplaces</i> outline specific requirements for considering the vulnerability of young workers. In particular these codes stress the importance of considering young workers when conducting a risk assessment, which is a requirement under the model WHS Act.</p> <p>Codes of Practice are admissible in court proceedings under the model WHS Act and draft Regulations as evidence of whether or not a duty or obligation has been complied with. Courts may also have regard to a Code of Practice as evidence of what is known about a hazard, risk or control and to assist in determining what is reasonably practicable in the circumstances to which the code relates.</p> <p><b>2011 AR:</b></p> <p><i>New South Wales</i></p> <p>According to the Government: The Children and Young Persons (Care and Protection – Child Employment) Regulation 2005 has been repealed and replaced with the Children and Young Persons (Care and Protection – Child Employment) Regulation 2010, which commenced on 1 September 2010. The new Regulation makes some amendments to the provisions of previous Regulation. Clause 8 of the Regulation broadens the circumstances in which a fee may be reduced by the Minister, and also changes the amount that the Minister can reduce any fee payable, by up to 25 per cent. The new Regulation makes the following changes with respect to provisions in the Code of Practice (at Schedule 1 of the Regulation):</p> <ul style="list-style-type: none"> <li>• Subclause 2(2), in relation to notice of work locations, has been changed requiring employers to now provide additional information of any risks in connection with the employment of the child. The notice must provide details of: <ul style="list-style-type: none"> <li>Any risks existing in connection with the employment of the child, including risks associated with employing the child at the proposed place of work or location and risks associated with the child’s proposed role or employment schedule.</li> <li>– The strategies that the employer proposes to ensure compliance with this Code.</li> <li>– Any modifications to this Code that the employer may seek.</li> </ul> </li> <li>• Clause 13, in relation to calculation of employment, makes changes with respect to travelling time and time spent at work that is to be included in the total period of employment during any 24 hour period. The following provisions have been changed: <ul style="list-style-type: none"> <li>– Any time in excess of 90 minutes spent by the child in travelling from home to the place of work.</li> <li>– The whole of the time that the child is required to be at work excluding any rest break required by clause 14 (4) (b) or a rest break:</li> </ul> </li> </ul>
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			<ul style="list-style-type: none"> <li>(i) that is required by a provision of an industrial instrument or agreement, being a provision that prevails over this Code because of clause 12; and</li> <li>(ii) that the industrial instrument or agreement provides is not to be counted as part of the total number of hours worked.</li> </ul> <ul style="list-style-type: none"> <li>- Any time in excess of 90 minutes spent by the child in travelling home from the final place of work.</li> </ul> <ul style="list-style-type: none"> <li>• Clause 14, in relation to general limitations on hours of work, makes the following changes to provisions:             <ul style="list-style-type: none"> <li>- A child cannot be employed for more than 5 consecutive days.</li> <li>- An employer must not employ a child for more than 4 hours on any day on which the child receives schooling.</li> <li>- An employer must not employ a child later than 8.00 pm on 3 consecutive days if the day following each day on which the child is employed is a day on which the child is to receive schooling.</li> <li>- The total period of time for which a child is employed during any week, when added to the time that the child receives schooling during that week, must not exceed 50 hours.</li> </ul> </li> <li>• Clause 15 and Clause 16, in relation to the limitations on hours of work for entertainment or exhibitions, and live performances respectively, have increased the maximum days per week that a child aged between 6 months and 3 years can be employed to 2 days per week.</li> <li>• Clause 21, in relation to work directions in entertainment, exhibitions and photography, makes the following changes:             <ul style="list-style-type: none"> <li>- before a child is cast in a role or situation the employer must fully inform the child and a parent of the child of the nature of the role or situation and must take into account any comments of the child or the parent;</li> <li>- an employer must not employ a child in any situation in which the child or any other person has an exposed genital area, buttocks or, in the case of female children or other persons, breasts.</li> </ul> </li> </ul> <p><b>2010 AR:</b>  <i>Fair Work Act 2009 (Cth)</i></p> <p>According to ACTU a significant development has been noted with respect to the passage of the FairWork Act 2009 which binds 'national system employers'. It regulates the working conditions of young workers to the exclusion of state laws on child labour. The Fair work Act does not exclude state laws on child labour, in the extent that those laws deal with the times at which, or the periods during which, a child may be employed.</p>
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**2007 AR: C.182.**

**Commonwealth Government** – Federal Government legislation is fully compliant with C.182 and meets the objectives of C.182.

*New South Wales (NSW)*

SW legislation is fully compliant with C.182.

**Victoria** – *Child Employment Act 2003*

The Child Employment Act 2003 which commenced on 12 June 2004 (World Day against Child Labour) reformed Victoria’s long-standing law relating to the employment of children under the age of 15 years. It introduced maximum daily hours of work, mandated rest breaks, minimum ages for certain occupations, a prohibition against certain types of employment, a provision restricting children to “light work” and a system of police checks for employers and other persons directly supervising children. The Act’s definition of “light work” (reflecting the definition in C.138) is work or any other activity that:

- is not likely to be harmful to a child’s health or safety, moral or material welfare or development; and
- is not such as to prejudice the child’s attendance at school or their capacity to benefit from instruction.

Under the Act, employment occurs when a child takes part or assists in any business, trade or occupation carried on for profit. It includes both paid and unpaid work and applies whether the child is engaged as an employee or an independent contractor.

The Act provides that with limited exceptions, children between the ages of 13 and 15 years may be engaged only in light work, subject to the employment being authorized through the prescribed child employment permit system. Employment is prohibited during school hours unless a Ministerial exemption from school attendance has been obtained.

The minimum age of employment does not apply to the employment of children in a family business or in the entertainment industry, and permits are not required for children employed in a parent’s family business. Nevertheless, various other protections of the Act do apply to children in these categories.

*Mandatory Code of Practice for the Employment of Children in Entertainment*

In the legislative review leading up to Child Employment Act 2003 it was recognized that the entertainment industry was a special case and required separate treatment. The industry was therefore specifically exempted from the hours, rest break and minimum age provisions.

In order to more appropriately regulate the employment of children under 15 years in the industry, the Act required the responsible Minister to make all reasonable efforts to make a mandatory code of practice within 12 months of the commencement of the Act.

The Act also required the Minister to consult with representatives of employers and employees in the entertainment industry and with relevant Government agencies before making the code.



		<p>Accordingly, the Minister for Industrial Relations made the Mandatory Code of Practice for the employment of Children in Entertainment in June 2005, and the Code came into effect on 1 November 2005. The Code regulates matters such as:</p> <ul style="list-style-type: none"> <li>- daily hours of work;</li> <li>- spread of hours;</li> <li>- shifts and rest breaks;</li> <li>- provision of education;</li> <li>- a 40-hour limit on combined work and education;</li> <li>- travel;</li> <li>- food, drink and amenities;</li> <li>- parental contact;</li> <li>- supervision;</li> <li>- a prohibition on inappropriate roles or nudity;</li> <li>- specific provisions for babies.</li> </ul> <p>Among other things, the Justice Legislation (Sexual Offences and Bail) Act amended the Crimes Act 1958 by amending existing child pornography offences and creating new offences relating to involving children in sexual performances. These measures have strengthened Victoria's laws against the commercial sexual exploitation of children for the purposes of compliance with C.182.</p> <p><b>Queensland</b> – The Queensland Government has enacted the <i>Child Employment Act 2006</i>, effective from 1 July 2006. The purpose of this Act and its supporting Regulation is to ensure that work does not interfere with children's schooling and that children are prevented from performing work that may be harmful to their health or safety or their physical, mental, moral or social development. Key features of the Act and proposed regulation include:</p> <ul style="list-style-type: none"> <li>- general minimum working age tied to compulsory schooling requirements while allowing children below this age to work only in certain circumstances and with various restrictions imposed;</li> <li>- restrictions on working hours for children yet to complete compulsory schooling.</li> </ul> <p>The legislation is part of a package of reforms which includes a Child Employment Guide to explain the new laws. The Act is supported by a workplace health and safety code of practice for young workers.</p> <p>The Workplace Health and Safety Queensland Children and Young Workers Code of Practice cover both young workers under 18 years of age, and children who visit workplaces. The main features of the code are:</p> <ul style="list-style-type: none"> <li>- identification of hazards of particular risk to young workers such as manual tasks, noise, chemicals, industrial equipment, machinery and workplace harassment;</li> </ul>
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			<p>– a risk management approach for young workers emphasizing workplace health and safety induction, training and supervision practices that should be followed.</p> <p>A Code of Practice for the Employment of Young People in the Entertainment Industry will be introduced by the end of 2006.</p> <p><i>Western Australia</i> – The Western Australian Government has recently amended legislation further restricting the employment of children. The legislation prohibits the employment of children under the age of 15 except under strict conditions as specified under the Children and Community Services Act 2004.</p> <p>This legislation is provided additional support by the School Education Act 1999. This legislation has recently been amended taking the compulsory school age up to 16 as of 1 January 2006. This is further increasing to 17 on 1 January 2008.</p> <p><i>South Australia</i> – South Australian legislation is fully compliant with C.182.</p> <p><i>Northern Territory</i> – Northern Territory legislation is fully compliant with C.182.</p> <p>ACT – ACT legislation is fully compliant with C.182.</p> <p><i>Tasmania</i> – As of 1 January 2006, Tasmanian legislation is fully compliant with C.182.</p>
<p><b>Exercise of the principle and right</b></p>		<p><b>Judicial decisions</b></p>	<p><b>NIL.</b></p>
		<p><b>Compulsory education</b></p>	<p><b>YES.</b></p> <p><b>2011 AR:</b> In 2009, the <i>Education Act 1990</i> was amended by the <i>Education Amendment Act 2009</i> to increase the school leaving age to effectively 17 (effective 1 January 2010). section 21B of this Act provides that a child is of compulsory school-age if the child is of or above the age of 6 and below the minimum school leaving age. The minimum school leaving age is the age at which the child completes Year 10 of secondary education, or the age of 17, whichever first occurs. However, if a child completes Year 10 but is not yet 17, the child must participate on a full-time basis in approved education or training or, if the child is above the age of 15, in paid work or a combination of both, until the age of 17.</p>
		<p><b>Minimum age</b></p>	<p><i>NSW, South Australia, Northern Territory, ACT</i> – No update in these jurisdictions.</p> <p><b>2011 AR:</b> The minimum age for admission to employment in Australia is predominantly determined by state and territory compulsory education legislation, which require children to remain in school or approved education until they turn 17. More specific rules regarding the employment of children (including the minimum age for admission to employment such as ‘light work’) differ from jurisdiction to jurisdiction, and feature in general workplace relations, child protection and occupational health and safety legislation and practices. Together, they provide a suite of protections that the Government considers give effect to C.138.</p> <p><b>2007 AR:</b> C.138.</p> <p><i>Commonwealth Government</i> – In relation to Minimum Age, it should be added that: Australian law and practice meets the objectives of C.138. This is achieved through State and Territory laws,</p>

			<p>which require children, aged up to 15 years (16 in Tasmania) to attend school; and laws providing for minimum ages for employment in selected occupations, child welfare, and occupational health and safety. These laws are implemented through State and Territory Government agencies including departments of education, community services, workplace relations, and health and safety. Enforcement is achieved through a variety of measures, including the use of inspection services, reference of child welfare matters to special children’s courts, and the imposition of fines and other penalties as appropriate.</p> <p><b>Queensland</b> – The Government of Queensland has advised that it may experience some compliance difficulties with respect to the minimum age provisions of C.138 as the Child Employment Act 2006 allows children below the age of 13 years to work on rare occasions.</p> <p><b>Western Australia</b> – The principle of effective abolition of child labour is recognized by the Western Australian Government. The Children and Community Services Act 2004 and The School Education Act 1999 demonstrate compliance in law and practice with the spirit of C.138 and C.182. That is, children are not exploited as a source of labour and are free to work so long as they are not engaged in the worst forms of child labour.</p> <p>These laws are implemented through State Government agencies including departments of education, community services, labour relations, and health and safety. Enforcement is achieved through a variety of measures, including the use of inspection services and the imposition of fines and other penalties as appropriate.</p> <p><b>South Australia</b> – No changes to South Australian Law and Practice. It should be noted that in 2005, significant amendments were made to both the Occupational Health and Safety and Welfare Act 1986 and the Fair Work Act 1994.</p> <p><b>Northern Territory</b> – No new comments, as at time of reporting, no changes in legislation with regard to C138 have been enacted.</p> <p><b>New South Wales (NSW), Victoria, ACT, Tasmania</b> – No update in these jurisdictions.</p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>Worst Forms Child Labour</b></p>	<p><b>C.182 is ratified.</b></p>
		<p><b>Special attention to particular situations</b></p>	<p><b>2015 AR:</b> According to the Government:  <u>Australian Capital Territory</u>  The ACT has industry-specific legislation to regulate the minimum age for entry into certain occupations. The purpose of this legislation is to protect children and young people from engaging in occupations of high risk. Provisions from relevant legislation are:  section 118 the Liquor Act 2010  section 80 of the Casino Control Act 2006</p> <ul style="list-style-type: none"> <li>the Prostitution Act 1992</li> </ul>

- section 21 the Security Industry Act 2003
- the Children and Young People (Employment) Standards 2011

Additional protections exist under ACT law for workers under the age of thirteen. For example, the Children and Young People (Employment) Standards 2011 (ACT) provides that:

- a child or young person must not be employed for more than one shift per day and can be employed for specific maximum hours based on their age
- a child or young person must not be employed before 6:00am or sunrise (whichever is later), or after 10:00pm
- employers must ensure children and young people take adequate rest breaks and have a minimum of 12 hours elapse between shifts
- hours of work must not interfere with the child or young person’s participation in education or training, or the likelihood of benefiting from education or training.

*In Western Australia*

The Department of Commerce’s education consultations and the provision of information is directed at major chain fast food industry employers. The Department also conducts education seminars at secondary schools, delivered to school children aged between 12 and 15 years, on the application of relevant legislative provisions.

**2014 AR:** According to the Government: In Western Australia, education and inspection focus on fast food industry is ongoing. An education program commenced in January 2013, which involves personal visits to all the Perth metropolitan fast food outlets, to explain the children and employment laws and ensure that store managers understand their obligations regarding child employment. At the same time, labour inspectors continue to investigate complaints and prosecute as appropriate. However, it indicated that there have been no new developments in the Commonwealth jurisdictions over the last 12 months.

**2011 AR:** *Memorandum of Understanding – safety for children in the workplace.*

In 2010 WorkSafe Victoria (the agency responsible for administering occupational health and safety, legislation in Victoria) and the Department of Innovation, Industry and Regional Development (responsible for administering child employment in Victoria) commenced the process of negotiating a Memorandum of Understanding to replace an earlier Memorandum of Understanding, negotiated in 2006 to ensure ongoing cooperation in relation to following shared objectives: (i) to ensure that a child’s health, safety, welfare or development is not harmed in the course of the child’s employment in any Victorian workplace; (ii) to ensure that as far as possible the same health and safety requirements are complied with in all workplaces in Victoria, and that these requirements are administered in a consistent manner; (iii) to assist Victorian workplaces achieve best practice levels of health and safety for employees and the public; (iv) to ensure the effective co-operation of both parties in the administration of their respective requirements in relation to scheduled matters; and (v) to ensure that consistent approaches to regulation are adopted and that duplication of activities of both parties is avoided as far as feasible in respect of



			<p>facilities, operations, installations and workplaces over which both parties have regulatory jurisdiction.</p> <p><i>Guidance for Children in the Workplace</i></p> <p>In 2010, WorkSafe Victoria, in consultation with the Department of Innovation, Industry and Regional Development (responsible for administering child employment in Victoria), commenced a review of the guide <i>Keeping Children Safe in the Workplace</i> to reflect changes to the <i>Child Employment Act 2003</i> and ensure its currency.</p> <p>The guide, which was first issued in September 2006, is designed for workplaces where children work or visit, to identify hazards and implement safety controls to prevent injuries. The guide notes that while children under 15 may be employed in Victorian workplaces under the <i>Child Employment Act 2003</i>, due to their age, stage of physical and emotional development and their inexperience they are the most vulnerable employees in Victorian workplaces. The guide contains information on duties under the child employment and occupational health and safety legislation, and on making preparations for children in the workplace.</p>
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		<p><b>2007 AR:</b></p> <p><i>Queensland</i> – The Commission for Children and Young People Act 2000 requires the Commission in undertaking its statutory functions to give priority to the needs and interests of children and young people: (i) who are not able to protect their rights, interests and well-being; (ii) for whom there is no appropriate person to act on their behalf; (iii) who are disadvantaged because of a disability, geographic isolation, homelessness or poverty; or (iv) who are, or may enter, out-of-home care or detention.</p> <p>The Office for Youth within the Department of Communities provides Youth at Risk Outreach Services (YAROS) targeted at young people aged 12 to 25 who are identified as ‘at risk’ through a range of factors including homelessness, involvement in survival sex, and illicit drug use. YAROS aims to divert young people from risk-taking behaviour and to prevent their entry into the formal sex industry.</p> <p>YAROS conducts a range of prevention and early intervention activities that use a harm-minimisation approach, including information and referral, direct assistance, specialist counselling, support groups, health education (particularly for safe sex and drug use), and needle exchanges.</p> <p>There are seven Youth at Risk Outreach Services located across the state, with two services located in regional areas. Each service conducts activities according to the specific needs of the young people in the local area.</p> <p><i>Western Australia</i> – In Western Australia, young indigenous people are provided with the same opportunities for education, social and skills development as other children.</p> <p><i>ACT</i> – According to the Government of the Australian Capital Territory: the indigenous young people by providing them with the same opportunities for education, social and skills development as other children.</p> <p><i>Commonwealth Government, NSW, Victoria, South Australia, Northern Territory, Tasmania</i> – No update in these jurisdictions.</p>
		<p><b>Information/ Data collection and dissemination</b></p> <p><b>2015 AR:</b> According to the Government:</p> <p><u>Western Australia</u></p> <p>The Department of Commerce, Labour Relations (the Department) has conducted education seminars to 700 relevantly aged children on the application of the children in employment laws. The Department has also conducted an education campaign on the application of the children in employment laws directed at all employers in the regional area of Newman in Western Australia.</p> <p><u>Australian Capital Territory</u></p> <p>Employers of children and young people must comply with the 10 standards set out in the <i>Children and Young People (Employment) Standards (No 1) (ACT)</i>, made under section 887 of the <i>Children and Young People Act 2008 (ACT)</i>. Standard 1 applies to the employment of all child and young people under 18 years of age and standards 2-10 apply to the employment of all child and young people under 15 years of age.</p>

			<p><b>2007 AR:</b></p> <p><b>Commonwealth Government</b> – According to Federal Government: the Australian Bureau of Statistics (ABS) population census currently collects work force data for children over 15 years. The ABS is currently considering expanding this to younger ages in response to reviews of child labour in various states.</p> <p><b>Victoria</b> – The Victorian Government has requested the Australian Bureau of Statistics (ABS) to collect child labour data for children under the age of 15 years and has contributed to development of a survey tool for use by the ABS in 2006.</p> <p><b>Western Australia</b> – The Australian Bureau of Statistics (ABS) population census collects work force data for children over 15 years.</p> <p><b>NSW, Queensland, South Australia, Northern Territory, ACT, Tasmania</b> – No update in these jurisdictions.</p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>		<p><b>2015 AR:</b> According to the Government:</p> <p><b>New South Wales</b></p> <p>Under the Entertainment Industry Act 2013, a Child Performer Representative, before entering into an entertainment industry agreement with a child performer, must provide the parents of the child performer with a fact sheet which sets out the employer’s obligations relating to the conditions of employment of minors under the Children and Young Persons (Care and Protection) Act 1998 and its Regulations. These include supervision requirements, the maximum hours of employment and also information about education and health. The fact sheet is provided by the Office of the Children’s Guardian and is available at: <a href="http://www.kidsguardian.nsw.gov.au/Working-with-children/Children-s-employment/information-for-talent-agents">http://www.kidsguardian.nsw.gov.au/Working-with-children/Children-s-employment/information-for-talent-agents</a>.</p> <p>In addition, the new laws require performer representatives to provide performers with an ‘Information for Performers’ fact sheet prior to entering into an entertainment industry agreement. This fact sheet is designed to help performers understand their rights and obligations under the Entertainment Industry Act 2013 and is available at: <a href="http://www.industrialrelations.nsw.gov.au/biz_res/oirwww/pdfs/Fact_sheet_for_performers.pdf">www.industrialrelations.nsw.gov.au/biz_res/oirwww/pdfs/Fact_sheet_for_performers.pdf</a></p> <p>The Office of the Children’s Guardian is responsible for regulating children’s employment in New South Wales under Chapter 13 and Schedule 2 of the Children and Young Persons (Care and Protection) Act 1998 and the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010 (the Regulation).</p> <p>The Children’s Guardian monitors compliance with the Regulation through discussing particular employment arrangements with employers, key staff (for example, safety officers or nurses) and parents of employed children. During these discussions, the Children’s Guardian may require changes to particular employment arrangements to promote the safety, welfare and well-being of the child employee.</p> <p>The Children’s Guardian also conducts site visits to monitor compliance with the Regulation. In the 2013/2014 financial year the Office of the Children’s Guardian conducted 56 location visits. The Children’s Guardian may also call representatives of an employer during the course of a child’s employment, to check the employment is being managed in accordance with the requirements of the Code of Practice.</p>

		<p>The maximum penalty for employing a child in prescribed employment without authorisation by the Children’s Guardian, or in contravention of an authority, is 100 penalty units – see s223 of the Act. During 2013/2014 the Children’s Guardian focused on a number of community engagement strategies including the targeting of Child Performer Representatives, as outlined above, to ensure that they do not provide children to an unauthorised employer.</p> <p>The maximum penalty for endangering children in employment is 200 penalty units (see section s222 of the Act). An offence committed by a corporation is an executive liability offence attracting executive liability for a director or other person involved in the management of the corporation. During 2013/2014 the Children’s Guardian issued five formal breach notices and 38 warnings and directions to take remedial action. Where a breach notice is issued, employers lose their entitlement to discounted employer authorities for two years. The Children’s Guardian asks agencies that receive breach notices or warnings/directions to confirm remedial action has been taken.</p> <p><b>Victoria</b></p> <p>The Information and Compliance Unit, Department of State Development, Business and Innovation continues to regulate child employment and has consulted extensively with stakeholders to create the revised Code (see response Question 2). Victoria referred its first case for prosecution for an alleged breach of the Child Employment Act 2003 in 2013-14. The matter is currently before the courts. Additionally, in 2013-14, six employers were issued with formal breach notices for offences under this Act, as a result of 72 investigations.</p> <p>The Employment, Information and Compliance Unit conducted 120 investigations into child employment to check compliance with the Act, the Mandatory Code and specific conditions of child employment permits. Compliance methods included field visits, inspections, discussions and other monitoring strategies. The Employment, Information, and Compliance Unit provided advice on 11 occasions and 14 breaches resulted in formal warnings. There was one prosecution under the Child Employment Act 2003, where the employer pleaded guilty. The employer incurred significant fines and costs.</p> <p><b>Western Australia</b></p> <p>Previous prosecutions of identified breaches of child employment laws has led to some fast food industry employers introducing information technology programmes that prohibit children working outside hours prohibited under the Children and Community Services Act 2004 (WA).</p> <p><b>2007 AR:</b></p> <p><b>Victoria</b> – Child Employment Officers (CEOs) have been appointed under the Child Employment Act 2003 with the primary function of providing information to employers, parents, children, schools and the community about the Act, and investigating applications for permits.</p> <p>CEOs are also responsible for ensuring compliance with the legislation.</p> <p>Accordingly, their powers include a right of entry to inspect a workplace and the right to require production of documents. CEOs are authorised to vary or cancel a child’s employment at any time by written notice.</p> <p>The Act provides a range of offences with appropriate penalties.</p> <p>CEOs work co-operatively with officers of WorkSafe Victoria to ensure that the occupational health and safety of children in employment is protected.</p> <p><b>Queensland</b> – The Queensland Government reports that there is an ongoing role for industrial inspectors who have direct contact with workplaces and are able to assess the situation with regard to child labour.</p> <p>Furthermore, the inspectors have been empowered under the Child Employment Act 2006. Inspectors’ functions under this</p>
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	<p><b>Involvement of the social partners</b></p>	<p><b>2013 AR:</b> According to the Government: <i>Tasmania</i> – Consultation regarding Tasmania’s child labour laws were carried out in the second half of 2011 with the involvement of both government and non-government bodies, including the Australian Council of Trade Unions (including Unions Tasmania) and the Tasmanian Chamber of Commerce and Industry.</p> <p><b>2012 AR:</b> According to the Government: Safe Work Australia has developed the model Work Health and Safety (WHS) Act and draft Regulations and Codes of Practice to create a set of uniform laws across Australia. The laws have been developed through a tripartite process involving Commonwealth, State and Territory governments and employer and employee representatives. Each state and territory is in the process of enacting legislation that mirrors the draft model WHS laws by January 1 2012.</p> <p><b>2007 AR:</b></p> <p><i>Victoria</i> – The Child Employment Act 2003 required the responsible Minister to consult with representatives of employers and employees in the entertainment industry and with relevant Government agencies before making the Mandatory Code of Practice for the Employment of Children in Entertainment.</p> <p>The Government consults with a wide range of stakeholders in developing legislation.</p> <p><i>Queensland</i> – In 2001 the Queensland Government established the Commission for Children and Young People, now the Commission for Children and Young People and Child Guardian, to promote and protect the rights, interests and wellbeing of children in Queensland.</p> <p>The Young Workers’ Advisory Service (YWAS) was established in April 2002 to assist workers under the age of 25 years with queries relating to their working entitlements.</p> <p>The service offers advice and represents young workers in cases taken to the Queensland Industrial Relations Commission or Queensland Anti-Discrimination Commission on workplace issues such as bullying, discrimination, sexual harassment or dismissal.</p> <p><i>Western Australia</i> – Consultation with key stakeholders has occurred in the development of the <i>Children and Community Services Act 2004</i>. The consultation has been with not only government and non-government areas but also children, families and communities.</p> <p><i>Commonwealth Government, NSW, South Australia, Northern Territory, ACT, Tasmania</i> – No update in these jurisdictions.</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: In <i>Western Australia</i>, the Department of Commerce, Labour Relations conducts education consultations directed at major chain fast food industry employers specifically targeting supervisors through direct visits to worksites and distribution of information material. The Department also conducts education seminars at secondary schools, delivered to school children aged between 12 and 15 years, on the application of relevant legislative provisions.</p> <p><b>2014 AR:</b> According to the Government: In South Australia, the South Australian Government is currently supporting two new projects that are currently still in progress, to promote protection of young workers, including: (i) the Young Workers: Work Health and Safety, research project, conducted by the Central Queensland University on behalf of SafeWork SA for the purpose of developing a comprehensive new work health and safety strategy for young workers; and (ii) the development of a comprehensive guide to the current industrial relations system and the e protections available to young workers in South Australia by SafeWork SA on behalf of the South Australian Government. The South Australian law and practice complies with C.138. The purpose of these projects is to increase community awareness and support for the rights of young workers.</p> <p>Nevertheless, the Government indicated that there have been no new developments in the Commonwealth jurisdictions over</p>

		<p>the last 12 months.</p> <p><b>2013 AR:</b> According to the Government: Several promotional activities have been carried out by state and territory governments:</p> <p><b>Tasmania</b> – The Tasmanian Minister for Workplace Relations conducted a review of Tasmania’s child labour laws in the second half of 2011.</p> <p><b>Victoria</b> – The Department of Business and Innovation is working with key stakeholders to review and update the Mandatory Code of Practice for the Employment of Children in Entertainment. The Department of Education and Early Childhood Development is working to update policy and procedures related to compulsory schooling exemptions. Children must have a formally approved exemption if they are not participating fully in an approved education programme.</p> <p><b>2012 AR:</b> According to the Government: The Young Worker Toolkit is a web-based resource that has been optimised for smart phone use to help young people in the workplace (information about employment issues, frequently asked questions, toolkit, etc.). The Toolkit can be found at <a href="http://youngworkertoolkit.youth.gov.au">youngworkertoolkit.youth.gov.au</a>.</p> <p><b>2011 AR:</b> According to the Government: The Fair Work Ombudsman released in 2009 the following two best practice guides that are relevant to young workers:</p> <ul style="list-style-type: none"> <li>• A guide for young workers (<a href="http://www.fwo.gov.au/Best-Practice-Guides/Documents/04-A-guide-for-young-workers.pdf">http://www.fwo.gov.au/Best-Practice-Guides/Documents/04-A-guide-for-young-workers.pdf</a>).</li> <li>• An employer’s guide to employing young workers (<a href="http://www.fwo.gov.au/Best-Practice-Guides/Documents/05-An-employers-guide-to-employing-young-workers.pdf">http://www.fwo.gov.au/Best-Practice-Guides/Documents/05-An-employers-guide-to-employing-young-workers.pdf</a>).</li> </ul> <p>The ACT Government is producing a booklet for young people entitled <i>Young People at Work in the ACT – What you need to know</i>. This will be available to young people electronically, at schools and at youth services by November 2010.</p> <p><b>2007 AR:</b></p> <p><b>Victoria</b> – A primary function of Child Employment Officers appointed under the Child Employment Act 2003 is to provide information to employers, parents, children, schools and the community about the Act.</p> <p><b>Queensland</b> – In addition to offering advice and representation to young workers, the Queensland Young Workers’ Advisory Service (YWAS) educates young people at schools and TAFE colleges about their workplace entitlements, rights and obligations.</p> <p><b>Western Australia</b> – The Department of Consumer and Employment Protection (DOCEP) is empowered with the authority to investigate and enforce laws dealing with the employment of children. As such DOCEP also undertakes an educational role. DOCEP has information available on their website and has emailed interested parties via the newsletter subscription service to inform the public of Western Australia about changes such as the new laws affecting the employment of children. Key employee and employer associations are also notified in writing of laws affecting employment of children.</p> <p><b>Commonwealth Government, NSW, South Australia, Northern Territory, ACT, Tasmania</b> – No update in these jurisdictions.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: In Victoria, the Mandatory Code of Practice for the Employment of Children in Entertainment was amended and relaunched in October 2014. A significant budget was available for the development of extensive materials relating to the new requirements including the production of videos, glossy fact sheets, a Guide to the Code and online versions for the public to access. Two large public events occurred to inform the community and industry partners of the amended Mandatory Code of Practice. Child labour is regulated in Victoria through the implementation and</p>

		<p>enforcement of a permit system. The permit system has been upgraded and is now available online through devices including smart phones, tablets and a range of browsers. This has increased access in remote and regional areas. Child labour is monitored and enforced by Child Employment Officers. There are twelve Child Employment Officers, as of 6 July 2015.</p> <p><b>2014 AR:</b> According to the Government: In Victoria, the Victorian Department of State Development, Business and Innovation is working with key stakeholders to review and update the Mandatory Code of Practice for the Employment of Children in Entertainment. The Department commenced an awareness raising campaign in the retail and hospitality sectors about child employment regulation. Stage 1 of the campaign involved Child Employment Officers visiting all major shopping centres in the Melbourne metropolitan area to provide advice and written information to business owners and key retail associations have been contacted with information about child employment regulation, which they are encouraged to share with their membership. However, the Government stated that there have been no new developments in the Commonwealth jurisdictions over the last 12 months.</p> <p><b>2012 AR:</b> According to the Government: On 8 July 2011 the Australian Government Department of Education, Employment and Workplace Relations released a new online resource to help inform young people of their rights and obligations under the <i>Fair Work Act 2009</i> and assist them with any employment issues. The Young Worker Toolkit is a web-based resource that has been optimised for smart phone use to help young people in the workplace. It provides in one place all the information about employment issues and the industrial relations system that young people need. The Toolkit deals with common questions and issues that young people confront every day at work. Topics covered by the Toolkit include: getting started and the types of employment; pay and conditions; workplace safety; bullying and harassment; fair dismissal; and where to go for help. The Toolkit is available to all young people as a web based resource with links from the <a href="http://youth.gov.au">youth.gov.au</a> and Fair Work Ombudsman websites. Promotion of the Toolkit has been targeted to those most in need, including to students, young workers and educational institutions. The Toolkit can be found at <a href="http://youngworkertoolkit.youth.gov.au">youngworkertoolkit.youth.gov.au</a>.</p> <p><b>2011 AR:</b> Under the National Youth Participation Requirement, young people in every Australian jurisdiction are now required to participate in schooling (or an approved equivalent) to Year 10, and then participate full-time (at least 25 hours per week) in education, training or employment, or a combination of these activities, until age 17. The effect of this provision means that the age at which children may be admitted to full-time employment is at the completion of Year 10, which is generally 15 or 16.</p> <p><b>2007 AR:</b> <i>Commonwealth Government</i> – Australia has made firm progress towards ratification of C.182. Law and practice in all jurisdictions now complies with the Convention. [Report filed before the ratification of C.182.]</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>NIL.</b>
		<b>Workers' organizations</b>	<b>NIL.</b>
	<b>According to the Government</b>	<b>NIL.</b>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<b>NIL.</b>	
	<b>Offer</b>	<b>NIL.</b>	



<p><b>EXPERT-ADVISERS' RECOMMENDATIONS/ OBSERVATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that few governments, such as Australia (and three other governments), had indicated their current lack of effort to ratify C.138 and/or C.182. They recalled the following: “(...) in last year’s Introduction we noted remarks from some constituents (the governments of Australia and New Zealand and Business New Zealand – BNZ) concerning the potentially negative effect of ratifying Convention No. 138 for young persons to enter the labour market. We pointed out that these concerns can be adequately addressed through the various possibilities inherent in the principle, for instance light work, or vocational training and apprenticeship. It is crucial to discuss this in tripartite consultation in each country, and we note that both of the social partners in New Zealand are commenting on this issue: while BNZ opposes the ratification of Convention No. 138, the New Zealand Confederation of Trade Unions (NZCTU) recommends ILO assistance to seek possible legislative action to allow light work from 13 years of age and set the general minimum age at 16 years, in line with Convention No. 138. We hope there will be continued efforts by the Office and, in particular, the International Programme on the Elimination of Child Labour (IPEC) on this issue.” (cf. paragraph 57 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs listed Australia among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification. They also mentioned the following: “Australia, New Zealand and the United States have expressed their intention to renew their assistance to other States and international organizations to combat child labour, including in its worst forms. Their assistance ranges from financial aid to participation in international forums. It is important to maintain a continuity of social programmes to combat child labour. Once programmes are interrupted, it is difficult to maintain the momentum. The sustainability of such programmes will be enhanced with the active support of employers’ and workers’ organizations” (cf. paragraphs 13 and 234 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).

**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)**<sup>74</sup>: **BANGLADESH**

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2002 Annual Review (AR). No change reports under the 2003 and 2004 ARs.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> : According to the Government: Involvement of the Bangladesh Employers' Federation (BEF) and several national workers' federations (Bangladesh Workers' Federation (BWF), Bangladesh Garments and Textile and Leather Workers' Federation (BGTLWF), The Jatio Sramik League (JSL), Bangladesh Trade Union Centre (BTUC), Bangladesh Jatiyatabadi Sramik Dal (BJSD), Jatiya Sramik Federation (JSF), Jatiya Sramik Federation Bangladesh (JSFB), Jatiya Sramik Party (JSP), Bangladesh Steel Engineering Corporation (BSEC); Bangladesh Songjukta Sramik Federation (BSSF), Bangladesh Trade Union Songha (BTUS), Bangladesh Sramik Jote (BSJ), Bangladesh Jatiya Sramik League (BSJL), Bangladesh Trade Union Federation (BTUF), Bangladesh Trade Union Congress (BTUC), Bangladesh Telegraph and Telephone Sramik Karmacari Federal Union (CBA), Samajtantrik Sramik Front (SSF), Jatiya Sramik Jote Bangladesh (JSJB), National Workers' Federation (NWF), Jatiya Sramik Karmachary Jote Bangladesh (JSJJB), Bangladesh Jatiya Sramik Forum (BJSF), Bangladesh Free Trade Union Congress (BFTUC), Bangladesh Sramik Federation (BSF), Bangladesh Sramik Kalyan Federation (BSKF), National Trade Union Federation (NTUF)) through communication of Government's report, and the National Co-ordination Committee of Workers' Education (NCCWE).
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2013 AR:</b> Observations by the BEF</p> <p><b>2012 AR:</b> Observations by the BEF.</p> <p><b>2009 AR:</b> Observations by the BEF.</p> <p><b>2008 AR:</b> Observations by the BEF.</p> <p><b>2007 AR:</b> Observations by the BEF.</p> <p><b>2006 AR:</b> Observations by the BEF.</p>

<sup>74</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations by Women Workers' League (WWL).  <b>2013 AR:</b> Observations by the BSEC.  <b>2012 AR:</b> Observations by the CBA.  <b>2010 AR:</b> Observations by the JSL.  <b>2009 AR:</b> Observations by the BWF.  Observations by the BCTLWF.  <b>2008 AR:</b> Observations by the BWF.  <b>2005 AR:</b> Observations by BMSF.  <b>2001 AR:</b> Observations by BSSF.  Observations by the World Confederation of Labour (WCL).</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p>Bangladesh ratified in 2001 the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). However, it has not yet ratified the Minimum Age Convention, 1973 (No. 138) (C.138).</p>



		<p><b>Ratification intention</b></p>	<p><b>YES, since 2001, for C.138.</b></p> <p><b>2015 AR:</b> According to the Government: Considering the entire gamut of socio-economic condition of Bangladesh, particularly the limitations lying with manpower and resource constraints, the implementing authorities are facing challenges in terms of effective monitoring and implementation to address the large informal sector where child labour is inevitably engaged. Realizing the ground realities it would take more time for Bangladesh to ratify C.138.</p> <p><b>2014 AR:</b> According to the Government: Considering the level of socio-economic development of Bangladesh, particularly the limitations in terms of manpower and resource constraints of the implementation authorities to address the large informal sector where children are engaged, it would take more time for Bangladesh to ratify Convention No. 138 and effectively monitor proper implementation.</p> <p><b>2013 AR:</b> The Government reiterated the statement it made under the 2011-2012 ARs, and indicated that tripartite consultations are going on to amend the labour laws to better promote and implement the principle and right (PR) in the country.</p> <p>According to the BEF: Ratification of C.138 is necessary for Bangladesh in the elimination of child labour. In this regard, the country needs to strengthen its implementing and monitoring mechanisms.</p> <p>The BSEC expressed its support for the ratification of C.138 and indicated that the labour laws are being revised to be in full compliance with the PR.</p> <p><b>2011-2012 ARs:</b> According to the Government: Given the level of socio-economic development of Bangladesh, and particularly the limitations in terms of manpower and resource constraints of the implementation authorities to address the large informal sector where child labour is engaged, it would take more time to ratify C.138 and effectively monitor proper implementation.</p> <p>The CBA supported ratification of C.138.</p> <p><b>2011 AR:</b> According to the Government: The National Child Labour Policy formulated in March 2010 has the objectives of abolishing hazardous child labour from Bangladesh by 2015 in line with the Millennium Development Goals (MDG). Given the level of socio-economic development of Bangladesh, and particularly the limitations in terms of manpower and resource constraints of the implementation authorities to address the large informal sector where child labour is engaged, it would take more time to ratify C.138 and effectively monitor proper implementation.</p> <p><b>2010 AR:</b> The Government stated that a parliamentary committee has been set up to study the future ratification of C.138.</p> <p>The JSL expressed its strong support for the ratification of C.138 by Bangladesh.</p> <p><b>2009 AR:</b> The BWT and BGTLWF expressed their full support for the ratification of C.138 and C.182 by Bangladesh.</p>
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<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>NIL.</b></p>	
		<p><b>Policy, legislation, and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2015 AR:</b> According to the Government: The National Occupational Safety and Health Policy-2013, the National Labour Policy 2012, The National Skills Development Policy 2011, the National Children Policy 2011, the National Women Development Policy 2011, and the National Plan of Action (NPA II, 2003-2015) have been adopted.</p> <p><b>2014 AR:</b> According to the Government: Bangladesh has adopted a National Plan of Action (NPA) for implementing the “National Child Labour Elimination Policy 2010” in March, 2010. Steps are being taken to implement the National Plan of Action. The Ministry of Labour and Employment has drafted the “Domestic Workers’ Protection and Welfare Policy”. This will obviously help to protect the rights of domestic workers as well as child domestic workers from the worst forms of child labour. This policy will be adopted in due course of time. Furthermore, the Government has adopted National Education Policy, 2010 which aims to ensure compulsory and free primary education for every child up to grade eight (average age 14 years). Based on this policy the Government has drafted National Education Act, 2013 which will provide legal basis for ensuring universal free primary education and will contribute elimination of child labour in Bangladesh.</p>

		<p><b>2012 ARs:</b> According to the Government: The National Child Labour (CL) Elimination policy 2010 has the objective of abolishing child labour from Bangladesh by 2015 in line with the Millennium Development Goal (MDG). While working toward this goal, many progresses and projects are being made at the National level to eliminate child labour in Bangladesh in coordination with different ministries: (i) The National Child Labour Unit (CLU) of the Ministry of Labour and Employment (MOLE) which serves as a secretariat dealing with child labour issues has implemented a Child Labour Monitoring Information System (CLMIS) which will be available through the CLU website (<a href="http://www.clu-mole.gov">www.clu-mole.gov</a>). The National Child Labour Policy formulated in March 2010 has the objectives of abolishing hazardous child labour from Bangladesh by 2015 in line with the Millennium Development Goals (MDG). The third phase was started in July 2012 targeting to withdraw 50,000 children through non-formal education and skill development training; (ii) The Ministry of Primary education has also adopted the National Plan of Action (NPA II, 2003-2015) For Education for All (EFA) to achieve the MDG and gives pre-eminence to improving the quality of education, gender equity for both boys and girls, making education inclusive, accessible and provided for all; and (iii) The Ministry of Women and Children Affairs (MoWCA).</p> <p><b>2011 AR:</b> According to the Government: A “National Child Labour Policy” has been formulated in March 2010. National District/Sub-District level Monitoring Committees have been set up, and a National Plan of Action is being developed.</p> <p><b>2009 AR:</b> According to the Government: The draft Child Labour Employment Policy, 2008 (in line with C.138 and C.182) is now its final shape.</p> <p><b>2008 AR:</b> The Government indicated that the National Child Labour Policy would be adopted by the Bangladeshi Parliament by the end of 2007.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2015 AR:</b> According to the Government: The following Acts have been adopted: i) The Children Act 2013 promulgated where the determining age of a child has been increased from 16 to 18; ii) Overseas Employment and Migrant Welfare Act, 2013; iii) Rights and Protection of Persons with Disabilities Act, 2013; vi) the Neuro-Developmental Disabled Protection Trust Act, 2013; v) The Pornography Control Act, 2012; vi) the Human Trafficking Deterrence and Suppression Act-2012; and vii) the Vagrancy Act 2011.</p> <p><b>2014 AR:</b> According to the Government: The following actions have been taken: (i) A list of 38 hazardous works for the children has been adopted on 5 March 2013 which has been published in the gazette on 10 March 2013.</p> <p><b>2008 AR:</b> According to the BEF: The Labour Act, 2006 was promulgated. This Act established not only minimum age requirements but put emphasis on strengthening the labour administration machinery to enforce legal measures.</p> <p>The revised and updated draft of the Labour Code prepared by the Bangladeshi Labour Law Commission is under active process of gaining approval by the competent authority.</p> <p><b>2007 AR:</b> The Government stated it was now actively working on finalizing the national Child Labour Policy.</p> <p><b>2003 AR:</b> The Government stated that it intends to adopt a national policy by the end of 2003.</p> <p><b>2001 AR:</b> According to Government: The Tripartite Consultative Committee (TCC) discusses various issues of national importance such as the elaboration of labour policy, amendment of existing labour laws, adoption of ILO Conventions and Recommendations and the improvement of industrial relations. In 1998, the Government drew up a national plan of action for children.</p>
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		<b>Basic legal provisions</b>	(i) The Children Act 2013; (ii) the Rights and Protection of Persons with Disabilities Act, 2013; (iii) the Pornography Control Act, 2012; (iv) the Human Trafficking Deterrence and Suppression Act-2012; (v) the Vagrancy Act 2011; (vi) the Factories Act, 1965; (vii) the Employment of Children Act, 1938; (viii) the Shops and Establishment Act, 1965; (ix) the Road Transport Workers Ordinance, 1961; (x) the Tea Plantation Labour Ordinance, 1962; (xi) the Employment of Children Rules, 1955; (xii) the Children (Pledging Labour) Act, 1933; (xiii) the Mines Act, 1923; (xiv) the Factories Rule, 1970; and (xv) the Road Transport Workers' Ordinance, 1961.
		<b>Judicial decisions</b>	NIL.
	<b>Exercise of the principle and right</b>	<b>Compulsory education</b>	<b>YES, the age of children at the end of free compulsory schooling is 14 years for both boys and girls, with a general requirement of 9 years of grades or instruction.</b>
		<b>Minimum Age</b>	<p><b>2011 AR:</b> According to the Government: Under the Bangladesh Labour Act 2006, the minimum age for admission to work is 14, with a general requirement of 8 years of grades or instruction.</p> <p><b>2003-2005 ARs: There is no general minimum age for admission to employment or work</b></p> <p>However, the Government states that the Bangladesh Export Processing Zones Authority (BEPZA) Act, 1980, provides that “no child before completion of 14 years of age shall be allowed to work in any factory”. Therefore, this minimum age covers work performed in export processing zones.</p> <p><b>Hazardous work: Minimum age of 18 years for both boys and girls (section 87 of the Factories Act, 1965)</b></p> <p>The Employment of Children Act, 1938, lists the following processes that are hazardous and thus, prohibited for children: (i) bidi-making; (ii) carpet weaving; (iii) cement manufacture, including bagging of cement; (iv) cloth-printing, dyeing and weaving; (v) manufacture of matches, explosives and fireworks; (vi) mica-cutting and splitting; (vii) shellac manufacture; (viii) soap manufacture; (ix) tanning; (x) wool cleaning.</p> <p>Hazardous work is defined in section 87 of the Factories Act, 1965, which makes a reference to Dangerous Operations.</p>
	<b>Worst Forms Child Labour</b>	<b>C.182 is ratified.</b>	



	<p><b>Exercise of the principle and right</b></p>	<p><b>Special attention to particular situations</b></p>	<p><b>2014-2015 ARs:</b> The Government indicated that particular emphasis has been paid to the Ready-Made Garment (RMG) and fish processing sectors. While under the ILO-IPEC project priority has been given to withdraw and mainstream the children engaged in hazardous works, appropriate legislative provisions would be framed in the light of the Child Labour Elimination Policy, 2010 for abolition of child labour in hazardous jobs.</p> <p><b>2012 AR:</b> According to the Government: Child labour issues have been addressed and incorporated in all major national development projects with particular emphasis on: (i) RMG, Shrimp and fish processing sectors. At present there is no child labour in RMG; (ii) Under the ILO-IPEC project, priority has been given to withdraw and mainstream the children engaged in hazardous work; (iii) The National Plan of Action (NPA II, 2003-2015) for Education For All emphasizes the critical importance of education and learning for empowering people with knowledge and skills as key elements of human development and poverty reduction. It gives pre-eminence to improving the quality of education, gender equity for both boys and girls, making education accessible, inclusive and provided for all; and (iv) The Basic Education for Hard-to-Reach urban Working Children (BEHTRUWC) projects targets 200,000 working children of ages between 10-14 years for basic education through establishing 8,000 learning centers (LC) for a period of 40 months each and targets 20,000 children of age 13+ for livelihood education.</p> <p><b>2003 AR:</b> According to the Government: Children in the 5 to 14 years age group are engaged in the following sectors: <i>bidi</i>, match, construction, domestic child labour, leather/tanneries, etc.</p>
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	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2012-2013 ARs:</b> The Government stated that there are 157 inspectors in the Department of Inspection for Factories &amp; Establishment under the Ministry of Labour and Employment who are responsible for enforcing laws against child labour in Bangladesh. In addition, the members of the Taskforce/monitoring team inspect the factory of RMG sector, Fish and Shrimp sector regularly for enforcing labour law 2006 to accelerate the effective abolition of child labour in the country. In general, the labour inspection machineries have been strengthened through the increase in the number of inspectors to combat child labour in factories all over the country.</p> <p><b>2011 AR:</b> According to the Government: The strength of the Department of Inspection for Factories and Establishments (DIFE) has been increased by recruiting a good number of inspectors. It indicated the strength of the department will increase further after setting up offices in newly created Administrative Divisions.</p> <p><b>2010 AR:</b> According to the Government: A parliamentary committee has been set up to study the future ratification of C.138.</p> <p><b>2009 AR:</b> According to the Government: A taskforce/monitoring team inspects the factory of the ready-made garment sector, fish and shrimp sector regularly with a view to enforcing labour law 2006 and accelerating the effective abolition of child labour.</p> <p><b>2007 AR:</b> According to the Government: The Ministry of Commerce has set up a high-level Social Compliance Forum (chaired by the Minister of Commerce) for the garment industry to ensure, <i>inter alia</i>, compliance with labour standards in this sector. The Ministry of Labour and Employment is heading the Task Force on Labour Welfare in the RMG Sector.</p> <p><b>2003-2005 ARs:</b> According to the Government: The following measures have been implemented to enforce minimum age(s) for employment and eliminate the worst forms of child labour: inspection/monitoring mechanisms; penal sanctions; special institutional machinery.</p> <p><b>2001 AR:</b> According to the Government: Labour laws provide the legal framework for the inspection and monitoring of workplaces. These laws provide for penalties ranging from fines to imprisonment for violations of the legal provisions.</p> <p><b>2000 AR:</b> According to the Government: Violation of any provision is a punishable offence. There are government labour inspections, e.g. general, medical and engineering inspectors that visit and inspect work premises as their routine work. The inspectors instruct employers about the provisions of the law and take legal action if and when a violation is found. There are also inspection teams comprising BGMEA, ILO and government labour inspectors.</p>
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	<b>Involvement of the social partners</b>	<p><b>2015 AR:</b> According to WWL, social dialogue is ongoing but not regular.</p> <p><b>2012-2013 ARs:</b> The Government stated that workshops and seminars on different issues of “Child Labour Elimination” had been organized by the Ministry of Labour and Employment, in collaboration with the social partners.</p> <p><b>2010 AR:</b> The JSL indicated that one of its members had participated in several training sessions on the ILO Declaration, 1998, organised by the ILO in Australia and Malaysia.</p> <p><b>2009 AR:</b> The BTF believed that child labour would be reduced to a considerable level if the present trend of promotional activities and participation of the social partners continued.</p> <p><b>2007 AR:</b> According to the Government: Tripartite partners are represented in high-level committees such as the Social Compliance Forum under the Ministry of Commerce. Also, the employers and workers organizations participate in other child-related activities carried out by the Government and other agencies.</p> <p><b>2001-2005 ARs:</b> According to the Government: Employers' and workers' organizations are involved in the implementation of Action Programmes. They are also active members of different committees such as the Tripartite Consultative Council National Steering Committee, and the Sub-Committee and Monitoring Committee.</p>
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	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: Workshops on different issues of "Child Labour Elimination" have been organized by the Ministry of Labour and Employment in collaboration with other social partners.</p> <p><b>2014 AR:</b> According to the Government: In addition to past efforts, it is working to establish Child Labour Welfare Council (CLWC) at National/Divisional/District levels to coordinate all promotional activities carried out in the country by government organizations, non-government organizations as well international organizations. The MOLE has initiated process to place the Child Labour Unit of MOLE in the regular budget of the government. The existence of child labour in Bangladesh is closely linked to poverty. Unless the poverty situation of the country is improved at a satisfactory level it is very difficult to abolish child labour. This also depends largely on the achievement of high and stable growth of the country's economy for which the country is starving for long. However, with all its limited resources the Government of Bangladesh has been implementing programmes/projects on regular basis for abolition of child labour. The development partners have also come with funds to implement programmes on child labour. With all these efforts there has been remarkable success. At present there is no child labour in Readymade Garments (RMG) sector. Children are engaged mainly in informal sectors. It is expected that the volume of child labour in the country will be reduced to a considerable level if the present trend of promotional activities and participation of the social partners continue. Child labour issues have been incorporated in all major national development projects and plans (like Poverty Reduction Strategy-PRS, national plan of action for education and reflection in annual budget etc.). The country has gradually been increasing coverage of social safety net programmes for its citizens which directly or indirectly affect abolition of child labour. A number of projects and programmes have been underway as an instrument of promoting, reducing and eliminating child labour, including the following projects: the Technical and Vocational Education and Training Reform (TVET) project, the National Plan of Action (NPA II, 2003-2015) for Education for All (EFA), the Primary Education Development Programme, the Reaching Out-of-School Children (ROSC) project, the Female Secondary School Assistance Project, the Basic Education for Hard to Reach Urban Working Children, the Protection of Children at Risk (PCAR) Project, the Empowerment &amp; Protection of Children (EPC) Project, the Community Based Working Child Protection Project, and the Actions for Combating Trafficking-in-Persons project.</p> <p><b>2012 AR:</b> According to the Government: Various initiatives are taken to combat child labour in Bangladesh: The National Child Labour Elimination Policy 2010 has the objective of abolishing child labour by 2015 in line with the Millennium Development Goal (MDG). In July 2010, the MOLE has started implementation of a third phase of the project "Eradication of Hazardous Child Labour in Bangladesh" targeting to withdraw 50,000 children through non-formal education and skill development training. A national consultation workshop in determining the list of hazardous works was held in August 2010 in an attempt to finalize the list of hazardous works, in compliance with ILO standards. The country has gradually been increasing coverage of social safety net programmes for its citizens which directly or indirectly affect elimination of child labour. Child labour issues have been incorporated in all major national development projects and plans (like Poverty Reduction Strategy-PRS, national plan of action for education and reflection in annual budget etc.). Workshops and seminars on different issues of "Child Labour Elimination" have been organized by the Ministry of Labour and Employment in collaboration with the social partners. The employers' organization actively advocate against child labour in several activities and public relations events.</p> <p>(1) Recently, the Government has taken measures to strengthen the inspection machineries by increasing number of inspectors.</p>
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		<p><b>2011 AR:</b> The Government indicated it had taken the following measures concerning the principle and right (PR): (i) An action Programme on “Enhancing the Capacity of the Child Labour Unit of the Ministry of Labour and Employment” is being implemented; (ii) A third phase of the project titled “Eradication of Hazardous Child Labour in Bangladesh (July 2009 to June 2012) has been initiated for implementation with Government funds, and it is being approved; (iii) A project on the “Urban Informal Economy Programme of the Project of Support to the Time Bound Programme on the Elimination of the Worst Forms of Child Labour in Bangladesh is being implemented; (iv) A project titled “Technical and Vocational Education and Training (TVET:2008-2013) Reform in Bangladesh” (TBP) is being implemented in cooperation with the ILO; (v) Workshops/seminars on “Child Labour Elimination” have been organized by the Government in collaboration with the social partners; (vi) The employers’ organization actively advocate against child labour in all activities and public relations events; (vii) Ongoing awareness campaign against hazardous child labour are being carried out by the Government, the private sector, NGOs, and particularly the media; and (viii) The Birth and Death Registration Project 2009 is implemented by the Government under UNICEF funding</p> <p><b>2010 AR:</b> According to the Government: The Ministry of Labour has been drawing up a Child Labour Policy and is trying to encourage children to go to school through a stipend system. NGOs have also been recruited to sensitize the population on the PR. Furthermore, the Government has been organising regular workshops with the stakeholders to sensitise them on the problem of child labour in the country.</p> <p>The JSL indicated that one of its members had participated in several training sessions on the ILO Declaration, 1998, organized by ILO experts in Australia and Malaysia.</p> <p><b>2008 AR:</b> The Government stated that four workshops on the issue of child labour had been organized in collaboration with other social partners. A last one will be held on the 1<sup>st</sup> of July 2007 before the Child Labour Policy is drafted before the Tripartite Consultancy Council (TCC). The Government also noted the work undertaken by Save the Children (Denmark) that has been focusing on child labour along with the issue of child trafficking in Bangladesh.</p> <p>According to the BEF: Targeted programmes have been launched to reduce family’s dependency on child’s earnings; mothers receive food for education grants and also some assistance to start their own business. Moreover, endeavoring to achieve the MDGs, the Government has targeted the elimination of child labour from the ready-made garments sector where workers below the age of 14 are not allowed to work.</p> <p>The BWF mentioned that a campaign on the elimination of child labour had been carried out and that several workshops and trainings were also available.</p>
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		<p><b>2007 AR:</b> The BEF referred to its cooperation with ILO/IPEC.</p> <p><b>2003-2005 ARs:</b> According to the Government: The following measures have been implemented to enforce minimum age(s) for employment and eliminate the worst forms of child labour: (i) free compulsory education; employment creation/income generation; (ii) child rehabilitation following removal from work; (iii) vocational and skills training for young workers; (iv) awareness raising/advocacy; and (v) international cooperation programmes or projects.</p> <p>The Government stated that since 1995, it had been trying to eliminate child labour through the ILO-International Programme on the Elimination of Child Labour (IPEC).</p> <p><b>2003 AR:</b> According to the Government: The Government has undertaken a project under the Annual Development Programme (ADP) with the assistance of USAID – namely, the Eradication of Hazardous Child Labour in Bangladesh. The project was to provide Non-Formal Education (NFE) and Skills Development Training (SDT) for 10,000 working children and micro-credit for 5,000 parents of child labour in Dhaka and the Chittagong Metropolitan areas, in shop factories, bangle-making, rickshaw/van pulling, fishery, book-binding, welding and automobile workshop sectors.</p> <p><b>2001 AR:</b> According to the Government: with the help of IPEC, the three action programmes (AP) to combat child labour, launched since 1995, have been completed.</p> <p>It added that UNICEF provides funds for the implementation of the skills training programmes dedicated to students.</p> <p>The Bangladesh Garments Manufacturers and Exporters’ Association (BGMEA) launched the “Earn and learn programme” in 1998 with the aim to implement the 1994 Memorandum of Understanding (MOU).</p> <p>The Government also initiated a project called “Preventing and eliminating the worst forms of child labour in selected formal and informal sectors”. And the MOLE launched a project entitled “Eradication of hazardous child labour in Bangladesh” aimed to raise awareness on the negative consequences of hazardous work.</p> <p><b>2000 AR:</b> According to Government: Formal and non-formal education is provided. Technical training is also given through “earn and learn” programmes. Scholarships, stipends and books are also granted to students.</p> <p>The Government signed a Memorandum of Understanding (MOU) in 1994 with the ILO International Programme for the Elimination of Child Labour (IPEC).</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: The Directorate of Inspection for Factories and Establishments has been upgraded to a Department with manpower of 993 staff on 15 January 2014 and the total number of inspectors increased to 575. The total budget allocation for the Department has also been increased by three times for the fiscal year 2014-15. It further stated that there was recently a list prepared of the 38 most hazardous jobs and an Action Plan has been adopted for eliminating them. In a government project, 50,000 children have been stopped to work on hazardous jobs and received skill development training and non-formal education</p> <p><b>2013 AR:</b> According to the BEF: As a result of the implementation of the National ILO/IPEC Programme, there is no child labour in the RMG sector. In addition, after successful awareness raising campaign, child labour is insignificant in the formal sector.</p> <p>According to the BSEC: Bangladesh has made important progress towards the education of the youth. Free tuition fees and many other stipends are being provided to children in order to encourage them in enrolling in the formal educational system of the country.</p> <p><b>2012 AR:</b> According to the Government: As a result of the implementation of the National ILO/IPEC Programme, there is no child labour in the RMG sector.</p> <p><b>2011 AR:</b> According to the Government: The Government formulated a policy for free and compulsory primary education where education for every child up to age 14 has been ensured. It is also initiating a special Code of Conduct for Domestic Workers to improve their working conditions.</p>
		<p><b>2009 AR:</b> According to the Government: Workshops/seminars on the issue of child labour policy/Child Labour Unit have been organized by the Ministry of Labour and Employment in collaboration with the employers' and workers' organizations. And as a follow-up of the Time-bound Programme (TBP), the Government has established a Child Labour Unit.</p> <p>According to the BWT and the BGTWLF: Activities carried out include: (i) discussion of a draft Child Labour Policy at a tripartite Consultative Committee (TCC); (ii) approval by the TCC on the discussions held that led to the drawing up of an implementation plan which will be backed by a national law.</p> <p><b>2008 AR:</b> The Government indicated that it was offering monthly scholarships in order to sensitize the population on the importance of education.</p> <p>According to the BEF: Bangladesh's success in withdrawing child labour from the garments sector has been appreciated nationally and internationally; awareness is spreading in other sectors. Some children have even been withdrawn and provided with non-formal education before their enrollment in formal schools. Bangladesh has made significant strides towards education for all programmes. Enrollment in primary schools has increased though attendance rates are low. Free education for the girls and education for food programmes have achieved rapid success in enrollment for education of children of poor families.</p> <p><b>2003-2005 ARs:</b> According to Government: Since 1995 a good number of action programmes have been implemented successfully through Government agencies, employers' organizations, trade unions and NGO's.</p> <p>The MOU signed with the ILO in 1994 to work with IPEC can be considered as a successful example in the realization of the PR.</p> <p><b>2001 AR:</b> According to Government: The child labour programme under the MOU can be regarded as a successful example in the realization of the principle and right (PR).</p>



<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2013 AR:</b> According to the BEF: Bangladesh is committed to comply with international labour standards and eradicate child labour in the country. However, 40 to 65 per cent of the population lives below the international poverty standard. The economic situation of the country and the insufficient monitoring capacity of government institutions are also challenges to the implementation of the PR in the country. Furthermore, recent technical assistance initiatives on the elimination of child labour are lacking efficiency because of the zonal system. This requests a more global approach.</p> <p><b>2008 AR:</b> According to the BEF: Bangladesh shares the global concern about the health, safety and welfare of working children. In spite of rigorous laws regarding this, children in hazardous work is a reality that cannot be denied. Moreover, child labour is closely linked to poverty. About 60 per cent to 85 per cent of the people living in villages live in absolute poverty. Moreover, employment of children is seen mostly in the agriculture and informal sectors, which are both family enterprises and is thus more difficult to monitor the situation.</p> <p><b>2007 AR:</b> According to the BEF, child labour is prevalent in the informal economy.</p>
		<b>Workers' organizations</b>	<p><b>2013:</b> According to the BSEC: The main challenges to the realisation and implementation of the PR are as follows: (i) poverty; (ii) lack of skilled development training, and; (iii) lack of micro-credit to parents in developing entrepreneurial projects.</p> <p><b>2012 AR:</b> According to the CBA: Child labour is not a widespread problem in the country. Due to a big population and a strong demand for labour in many sectors, it is however culturally accepted that some jobs are undertaken by children. Although any work is regarded as 'good work', child labour is considered as unlawful and not according to national legislation.</p> <p><b>2010 AR:</b> According to the JSL: The main challenge to the realisation and implementation of C.138 for Bangladesh is the absence of Government's willingness to tackle child labour issues.</p> <p><b>2008 AR:</b> The BWF indicated that child labour was observed mainly in the informal economy, especially in the rural areas where poverty is prevalent.</p> <p><b>2001 AR:</b> According to the BSSF: There are no special organizations for child workers.</p> <p>The WCL identified the main difficulties encountered in Bangladesh in realizing the PR as follows: (i) a considerable number of children work in garment manufacturing; (ii) widespread poverty; (iii) historical and cultural factors; (iv) lack of sufficient educational facilities for all children; (v) exploitation of very poor children.</p>

	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> The Government reported that poverty and unemployment of adults are the major challenges. The centralized monitoring and implementation efforts are inadequate to reach the informal sector where child labour is prevalent. The informal sector is very wide and in disguise (an estimated 87% work in informal economy). It is difficult to adopt action plan for such sector.</p> <p><b>2014 AR:</b> According to the Government: The most significant challenge is to strengthen the institutional capacity and to get required resources to combat child labour. There are inspectors in the Department of Inspection for Factories &amp; Establishment under the Ministry of Labour &amp; Employment, who are responsible to enforce laws against Child Labour as part of their duties. However, the number of inspectors is not sufficient to address the child labour issues. Very recently the Government has taken measures to strengthen inspection machineries in Bangladesh by increasing number of inspectors through restructuring the Department of Inspection for Factories and Establishments. The restructuring and strengthening process includes establishment of district level offices all over the country. In the process of restructuring and strengthening of this department, technical assistance is needed. The Government further reported that poverty and unemployment of adults are part of the major challenges. The centralized monitoring and implementation efforts are inadequate to reach the informal sector where child labour is prevalent. The informal sector is very wide and in disguise. It is difficult to adopt action plan for such sector.</p> <p><b>2013 AR:</b> According to the Government: The major obstacles in promoting the PR are as follows: (i) the informal economy in the rural areas; (ii) poverty; (iii) socio-economic conditions; (iv) absence of consciousness on the PR by multinational enterprises, and; (v) lack of awareness raising campaign.</p> <p><b>2012 AR:</b> The Government stated that the major obstacles to eliminate child labour in Bangladesh were as follows: (i) poverty and underemployment of adults; (ii) the institutional capacity (not enough labour inspectors for instance); (iii) limited government resources; (iv) the informal economy, i.e. the centralized monitoring and implementation efforts are inadequate to reach this sector where child labour is prevalent; (v) the level of socio-economic development and difficulty to achieve a high and stable growth are all together major obstacles against the elimination of child labour in Bangladesh.</p> <p><b>2010 AR:</b> According to the Government: Socio-economic conditions are the main challenge to the elimination of child labour in Bangladesh.</p> <p><b>2009 AR:</b> The Government stated that child labour was still prevalent in the informal economy and the agriculture sector, and was more closely linked to poverty.</p> <p><b>2008 AR:</b> The Government stated that parents in the villages are still not sufficiently aware of the negative outcome of child labour. Moreover, it added that skill training is lacking in certain sectors such as in the garments, electronics areas. Moreover, skill trainings are lacking in certain sectors such as in the garments and electronic industries. The Bangladesh Workers' Federation (BWF) notes that child labour is prevalent in the informal economy, especially in poor rural areas. According to the Bangladesh Employers' Federation (BEF), health, safety and welfare of working children is a global concern. In spite of rigorous laws regarding children in hazardous work, the reality cannot be denied. Moreover, child labour exists in the agriculture and informal sectors, both of which are family enterprises, and this makes it more difficult to monitor.</p> <p><b>2006 AR:</b> According to the Government: The main challenges in promoting the PR are as follows: (i) Harmonization and interpretations of existing labour laws with regard to minimum age for admission into employment; (ii) <b>implementation</b> and enforcement of the laws, particularly in the informal sector where child labour is more prevalent; (iii) the magnitude of child labour, particularly hazardous child labour which is currently estimated to be around 1.3 million; and (iv) multi-sectoral and complex nature of the child labour problem such as a weak cooperation among the large number of agencies, departments and actors, and high incidence of poverty leading to child labour.</p> <p><b>2003-2005 ARs:</b> According to the Government: The main obstacles encountered in Bangladesh in the realization of the PR are the <b>following:</b> (i) lack of adequate awareness and education (skills development); (ii) lack of adequate policy laws and regulations; (iii) poverty; (iv) absence of general minimum age for admission to employment; (v) lack of adequate effective rehabilitation programmes; and (vi) lack of adequate institutional and logistic support.</p> <p><b>2001 AR:</b> The Government stated that the informal sector is not covered by the law, which prohibits children's employment. As a result, labour inspectors cannot make any intervention in this sector.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> The Government reiterated the request it made under the 2014 AR and added that Bangladesh may be assisted with the good practices or modern concepts of programmes for effective abolition of child labour and through support to its TVET programmes and projects to attract marginalized children.</p> <p>WWL indicated that training and workshops are needed especially for union leaders.</p> <p><b>2014 AR:</b> According to the Government: In addition to the ongoing technical cooperation in abolishing child labour on Urban Informal Economy, more assistance is required to address this issue among the street children, and in semi-urban and rural economy. However, since poverty has been the main challenge for effective abolition of child labour, technical assistance for overall socio-economic development of the country is very crucial. Unless the socio-economic conditions of the vast population of the country can be improved at a satisfactory level, the goal of effective abolition of child labour will remain unachieved. Bangladesh may be assisted with the good practices or modern concepts of programmes for effective abolition of child labour.</p> <p><b>2013 AR:</b> According to the Government: ILO technical cooperation is requested in the following areas: (i) elaboration of awareness-raising programmes, especially for rural areas; (ii) database development; (iii) capacity building of tripartite partners; (iv) skill-based training; and (v) sharing of experience across countries/regions.</p> <p>The BEF requested ILO’s technical assistance to strengthen the monitoring capacity of the responsible government institutions and increase poverty reduction programmes. Moreover, a global approach in the technical cooperation would be more welcome rather than a zonal approach.</p> <p>The BSEC indicated that ILO’s technical assistance is needed in the following areas: (i) awareness raising campaign; (ii) skilled development training; (iii) increased micro-credit facilities; and (iv) elimination of poverty programmes.</p> <p><b>2012 AR:</b> According to the Government: ILO technical assistance is particularly needed in the following areas: (i) abolishing child labour in urban informal economy; (ii) restructuring and strengthening the labour inspection machineries; and (iii) improvement of socio-economic conditions so as to help eliminate in child labour.</p> <p>The CBA requested the ILO to press the Government in implementing the existing national legislation so as to fight child labour.</p> <p><b>2010 AR:</b> According to the Government: More ILO technical cooperation is needed, particularly in the following areas: (a) elaboration of awareness-raising programmes, especially for rural areas; (b) database development; (c) capacity building of stakeholders; (d) skill-based training; (e) social protection systems; (f) sharing of experience across countries/regions; and (g) inter-institutional coordination.</p> <p>The JSL requested ILO’s support on different needs on the PR to be worked out.</p> <p><b>2009 AR:</b> According to the Government: More ILO technical cooperation is needed, particularly in the following areas: (a) elaboration of awareness-raising programmes, especially for rural areas; (b) database development; (c) capacity building of stakeholders; (d) skill-based training; (e) social protection systems; (f) sharing of experience across countries/regions; and (g) inter-institutional coordination.</p> <p>For the BTF, technical cooperation in the field of primary education and skill development can contribute a lot to eliminate child labour.</p> <p>The BWT and BGTLWF stated that there was a need for technical cooperation with a view to facilitating the elimination of child labour, including in its worst forms.</p>
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		<p><b>2008 AR:</b> The Government requested ILO technical cooperation for the elaboration of awareness-raising programmes designed especially for rural areas.</p> <p>The BWF stated that different seminars and workshops should be developed in order to further sensitize the population on the issue of child labour.</p> <p><b>2007 AR:</b> The BEF requested ILO technical cooperation for capacity building on the PR among employers’ organizations.</p> <p><b>2006 AR:</b> According to the Government: there is a need for the formulation and implementation of a nationally-owned TBP programme and direct support to the various programmes through training, information system and database development, determination of the list of hazardous child labour, advocacy and promotional activities, legal reform, and capacity building of unions and employers’ organizations.</p> <p><b>2005 AR:</b> According to the Government: Needs for ILO technical cooperation to facilitate the realization of the PR in Bangladesh exist in the following areas, in order of priority: (i) employment creation, skills training and income generation; (ii) special programme for the elimination of the worst forms of child labour; (iii) social protection systems; (iv) training of other officials (e.g. police, judiciary, social workers, teachers) and awareness raising, legal literacy and advocacy; (v) capacity-building of responsible government institutions (e.g. labour inspection and administration); (vi) strengthening capacity of employers’ and workers’ organizations; (vii) data collection and analysis; (viii) legal reform; (ix) cross-border cooperation mechanisms; (x) sharing of experience across countries/regions; (xi) policy advice; (xii) inter-institutional coordination.</p>
	<p><b>Offer</b></p>	<p>A project titled “<b>Urban Informal Economy (UIE)</b> programme of the Project of Support to the Time Bound Programme towards the Elimination of the Worst Forms of Child Labour in Bangladesh” has been approved by the Government of Bangladesh and is being implemented by the Ministry of Labour and Employment and the ILO.</p> <p>The <b>Reaching Out-Of-School Children (ROSC)</b> project aims at addressing children who do not have access to formal education mainly due to poverty. The project is co-financed by the GOB, the World Bank and the Swiss Agency for Development and Cooperation (SDC).</p> <p>ILO/IPEC (A time-bound programme for the elimination of the worst forms of child labour is being implemented); UNICEF; NGOs.</p> <ul style="list-style-type: none"> <li>– In October 2000, the ILO and the Dutch Government for the elimination of child labour signed a US\$4.8 million assistance agreement. With the extension of the project, the total funding commitment of the project is about 5.7 million USD and is scheduled to continue up to the end of 2006.</li> <li>– The Government is working with the United States Agency for International Development (USAID) on the Eradication of Hazardous Child Labour in the country, but also in combating human trafficking through the Actions for Combating Trafficking-In-Persons (ACT), funded by USAID through IOM.</li> </ul> <p>European Union (EU): The Technical and Vocational Education and Training Reform (TVET) project is funded by the European Commission for a period of five years (2007-2011).</p>





<p><b>EXPERT-ADVISERS' RECOMMENDATIONS/OBSERVATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) considered that universal ratification of the child labour Conventions was not a distant dream but an achievable goal, in view of the number of States, including Bangladesh, having expressed their intention to ratify C.138 and/or C.182 (cf. paragraph 56 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs listed Bangladesh among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (cf. paragraph 13 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>
<p><b>GOVERNING BODY RECOMMENDATIONS/OBSERVATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>75</sup>: CANADA**

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000. No change report under the 2004, 2005, 2006 and 2013-2015 ARs.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Canadian Employers' Council (CEC), the Canadian Labour Congress (CLC) and the Confédération des Syndicats Nationaux (CSN) through communication of the Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>NIL.</b>	
	<b>Workers' organizations</b>	<b>2010 AR:</b> Observations by the CLC. <b>2002 AR:</b> Observation by the International Confederation of Free Trade Unions (ICFTU).	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Canada ratified in 2000, the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). However, it has not ratified the Minimum Age Convention, 1973 (No. 138) (C.138).</b>
		<b>Ratification intention</b>	<b>Yes, since 2015 for C.138.</b> <b>2015 AR:</b> According to the Government: Canada has taken concrete steps towards the ratification of C138. As part of Canada's Policy on treaties, the Convention was tabled in Parliament in May 2015 for a period of 21 sitting days. Efforts to complete the ratification process are ongoing. <b>2013-2014 ARs:</b> According to the Government: There has been no change in all aspects of this report. The federal, provincial and territorial governments are still reviewing C.138 to determine its ratification prospects. <b>2012 AR:</b> According to the Government: The federal, provincial and territorial governments are currently reviewing C.138 to determine the extent of Canada's conformity and its possible ratification. <b>2011 AR:</b> According to the Government: Discussions are continuing with the provincial and territorial governments concerning future ratification prospects for C.138.

<sup>75</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body. For any further information on the ratification of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilolex.org](http://www.ilolex.org).

			<p><b>2010 AR:</b> According to the Government: Discussions are continuing. However, there are no developments to report at this time.</p> <p>According to the CLC: The CLC urged the Canadian government to clearly express its intent to ratify C.138 and to convene at least one meeting in Canada before the next Annual Review with social partners to discuss how to address the barriers to ratification of this Convention and to other core labour Conventions. Ratifying C.138 will ensure the effective abolition of child labour and progressively raise the minimum age for admission to employment or work, to a level consistent with the fullest physical and mental development of Canada’s young people. It is particularly significant that C.138 specifies a minimum age as “not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.” The ILO report fails to incorporate a reference to the scope of child labour within Canadian workplaces. The CLC believes that a possible high level of non-compliance underlines the need for ratification.</p> <p><b>2009 AR:</b> According to the Government: NIL.</p> <p><b>2008 AR:</b> According to the Government: The Government of Canada is pursuing discussions with provincial and territorial governments concerning ratification of C.138.</p> <p><b>2007 AR:</b> The Government indicated that it had ratified the <i>Optional Protocol to the Convention on the sale of children, child prostitution and child pornography</i> in 2005.</p> <p><b>2005 AR:</b> The Government stated that a Tripartite Workshop on Minimum Age for Admission to Employment in Canada and International Standard was held in February 2004. Discussions confirmed that while there is a high degree of conformity with the principles of C.138 in Canada, legislative changes would be required in all jurisdictions in order to meet the specific technical requirements of the instrument.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001), the Government would continue to examine the Convention in consultation with the provinces and territories, and the social partners.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>NIL.</b></p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b> According to the Government: The principle and right (PR) is recognized in the national policy.</li> <li>• <b>Legislation:</b> According to the Government: The PR is recognized in national legislation but legislative changes would be required in all jurisdictions in order to meet the specific technical requirements of C.138.</li> </ul>

		<b>Policy, legislation, and/or regulations</b>	<p><b>2015 AR:</b> According to the Government: In Canada, jurisdictions are generally in conformity with C138's key principles. Technical questions on some of the provisions of the Convention were addressed by consulting the ILO and by providing additional information to the jurisdictions, including on the flexibilities of the Convention.</p> <p><b>2011 AR:</b> According to the Government: Canadian jurisdictions are increasing efforts to reduce workplace accidents and injuries for young and inexperienced workers. A number of jurisdictions are reviewing or planning to review labour standards legislation which would include provisions concerning the employment of children.</p> <p>All Canadian jurisdictions have legislation for compulsory schooling and for regulating the employment of children. There are a variety of statutes that include restrictions on the employment of children and young persons. The most common are employment (or Labour) standards legislation, health and safety legislation and education acts. Restrictions are also found in various provisions regulating professions, in child welfare legislation, and in other statutes. Worst forms of child labour, such as the sale and/or trafficking of children, debt bondage, serfdom, child pornography and prostitution and forced or compulsory labour are subject to prosecution under the Criminal Code. In November 2005, significant changes were made to the <i>Criminal Code</i> to better protect children and other vulnerable persons from abuse, neglect and sexual exploitation: amendments created three new indictable offences to specifically prohibit trafficking in persons, a comprehensive protection scheme for children from all forms of sexual abuse and exploitation (including child pornography and prostitution), and enhanced the penalties for offences.</p>
		<b>Basic legal provisions</b>	(i) The employment legislation; (ii) the health and safety legislation; (iii) the Education Acts; and (iv) the Criminal Code.
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Compulsory education</b>	<b>YES: Free compulsory schooling up to the age of 16, at least.</b>
		<b>Worst Forms of Child Labour</b>	<b>C.182 is ratified.</b>
		<b>Special attention to particular situations</b>	<b>2003 AR:</b> According to the Government: Canada's international development strategy targets the most marginalized girls and boys.
		<b>Information/ Data collection and dissemination</b>	<b>2001-2002 ARs:</b> According to the Government: There are statistics and surveys that provide statistical information on the extent and/or nature of child work. Provinces and territories have also provided statistical information on issues such as child work permits.

	<p><b>Prevention/Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2000-2005 ARs:</b> According to the Government:</p> <ul style="list-style-type: none"> <li>- <i>The Commission on labour standards:</i> There are government labour inspectors and appropriate enforcement mechanisms in all jurisdictions;</li> <li>- <i>The Labour Inspectorate to ensure law enforcement in every jurisdiction:</i> For instance in Ontario (Ontario Health and Safety Act) and in Quebec (sections 153,156 and 220 of the Civil Code);</li> <li>- <i>The possibility of investigation and enquiry by police and social welfare officers;</i> and</li> <li>- <i>Penal Sanctions:</i> from fines to imprisonment.</li> </ul>
	<p><b>Involvement of the social partners</b></p>	<p><b>2005 AR:</b> According to the Government: At the Federal level, employers’ and workers’ organizations (and civil society) were involved in a tripartite workshop on “Minimum Age for Admission to Employment in Canada and International Standards”, organized by the International Labour Affairs, in February 2004.</p> <p><b>2000-2005 ARs:</b> According to the Government: At the provincial/territorial level, social partners are in involved in various activities, including awareness and advocacy programmes.</p>
	<p><b>Promotional activities</b></p>	<p><b>2010 AR:</b> According to the Government: The Canadian International Development Agency (CIDA) is making a financial contribution over three years (2008-2010) to the Child Protection Partnership (CPP), a consortium of organizations led by the International Institute of Child Rights and Development (University of Victoria), Microsoft, the RCMP and UNICEF. The Government of Canada recently concluded Labour Cooperation Agreements with Jordan, Colombia, Peru and Panama that include commitments to protect the fundamental principles and rights at work, including the elimination of child labour, and is or will be providing technical assistance to these countries to assist them in meeting those commitments.</p> <p>According to the CLC: The CLC is aware of no public promotion by the Canadian Government of the ILO Declaration on Fundamental Principles and Rights at Work or of C.138. The Labour Branch of the Government has provided the CLC with the capacity to follow and participate in the various ILO review processes for Canada, including those that relate to C.138. The CLC has held workshops across the country to raise awareness of workers and trade union leaders to the ILO Fundamental Principles and Rights at Work and of the 8 core labour Conventions.</p> <p><b>2009 AR:</b> From 1 June 2006 to 31 May 2008, the Family Violence Prevention Unit (FVPU) at the Public Health Agency of Canada contributed to the implementation of the Canadian Strategy Against Commercial Sexual Exploitation of Children and Youth by facilitating the development and dissemination of resources and publications on child maltreatment (including World Health Organization documentation).</p> <p><b>2008 AR:</b> According to the Government: In Canada, governments continue to focus on initiatives aimed at protecting children from trafficking, sexual exploitation and other worst forms of child labour. Internationally, through the Canadian International Development Agency (CIDA) and the Labour Program’s International Trade and Labour Program, the Government of Canada is supporting projects aimed at strengthening child protection and combating child labour. For example, in March 2007, UNICEF published <i>Enhanced Protection for Children Affected by HIV and AIDS</i> that was the result of a significant international collaboration involving over 25 organisations led and funded by UNICEF and CIDA, and involving UNAIDS, the International HIV/AIDS Alliance, the International Labour Organization (ILO), Save the Children, CARE, World Vision, Plan International and the African Network for the Prevention and Protection Against Child Abuse and Neglect.</p>



		<p><b>2006 AR:</b> The Government indicated that the Department of Foreign Affairs and International Trade (DFAIT) in Canada continues to publish the brochure, “Bon Voyage, But...”, warning travelers about the existence of extraterritorial legislation in Canada that allows for the Canadian prosecution of nationals believed to have engaged in sexual exploitation of children outside of Canada. The brochure is now available on their website at: <a href="http://voyage.gc.ca">http://voyage.gc.ca</a>. In June 2005, a Canadian was sentenced to ten years in prison for crimes involving children committed while he was visiting Cambodia. This is the first conviction obtained under Canada’s child sex tourism legislation.</p> <p>In 2004, the Government of Canada continued to support the ILO International Programme for the Elimination of Child Labour (IPEC), contributing \$3 million to child labour projects in the Americas and in Africa. In 2005, an additional contribution of \$500,000 supported the continuation of projects in Costa Rica, Chile, Central America and the Dominican Republic and also in the Caribbean.</p> <p><b>2000-2005 ARs:</b> According to Government: It provides financial support to various international organizations such as the ILO International Programme for the Elimination of Child Labour (IPEC). Moreover, the Canadian International Development Agency (CIDA) provides financial support to UNICEF, the United Nations High Commissioner for Refugees (UNHCR), the World Food Programme (WFP) and to Canada’s non-governmental and academic communities. CIDA has also launched bilateral programs worldwide.</p> <p>The Government indicates that on top of its multilateral and bilateral programs, many others have been launched in Canada at provincial/territorial level.</p> <ul style="list-style-type: none"><li>- At provincial and territorial level, several awareness and action programs have been undertaken, including health and safety of underage workers, education and vocational training, targeted programmes to street youth, integrating education and employment, addressing sexual exploitation, tutoring for tuition programmes, awareness-raising on child and young person’s rights; etc.</li></ul>
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	<b>Special initiatives/Progress</b>	<p><b>2010 AR:</b> According to the Government: A tripartite roundtable to review non-ratified ILO Conventions, including C.138, is being planned for early 2010. A tripartite planning meeting to organize the roundtable is scheduled for September 2009.</p> <p><b>2009 AR:</b> According to the Government: The Committee against the Commercial Sexual Exploitation of Children and Youth is placing emphasis on the issue of commercial sexual exploitation from the perspective of Aboriginal children and youth. Health Canada's Children and Youth Division provided funding to the Native Women's Association of Canada for the development of a report outlining "best practices" and a future plan of action to address the needs of sexually exploited Aboriginal children. At the international level, in 2006 the Labour Program, through its International Trade and Labour Program, funded a two-year, \$600,000 IPEC project to assist Costa Rica, Guatemala, Honduras and Nicaragua in preventing and eradicating the worst forms of child labour. The Canadian International Development Agency (CIDA) is making a financial contribution over three years (2008-2010) to the Child Protection Partnership (CPP), a consortium of organizations led by the International Institute of Child Rights and Development (University of Victoria), Microsoft, the RCMP and UNICEF. The CPP is focused on deploying into developing countries the Child Exploitation Tracking System, to equip police services around the world to respond cooperatively to the crime of Internet trafficking in online child pornography. CIDA has also recently extended its support to Save the Children Canada's Project to Fight Against Child Trafficking in West Africa, to reduce the vulnerability and exploitation of migrant children. The project has provided direct support to 10,000 children and has established community-based child protection networks. In June 2008, Save the Children Canada, with financial support from CIDA, hosted an International forum in Canada, <i>Creating a New Era in West African Cocoa Production: The Harkin-Engel Protocol and Increased Well Being for Farmers and Their Working Families</i>, to support international efforts to eliminate worst forms of child labour in the cocoa sector.</p>
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		<p><b>2006 AR:</b> On 14 September 2005, following extensive negotiations with the provinces and territories, Canada ratified the <i>Optional Protocol to the Convention on the sale of children, child prostitution and child pornography</i>.</p> <p>The 2005 Report on Implementation of the Canadian Strategy against the Commercial Sexual Exploitation of Children and Youth describes a wide range of domestic and international initiatives supported by Canadian governments to protect children from trafficking, forced labour, sexual exploitation and other worst forms of child labour.</p> <p><b>Examples of initiatives to promote the principle and right:</b></p> <ul style="list-style-type: none"> <li>– April 2004: Submission to the United Nations of “A Canada Fit for Children”. Canada's national plan of action for implementation of the UN Convention on the Rights of the Child (CRC);</li> <li>– November 2001: Launching of labour cooperation, as an adjunct to the Canada-Costa Rica Free Trade Agreement, which includes a commitment to eliminate the worst forms of child labour;</li> <li>– June 2001: Launching of the Canadian International Development Agency's (CIDA) Social Development Priorities: A Framework for Action, which includes an Action Plan on Child Protection, specifically the most marginalized girls and boys, often victims of exploitation, abuse, and discrimination;</li> <li>– April and October 2001: Canada’s initiative to include in the Youth Summit and the XII<sup>th</sup> Inter-American Conference of Ministers of Labour commitments to work towards the elimination of child labour and, as a priority, to promote hemisphere-wide ratification and implementation of the Worst Forms of Child Labour Convention, 1999 (No. 182);</li> <li>– March 2001: Introduction in Parliament of proposed legislation, including provisions to better protect children from sexual exploitation. The proposed legislation would prohibit the use of the Internet for sexual exploitation and child pornography purposes, and would also give judges additional remedial power and simplify the process for prosecuting Canadians who sexually assault children in other countries;</li> <li>– December 2000: Canada’s commitment to international agreements to protect the rights of children and to eradicate all the forms of exploitation of children and establishment of a national plan of action, consistent with the Social Union Framework Agreement, to support parents and families as to early childhood development. Signing of the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons and Children under the new United Nations Convention Against Transnational Organized Crime; and</li> <li>– June 2000: Prohibition of the deployment of persons under 18 to operations involving hostilities by the Canadian Forces, under a Bill in the National Defense Act.</li> </ul>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>NIL.</b></p>
		<p><b>Workers’ organizations</b></p>	<p><b>2010 AR:</b> According to the CLC: The CLC would like to submit information about the degree of current legislative non-compliance to C.138 by Canada and its jurisdictions. Also, the CLC would like to discuss future steps for providing comment on, and following up to, issues about unratified core labour Conventions.</p> <p><b>2002 AR:</b> The ICFTU raised the following challenges: (i) compulsory education until the age of 15; (ii) practice of child labour in the migrant farm labour force in the vegetable and fruit fields of Manitoba, Ontario and British Columbia.</p>



	<p><b>According to the Government</b></p>	<p><b>2010 AR:</b> In Canada, the approach adopted by the various jurisdictions has been to permit young persons to have access to age-appropriate jobs and work experience, while putting in place measures to protect their health and safety and development, and ensuring that work does not interfere with their education. Children in Canada are subject to compulsory school attendance until at least age 16 and may not be employed during school hours. While Canadian practices are generally consistent with C138, Canadian legislation does not implement all of the specific technical requirements of this instrument.</p> <p><b>2002 AR:</b> In response to the ICFTU's observations, the Government stated that (i) school attendance is compulsory until at least the age of 16, not 15, in all Canadian jurisdictions; (ii) under the Caribbean and Mexican Seasonal Agricultural Worker Programme, which allows for the recruitment of seasonal agricultural workers, prearranged employment is required and there are no provisions for workers' dependants to accompany them to Canada.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2011 AR:</b> According to the Government, ILO technical advice will be sought to clarify the technical requirements for implementation of Convention 138 and participate in discussions with Canadian governments and social partners.</p> <p><b>2010 AR:</b> According to the CLC: The capacity-building of union members and leaders to make effective use of ILO tools and agreements remains at the centre of any strategy, to involve them as social partners in implementing Conventions or promoting their ratification. The CLC and affiliates continue to promote the ratification of C.138 but programs and skills development need to be supported.</p>
	<p><b>Offer</b></p>	<p><b>2012 AR:</b> According to the Government: In February 2011, the Director of the ILO International Labour Standards Department attended a federal-provincial-territorial workshop and presented an overview of the requirements of C.138 to representatives of governments and the social partners.</p> <p><b>2007 AR:</b> The Government reported its continued participation in international initiatives aimed at combating trafficking and the sexual exploitation of children; and its funding of funding of IPEC, UNICEF and other agencies combating child labour and exploitation (for further information see: <a href="http://les.acdi-cida.gc.ca/servlet/JKMSearchController">http://les.acdi-cida.gc.ca/servlet/JKMSearchController</a>).</p>
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2005 AR:</b> The ILO Declaration Expert-Advisers listed Canada among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 Annual Review Introduction). Furthermore, the Expert-Advisers noted with interest that even though child labour appears to be rare in the country, the Government is taking active steps to eradicate child labour, including the organization of various sensitization activities.</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)** <sup>76</sup>: ERITREA

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, except for the 2001, 2002 Annual Reviews (ARs). No change report for the 2011 AR.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Employers' Federation of Eritrea (EFE) and the National Confederation of Eritrean Workers (NCEW) through communication of government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the EFE <b>2014 AR:</b> Observations by the EFE <b>2013 AR:</b> Observations by the EFE <b>2012 AR:</b> Observations by the EFE <b>2010 AR:</b> Observations by the EFE <b>2009 AR:</b> Observations by the EFE <b>2008 AR:</b> Observations by the EFE <b>2006 AR:</b> Observations by the EFE	
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the NCEW <b>2014 AR:</b> Observations by the NCEW <b>2013 AR:</b> Observations by the NCEW <b>2012 AR:</b> Observations by the NCEW <b>2010 AR:</b> Observations by the NCEW <b>2009 AR:</b> Observations by the NCEW <b>2008 AR:</b> Observations by the NCEW <b>2006 AR:</b> Observations by the NCEW	
<b>EFFORTS AND PROGRESS</b>	<b>Ratification</b>	<b>Ratification status</b>	Eritrea ratified in 2000 the Minimum Age Convention, 1973 (No. 138) (C.138). However, it

<sup>76</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<p><b>MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>			<p><b>has not ratified the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182).</b> Eritrea is signatory of the Convention on the Right of the Child.</p>
		<p><b>Ratification intention</b></p>	<p><b>YES, since 2009, for C.182.</b>  <b>2015 AR:</b> According to the Government: Ratification of C.182 is still pending but expected to be done in the near future due to technical issues and matter of priority. The Government expressed frustration that ILO puts too many demands on Eritrea but does not practically contribute to achieving progress.          EFE reiterated its support for the ratification of C.182          NCEW reiterated its support for the ratification of C.182 and indicated that ratification would take place in the near future given the existing political will.  <b>2014 AR:</b> According to the Government: Ratification of C.182 is still pending before Parliament. The Government is unable to move forward in the ratification process before ILO has provided technical assistance to sensitize government officials, Parliamentarians and the social partners on the implications of ratifying C.182. In an effort to give effect to C182, the Government has taken considerable measures compatible with Article 3(D) of C. 182, including sensitization and support programmes throughout the Country.          The EFE expressed its support for the ratification of C.182.          The NCEW expressed its support for the ratification of C.182 and indicated that it had made efforts to push the Government to ratify this instrument. The NCEW was optimistic that the ratification would take place in a near future.  <b>2013 AR:</b> According to the Government: Ratification of C.182 is still pending before Parliament, and there is need for ILO technical assistance on reporting issues and boosting ratification of this instrument.          The EFE expressed its support for the ratification of C.182 by Eritrea.          The NCEW expressed its full support for the ratification of C.182 and indicated that a tripartite consultation was organized in relation to the ratification of this Convention.  <b>2010 and 2012 ARs:</b> The Government restated that Parliament was working on the ratification of C.182, which should be expected by 2012.          The EFE expressed its supportfor the ratification of C.182 and expected that the Government would finalize the ratification process in the near future.          The NCEW expressed its full support for the ratification of C.182 and stated that this ratification was being reviewed by the tripartite partners and the Parliament.  <b>2009 AR:</b> The Government stated that the ratification process for C.182 was ongoing as a Bill is currently before Parliament.          The EFE and the NCEW supported the Government’s stand.  <b>2008 AR:</b> The Government indicated that the ratification of C.182 is still under review.</p>

			<p>The EFE and the NCEW expressed their support for the ratification of C.182.</p> <p><b>2006 AR:</b> According to the Government: C.182 is still under review by the National Assembly for possible ratification.</p> <p><b>2003 AR:</b> The Government stated that it had submitted C.182 to the competent authorities and that the ratification of this Convention was under review.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001), the Government intended to ratify C.182.</p>
<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>		<p><b>YES.</b></p> <p>The 1997 Constitution (article 21.1) provides that every citizen shall have the right of equal access to publicly funded social services and that the State shall endeavour, within the limit of its resources, to make available to all citizens health, education, cultural and other social services.</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<p>• <b>Policy:</b></p> <p><b>2014 AR:</b> According to the Government: The wellbeing and development of children is among the foremost policies of the Government. Section 13.3.2.h of the Macro Policy of Eritrea ensures that children, youth, the aged and women will be provided with legal protection from economic, sexual and other forms of exploitations. Article 9 of the Labour Proclamation provides that any person who attained the age of 14 years has the capacity to enter into a contract of employment. However, if the contract is determined to be prejudicial to the interests of that person, the contract of employment shall not be enforceable against the person below the age of eighteen. Section 13.1.2(a) of the Macro Policy of Eritrea states that universal primary education up to seven years will be gradually made available to all. These provisions of the Policy are designed to protect children from all forms of child labour and provide them with better education.</p> <p><b>2009 AR:</b> According to the Government: The Ministry of Labour and Human Welfare has recently finalized, in consultation with the employers' and workers' organizations, a draft regulation that is designed to regulate the working conditions of young persons in general and to prohibit certain conditions of work which in particular jeopardize the safety, health and moral of children.</p>
			<p><b>2002-2003 ARs:</b> According to the Government: the principle and right (PR) is recognized in national policy, legislation and regulations, namely through:</p> <ul style="list-style-type: none"> <li>– Macro Policy No. 13.1.2(a) which concerns basic schooling for children and No. 13.3.2 (h) which concerns legal protection for economic and social forms of exploitation are aimed at ensuring the effective abolition of child labour.</li> </ul> <p>• <b>Legislation:</b></p> <p>The Labour Proclamation of Eritrea No. 8/1991 prohibits the employment of minors under 14 years of age and under 18 years of age in certain conditions. Under section 9 (1) of the Labour Proclamation N<sup>o</sup> 118/2001, the minimum age for employment is 14 years.</p>

		<b>Basic legal provisions</b>	(i) The Constitution (section 21.1); the Labour Proclamation of Eritrea No. 118/2003; (ii) the Labour Proclamation of Eritrea No. 8/1991; (iii) the Transitional Penal Code 1991 (section 3 (A) – Provisions prescribe slavery, sale, trafficking and serfdom of children and forced or compulsory labour; section 565, section 607 – Organization of Trafficking Person; section 3 (B) – Provisions proscribe the use, procuring or offering of children for prostitution and other indecent acts; section 606; section 3 (C) – Provisions proscribing offering a child for illicit activities, in particular for the production and trafficking of drugs; and section 510 3 (b)), and (iv) The Draft Penal Code of Eritrea (section 390 – Supply of Controlled Drugs or Controlled Plants to a Minor for Trafficking; section 391 – Procuring a Minor to Traffic in Controlled Drugs or Controlled Plants; section 3 (D) Provisions proscribing work which by its nature or circumstance is likely to harm the health, safety or moral of children.	
		<b>Judicial decisions</b>	NIL.	
	<b>Exercise of the principle and right</b>		<b>Compulsory education</b>	<b>YES: The age of completion of free compulsory schooling (14 years) corresponds to the minimum age for admission to employment or work, with a general requirement of seven years/grades of instruction.</b>
			<b>Minimum Age</b>	<b>2003 AR: General minimum age for admission to employment or work: 14 years for both boys and girls (Labour Proclamation No. 8/1991, section 32.2, and section 9 (1) of the Labour Proclamation N° 118/2001).</b>  <b>Hazardous work: Minimum age of 18 years for both boys and girls</b> Section 69(1) of the Labour Proclamation of Eritrea No. 118/2003 defines hazardous work as: (a) work in passengers'/goods' transport by road, railway, air and sea in dock side and warehouses involving heavy weight lifting, pulling or pushing or any other related type of labour; (b) work connected with toxic chemicals, dangerous machines, electric power generation plants, transformers or transmission lines; (c) underground work, such as mines, quarries and similar work; and (d) working in sewers and tunnel digging.
			<b>Worst Forms Child Labour</b>	<b>2014 AR:</b> The Government informed that it had ensured the prohibition of the worst forms of child labour in the national legislation.  <b>2004 and 2013 ARs:</b> According to the Government: Child labour, including its worst forms (such as sale and/or trafficking; debt bondage, serfdom, forced or compulsory labour; forced recruitment for armed conflict; prostitution; pornography; illicit activities, in particular production and trafficking of drugs, etc.) does not exist in the country.
		<b>Special attention to particular situations</b>	According to the Government: Street children, child returnees, poor parents and women.	

		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2000 AR:</b> According to the Government: Lack of information and data.</p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>		<p><b>2015 AR:</b> According to the Government: the Ministry of Labour is in charge of inspection.  <b>2012 AR:</b> According to the Government: Under section 143 (1) of the Labour Proclamation, the labour inspection service has power to: (i) supervise the workplaces, oversee the execution of the labour proclamation; (ii) take corrective measures; and (iii) require judicial action against the offender.  <b>2000 AR:</b> According to the Government: the means of implementing the PR are both administrative and legal, especially through judiciary and labour inspection.</p>
	<p><b>Involvement of the social partners</b></p>		<p><b>2015 AR:</b> According to the Government, the EFE and the NCEW: Tripartite consultations and cooperation are still in place.  <b>2014 AR:</b> According to the Government, the EFE and the NCEW: Tripartite consensus on the ratification of C.182 has been reached through social dialogue.  <b>2013 AR:</b> The Government, the EFE together with the NCEW reiterated the statements they made under the previous review, and indicated that consultations were ongoing to review the existing legislation with a view to ensuring full compliance with the provisions of C.182.  <b>2012 AR:</b> The Government, the EFE and the NCEW stated that tripartite partners were being involved in the ratification process for C.182 along with the Parliament.  According to EFE: Ratification of C.182 has been discussed by the Government, employers’ and workers’ representatives jointly with the ILO. No contradictions to Eritrean law were identified, leading to a successful approval from the involved parties.  <b>2010 AR:</b> The NCEW stated that the process of ratification of C.182 was being reviewed by tripartite partners and the Parliament.  <b>2009 AR:</b> According to the Government: A tripartite committee is currently in place for the implementation of C.182 at national level.  <b>2005 AR:</b> According to the Government: the World Bank Fund is supporting a special Programme known as Early Childhood Development (ECD) and which is being conducted to realize the PR.  <b>2000 AR:</b> According to the Government: some provisions of the Labour Proclamation No. 8/1991 are being revised by the Government, in consultation with social partners, in order to take into consideration the suggestions made by the ILO concerning the principle and right (PR).</p>
	<p><b>Promotional activities</b></p>		<p><b>2015 AR:</b> According to the Government: There is no need for promotion as child labour is culturally non-acceptable in Eritrea. It might happen in informal sector in a limited number.  NCEW held the World Day Against Child Labour, on 12 June 2013 as planned. Further promotional activities, with the support of the European Union have taken place, such as sensitization campaigns, also through the use of art, workshops and</p>

	<p>trainings.</p> <p><b>2014 AR:</b> The NCEW indicated that outreach activities were planned to take place on the World Day Against Child Labour, 12 June, in the country.</p> <p><b>2010 AR:</b> According to the Government: Even if C.182 has not yet been ratified, the elimination of child labour and its worst forms has been dealt within national policy and laws.</p> <p>The NCEW indicated that it had organized workshops to sensitize the social partners and stakeholders on the PR.</p> <p><b>2009 AR:</b> According to the Government: A tripartite committee is currently in place for the implementation of C.182 at national level.</p> <p>According to the NCEW: Awareness and Advocacy activities were carried out on C.182.</p>
	<p><b>2007 AR:</b> According to Government: the Labour Department is planning to conduct a child labour survey in 2007.</p> <p><b>2000 AR:</b> According to the Government: Various measures were being undertaken on child issues, including:</p> <ul style="list-style-type: none"> <li>- Street Children Rehabilitation Programme, with various measures promoted, <i>inter alia</i>, by street educators;</li> <li>- Poverty alleviation Programmes, with income-generating activities for poor parents in urban areas and a cash-for-work Programme in rural areas;</li> <li>- Special support for women's literacy, income-generating schemes and increased participation and legal rights, taking into account the important flow-on effect between the social and economic situation of women and the welfare of children;</li> <li>- Special Programmes in favor of child returnees carried out by the Eritrea Relief and Refugees Commission;</li> <li>- A regular sensitization campaign on child issues, including special activities for the International Children's Day.</li> <li>- In August 1999, the ILO organized in Asmara a National Workshop on International Labour Standards and the 1998 ILO Declaration on Fundamental Principles and Rights at Work;</li> <li>- In October 1999, a national tripartite delegation participated in the First African Regional Workshop on Promoting the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, organized in Dakar, Senegal;</li> </ul> <p>The ILO EAMAT, Addis Ababa and ILO Cairo, has assisted the Government in defining its country objective Programme under the Support for Policy and Programme Development (SPPD) Project in which the issue of child labour has been taken into consideration;</p> <ul style="list-style-type: none"> <li>- UNICEF is providing training on child issues to Government officials and is also supporting NGOs working in the field of children and youth, such as the National Youth and Students' Association and the National Eritrean Women's Association.</li> </ul>
<p><b>Special initiatives/Progress</b></p>	<p><b>2014 AR:</b> According to the Government: The Ministry of Labour and Human Welfare has been implementing various programmes and activities to help eliminate the worst form of child labour through an integrated and comprehensive strategy. Including: (i) Sensitization programmes and rehabilitation of street children; (ii) Guidance and counseling services to improve their wellbeing of street children; (iii) The street children were organized in peer groups taking in to account their age, type of problem, interest and work habits; (iv) vocational training programmes and material support to several nearly 10,400 street children aged 15 and 17 years of age, especially during the period 2008 to 2010; (v) Community based group home care services to support orphans throughout the country; and (vi) the delivery of necessary social services such as education, health and socialization.</p> <p><b>2009 AR:</b> According to the Government: The Ministry of Labour and Human Welfare has recently finalized, in consultation with the employers' and workers' organizations, a draft regulation that is designed to regulate the working conditions of young persons in general and to prohibit certain conditions of work which in particular jeopardize the safety, health and moral</p>



		<p>of children.</p> <p><b>2004 AR:</b> According to the Government: Parents were encouraged to send their children to schools and parents whose children worked due to economic constraints have been provided with social assistance, stipends along with free schooling and free kits for school such as books and exercise books, etc.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2015 AR:</b> According to EFE: Child labour is not a concern in Eritrea, delay is due to technical issues, not lack of political will.</p> <p><b>2012 AR:</b> According to the EFE: Obstacles identified by the EFE are only related to bureaucratic procedures hampering the finalization of the ratification process.</p> <p><b>2010 AR:</b> According to the EFE: The worst forms of child labour exist in the informal economy only, and are almost non-existent in the formal economy.</p> <p><b>2009 AR:</b> According to the EFE: A well-developed economy will help eliminate child labour, together with a free and compulsory education system that retain children in schools and prevent them from being used for child labour. Moreover, social support should be used as a tool to eliminate child labour.</p> <p><b>2008 AR:</b> The EFE indicated that current political instability in Eritrea has made it more difficult to eliminate child labour in the country.</p>
	<p><b>According to the Government</b></p>	<p><b>Workers' organizations</b></p>	<p><b>2013 AR:</b> The NCEW indicated that the main difficulties in the promotion and implementation of the PR relate to the time needed to amend the legislation and the lack of capacity of tripartite partners.</p> <p><b>2010 AR:</b> According to the NCEW: The main challenges in promoting the PR are as follows: (i) understanding by the social partners of the worst forms of child labour; (ii) sensitization of the population on the PR; (iii) capacity building of the social partners; and (iv) the existence of child labour in the informal economy.</p> <p><b>2009 AR:</b> According to the NCEW: Other national priorities tend to delay the need for the ratification of C.182.</p> <p><b>2008 AR:</b> According to the NCEW: child labour appears to be on the increase in the country, and it is therefore a concern to raise awareness on this issue.</p>
		<p><b>2015 AR:</b> There are no challenges, ratification expected to happen soon, depending on Parliament schedule.</p> <p><b>2013 AR:</b> There is a lack of tripartite reporting capacity and public awareness raising on the PR.</p> <p><b>2012 AR:</b> According to the Government, the EFE and the NCEW: There is a lack of capacity of the tripartite partners concerning the PR, and ILO should provide in particular technical support on the form of training workshops in helping labour inspectorate services identify child issues in the country.</p> <p><b>2010 AR:</b> The main challenges in promoting the PR are as follows: (i) understanding by the social partners of the worst forms of child labour (ii) lack of sensitization of the population on the PR; and (iii) lack of national survey on the worst forms of child labour.</p>	

		<p><b>2009AR:</b> According to the Government: Further national action need to be carried out to implement the provisions of C.182 so as to fully benefit from it and protect children at national level.</p> <p><b>2004 AR:</b> According to the Government: Poverty is the major obstacle with respect to realizing the PR. Thirty years of devastating war, current boarder conflict and drought have escalated poverty, which forced many children to work and thus making its abolition difficult.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2014-2015 ARs:</b> According to the Government, the EFE and the NCEW: Requests for ILO technical cooperation would need to be discussed among the tripartite partners, but potential areas where technical cooperation may be needed are: (i) Sharing of experiences between countries on the eradication of worst forms of child labour; (ii) A child labour survey would be needed as the last one was conducted five years ago; (iii) Sensitization on reporting obligations; (iv) Awareness raising on the definition of child labour, engaging schools, parents, and politicians. In this regard, there is a need for ILO to provide outreach materials; (v) Workshops to build the capacity of trade union leaders and workers. The Government emphasized its inability to take any further steps in the ratification process before ILO technical cooperation has been provided.</p> <p><b>2013 AR:</b> The Government and the EFE jointly expressed the need for ILO support in finalizing ratification of C.182 and abolishing the worst forms of child labour. The Government further requested awareness raising on C.182 and underlined the need for continued ILO technical cooperation, including in the fulfillment of reporting obligations.</p> <p>According to the NCEW: More ILO technical cooperation is needed, particularly in the following areas: (i) strengthening of social dialogue; (ii) awareness raising campaign for the social partners, and; (iii) strengthening tripartite partners’ capacity in implementing the PR.</p> <p><b>2012 AR:</b> According to the Government, the EFE and the NCEW: ILO should organize training workshops to sensitize the social partners and strengthen their capacity in dealing with child labour issues in the country. This support is instrumental and should help speed up the ratification process for C.182. ILO should make the difference compared to the previous years in providing effective assistance and follow-up to help reporting States promote the fundamental principles and rights at work and possibly ratify the relevant instruments.</p> <p><b>2010 AR:</b> According to the Government, the EFE and the NCEW: More ILO technical cooperation is needed, particularly in the following areas: (i) training of government officials on submission and reporting issues; (ii) awareness raising campaign for the stakeholders and the population in general; and (iii) strengthening of Government’s capacity in implementing the PR.</p> <p><b>2009 AR:</b> The Government reiterated the requests for ILO technical cooperation defined under the 2006 AR.</p> <p>According to the EFE: There is no need for ILO technical cooperation on the PR until the domestic issues are addressed as earlier stated in the challenges.</p> <p>The NCEW stated that ILO’s technical cooperation was needed to create a synergy between the Government and workers’ organizations on the benefits of C.182. ILO action would also be essential in helping assess the magnitude of child labour in the country with a view to reducing it.</p> <p><b>2008 AR:</b> The EFE requested ILO technical cooperation in supporting Eritrea’s sustainable development. This will increase population’s living standards through a “cash for work” policy and therefore reduce child labour in the country. It also added that capacity building of employers on child labour and the Declaration Follow-up is needed.</p> <p>According to the NCEW: technical and financial support is needed from the ILO in order to eliminate child labour in Eritrea, in particular supporting awareness raising campaigns and training on the Declaration FPRW.</p>

		<p><b>2006 AR:</b> Technical cooperation: The Government strongly requested ILO technical cooperation, namely for the establishment of an ILO/IPEC Programme to support the country in its struggle against child labour, in particular in its worst forms. This Programme should be preceded by a national survey on child labour, the recommendations of which should be discussed during a national tripartite “plus” workshop on the ILO Fundamental Conventions and the Declaration. The Government also reiterated its previous request for ILO technical cooperation to facilitate the realization of the PR in Eritrea in the following areas, in order of priority: (1) special Programme for the elimination of the worst forms of child labour; awareness raising, legal literacy and advocacy; sharing of experience across countries, regions; capacity-building of responsible government institutions (e.g. labour inspection and administration); training of other officials (e.g. police, judiciary, social workers, teachers); and (2) data collection and policy advice; employment creation, skills training and income generation; social protection systems.</p> <p>The Employers’ Federation of Eritrea (EFE) supported the Government’s request for ILO technical cooperation and stressed the need for sensitization and capacity building of employers to fight against child labour in the various regions of the country.</p> <p>The National Confederation of Eritrean Workers (NCEW) made a special call for ILO technical cooperation to strengthen its capacity to fight against the child labour scourge in Eritrea, namely by supporting the activities of its national training centre and its regional activities.</p> <p><b>2005 AR:</b> According to the Government: Needs for ILO technical cooperation to facilitate the realization of the PR in Eritrea exist in the following areas, in order of priority: (1) special Programme for the elimination of the worst forms of child labour; awareness raising, legal literacy and advocacy; sharing of experience across countries and regions; capacity-building of responsible government institutions (e.g. labour inspection and administration); training of other officials (e.g. police, judiciary, social workers, teachers); (2) data collection and policy advice; employment creation, skills training and income generation; social protection systems.</p>
	<b>Offer</b>	<b>2000-2005 ARs:</b> ILO, UNICEF and the World Bank.
<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>	<b>NIL.</b>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>

**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015) <sup>77</sup>: INDIA**

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000. No change reports for the 2005 AR.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' (the All India Association of Industries (AIAI), the PHD Chambers of Commerce and Industries (PHDCCI), the Council of Indian Employers (CIE), the Employers' Federation of India (EFI), the All India Organisation of Employers (AIOE), the Standing Conference of Public Enterprises (SCOPE), the All India Manufacturers' Organisation-Lagdh Udyog Bharati (AIMO)) and workers' organizations the All India Trade Union Congress (AITUC), the Bharatiya Mazdoor Sangh (BMS), the Indian National Trade Union Congress (INTUC), the Centre of Indian Trade Unions (CITU), Hind Mazdoor Sabha (HMS), the Labour Progressive Federation (LPF) and the National Front of Indian Trade Unions (NFTI) through communication of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2015 AR:</b> Observations by the CIE</p> <p><b>2014 AR:</b> Observations by the CIE</p> <p><b>2014 AR:</b> Observations by the CIE</p> <p><b>2013 AR:</b> Observations by the CIE and the PHDCCI.</p> <p><b>2012 AR:</b> Observations by the CIE.</p> <p><b>2011 AR:</b> Observations by the AIOE and the CIE.</p> <p><b>2010 AR:</b> Observations by the PHDCCI.</p> <p><b>2009 AR:</b> Observations by the AIAI. Observations by the PHDCCI.</p> <p><b>2008 AR:</b> Observations by the CIE and its 18 affiliates.</p> <p><b>2007 AR:</b> Observations by the Employers Federation of India (EFI).</p>
	<b>Workers' organizations</b>	<p><b>2015 AR:</b> Observations by the CITU</p> <p><b>2014 AR:</b> Observations by the BMS</p> <p><b>2013 AR:</b> Observations by the AITUC. Observations by the BMS. Observations by the INTUC.</p>

<sup>77</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

		<p>Observations by the LPF.</p> <p><b>2012 AR:</b> Observations by the BMS. Observations by the CITU.</p> <p><b>2011 AR:</b> Observations by the INTUC.</p> <p><b>2010 AR:</b> Observations by the AITUC.</p> <p><b>2009 AR:</b> Observations by the INTUC.</p> <p><b>2008 AR:</b> Observations by the AITUC. Observations by the Bharatiya Mazdoor Sangh (BMS).</p> <p><b>2007 AR:</b> Observations by HMS. Observations by INTUC.</p> <p><b>2003 AR:</b> Observations by HMS. Observations by the International Confederation of Free Trade Unions (ICFTU).</p> <p><b>2002 AR:</b> Observations by the World Confederation of Labour (WCL).</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>India has ratified neither the Minimum Age Convention, 1973 (No. 138) (C.138), nor the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>To be considered at a later stage. Ratification of C.138 will be considered once the national laws are in conformity with the provisions of these instruments. Ratification of C.182 is being considered since 2010.</b></p> <p><b>2014-2015 ARs:</b> According to the Government: Amendments to the Child Labour (Prohibition and Regulation) Act 1986 are being carried out, and the ratification of C. 138 and C. 182 will be taken up only after the amendments are finalized. With respect to C.138, given the socio-economic conditions of the country, the Government has been following a sequential approach for elimination of child labour in a comprehensive, holistic and integrated manner with initial focus on hazardous occupations and processes which is secured through legislation. The Government further indicated that it agrees with the principles of C.182, but it will be able to ratify C.182 only when the minimum age is increased from 14 to 18 years in the Child Labour Act.</p> <p>The CIE expressed its supports to the ratification of C.138 and C.182 as long as the Government ratifies them.</p> <p>CITU expressed its full support for the ratification of C.138 and C.182.</p> <p>BMS anticipated the ratification of C.182 in October 2014, although it fears that political election might delay it. However, BMS does not presently see an explicit prospect for the ratification of C.138 anytime soon.</p> <p><b>2013 AR:</b> According to the Government: The ratification process for C.138 and C.182 will be initiated soon after the necessary amendments of the Child Labour (Prohibition and Regulation) Act 1986.</p> <p>The PHDCCI and the CIE expressed their full support to ratification of C.138 and C.182.</p>

			<p>The AITUC, the BMS, the INTUC and the LPF indicated that they fully support the ratification and implementation of C. 138 and C.182 in the country. In addition, they mentioned that much progress has been made by the central Government in prohibiting child labour, however, the implementation of the PR is still a challenge in the country.</p> <p><b>2012 AR:</b> According to the Government: Ratification of C.182 is being considered. However, it is a gradual process.</p> <p>The CIE expressed its full support for this ratification.</p> <p>The BMS indicated that it was fully supporting ratification of C.138 and C.182, like most trade unions in India do.</p> <p>CITU believed that, as founding Member of the ILO, it should be the responsibility of the Government of India to ratify all ILO fundamental Conventions, including C.138 and C.182.</p> <p><b>2011 AR:</b> According to the Government: The Government is considering various issues for the ratification of C.182.</p> <p>The AIOE and the CIE and INTUC reiterated it was strongly supporting ratification of C.182 by India, while being confident that this instrument would be ratified by India before the next International Labour Conference.</p> <p><b>2010 AR:</b> The PHDCCI reaffirmed its support for the ratification of C.138 and C.182 by India.</p> <p>The AITUC expressed its full support for the ratification of C.138 and C.182 by India and urged the Government to ratify C.138 and implement this PR in the country.</p> <p><b>2009 AR:</b> The Government reiterated the statement made on ratification under the 2006 AR (i.e., that ratification of C.138 and C.182 would be considered once the national laws are in conformity with the provisions of these Conventions).</p> <p>The AIAI, the PHDCCI and the INTUC expressed their full support for the ratification of C.138 and C.182 by India.</p> <p><b>2008 AR:</b> The CIE, the AITUC and the BMS expressed their support for the ratification of C.138.</p> <p><b>2007 AR:</b> The Government of India reiterated its statement under the 2006 AR that ratification of C.138 and C.182 would be considered after enactment of national laws in conformity with the requirements of these Conventions.</p> <p>According to the EFI: C.138 and C.182 should be ratified by India at a later stage.</p> <p>According to the HMS and INTUC: The ratification of C.138 and C.182 is supported by all trade unions of India. A tripartite committee regarding the ratification of C.138 and C.182 met in May 2006 in Delhi, and trade unions hope that ratification of these instruments will take place soon in India, together with ratification of all the remaining fundamental Conventions.</p> <p><b>2006 AR:</b> According to the Government: India is firmly committed to the elimination of all forms of child labour and particularly the worst forms of child labour. The matter of ratification of C.182 is being taken seriously at the Government level and will be considered once the national laws are in conformity with the requirements of the Conventions. As far as Convention No. 138 is concerned</p>
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<p><b>Recognition of the principle and right (prospect(s), means of action, basic provisions)</b></p>			<p>the Government states that its ratification will be considered after enactment of central legislation for fixing the minimum age for admission to employment.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001), the Government is considering ratification of C.138 and C.182.</p> <p>The Government stated that ratification of C.138 would be considered after the enactment of central legislation for fixing minimum ages for admission to employment and for undertaking hazardous work.</p>
		<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p><b>2012 AR:</b> According to the CIE: India, based on its Constitution, is a democratic and welfare State, taking very seriously the mental, physical and well-being of its constituents</p> <p><b>2006 AR:</b> The Constitution of India was amended. The Constitution (86<sup>th</sup>) Amendment Act, 2002, published in the Gazette of India on 13<sup>th</sup> December 2002, enshrines the right of education for children from 6 to 14 years as a fundamental right. It provides the following:</p> <ul style="list-style-type: none"> <li>– Insertion of New article 21A. The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine”.</li> <li>– Substitution of new article for article 45. The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.”</li> <li>– New clause to article 51A after the clause (j) i.e. clause “(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years”.</li> </ul>
			<p><b>2000-2004 ARs:</b> According to the Government: article 24 of the Constitution prohibits employment of children below the age of 14 years in factories, mines and other hazardous employments. article 39 (Directive Principles) of the Constitution stipulates that the children should be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth be protected against exploitation and against moral and material abandonment. These articles have been complemented by article 45 (Directive Principles) stating that the State should endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they reach the age of 14 years. However, despite these constitutional provisions, India cannot achieve much progress towards the eradication of child labour and compulsory education for all children.</p>
		<p><b>Policy, Legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2012 AR:</b> According to the Government: There is a national Integrated Child Development Programme that provides incentives (health care, nutrition) for expectant mothers and children 0-6 years.</p> <p><b>2009 AR:</b> According to the Government: The following steps are being taken: (i) launching of a</p>



			<p>countrywide campaign of Education-for-all for providing education to all the children within the age limit; (ii) launching of the scheme of the national Child Labour Projects (NCLP) for rehabilitation of child labourers; and (iii) launching of the scheme of National Rural Employment Guarantee (NREG) in 2007 to provide a minimum of 100 days of assured employment in a year to at least one adult member of every rural household to enable them send their children to school.</p> <p><b>2000-2002 ARs:</b> According to the Government: Eradication of child labour is one of the important objectives in the social policy. Accordingly, India has all along followed a proactive policy in the matter of tackling the problem of child labour and a national policy on Education was adopted in 1986.</p> <ul style="list-style-type: none"> <li>- Article 39 (Directive Principles) stipulates that the State should in particular direct its policy towards securing the health and strength of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter a vocation unsuited to their age and strength.</li> <li>- A National Policy on Child Labour was announced in 1987, which contains the action plan for tackling child labour. The India National Policy on Education, 1986 provides for free and compulsory education for all children up to the age of 14 years.</li> </ul> <p>• <b>Legislation:</b></p> <p><b>2015 AR:</b> The Government reported that an inter-Ministerial Committee reviewed the observations and recommendations of the Parliamentary Standing Committee on Labour relating to the Child Labour Amendment Bill 2012, and final amendment recommendations have been forwarded to the Legislative Department of the Government of India for obtaining official amendments to the Child Labour (Prohibition and Regulation) Amendment Bill, 2012.</p> <p><b>2014 AR:</b> The Government specified that it was contemplating certain amendments to the Child Labour (Prohibition and Regulation Act, 1986). The amendments are intended to make penalties more deterrent and stringent for offending employers who engage child labour. Accordingly, the Child Labour (Prohibition and Regulation) Amendment Bill 2012 was introduced in the Rajya Sabha during the 2012 Winter Session of Parliament. The Amendment Bill has been referred to the Parliamentary Standing Committee on Labour, where it is presently under examination. The Amendment Bill inter-alia covers: i) complete prohibition on employment of children below 14 years and linking the age of the prohibition with the age under Right to Free and Compulsory Education Act; ii) prohibition of working of adolescents (14 to 18 years) in Mines, Explosives and hazardous occupations set forth in the Factories Act, 1948; and more strict punishments to the offenders and making the offences under the Act cognizable.</p> <p><b>2012-2013 ARs:</b> According to the Government: The Government is actively considering enacting central legislation for fixing a minimum age of 14 years for admission to work in all occupations excluding agriculture in family and smallholdings; and of 18 years for admission to any work that jeopardizes the health, safety or morals of young persons. The Child Labour (Prohibition and Regulation) Act, 1986, prohibits employment of children below the age of 14 years in 13 hazardous occupations and 57 hazardous processes. The Government has also prohibited in 2006 employment</p>
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			of children as domestic workers and in teashops, “ <i>dhabas</i> ”, motels, restaurants.
<b>Exercise of the principle and right</b>	<b>Basic legal provisions</b>		The Constitution of India, articles 21, 24, 39, 45 and 51; (ii) the Child Labour (Prohibition and Regulation) Act, 1986; (iii) the Right to Education Act 2010; (iv) the National Rural Employment Guarantee Act 2006. (v) the Factories Act 1948; (vi) the Mines Act; (vii) the Motor Transport Workers’ Act; (viii) the Immoral Trafficking Prevention Act (ITPA) 1956; (ix) the Indian Penal Code (IPC); (xi) Act No. 45 of 1860; (xii) the Code of Criminal Procedure, 1883; (xiv) the Evidence Act, 1872; (xv) the Juvenile Justice Act (JJA), 2000; (xvi) the Indian Information Technology Act 2000 (xvii) Right to Education Act 2010, and; (xix) National Rural Employment Guarantee Act 2006.
	<b>Judicial decisions</b>		<b>2000 AR:</b> In a Supreme Court judgment, dated 10 December 1996 (Writ Petition (Civil) No. 465/1986), the Honourable Court gave certain directions regarding the manner in which children working in hazardous occupations are to be withdrawn from work and rehabilitated, and in which the working conditions of children in non-hazardous occupations are to be regulated and improved.
	<b>Compulsory education</b>		<b>YES, the compulsory schooling ages are 6–14 years, with eight years/grades of instruction.</b>
	<b>Minimum Age</b>		<b>NO. Legislation in India does not establish a general minimum age for admission to employment.</b> <b>Hazardous Work: above 14 years</b> <b>2013 AR:</b> According to the Government: Children up to 14 year are prohibited from working in hazardous occupations.
	<b>Worst Forms of Child Labour</b>		<b>2005 AR:</b> According to the Government: The following worst forms of child labour are believed to exist in India for both boys and girls: (i) sale and/or trafficking; (ii) debt bondage, serfdom; (iii) forced or compulsory labour; (iv) prostitution; and (v) pornography. <b>2003 AR:</b> According to the Government: Special efforts have been made to combat the trafficking of women and children. These include: (i) drawing up of a National Plan of Action (1998) and constitution of a National and State Advisory Committees to combat trafficking; (ii) review of the legal framework; (iii) awareness-raising of government departments, police and civil society; (iv) assistance schemes to NGOs to work in areas of origin and destination; (v) enhanced rescue operations since 2001; (vi) signature of the SAARC Convention against trafficking for prostitution. <b>2002 AR:</b> According to the Government: The amendment of existing legislation to address the elimination of the worst forms of child labour was under examination.
	<b>Special attention to particular situations</b>		<b>2012 AR:</b> According to the Government: child labour is forbidden in hazardous industries, and there is no child labour in this sector. The CIE mentioned that there was no child labour in fireworks.

			<p><b>2009 AR:</b> The Government indicated that it was following a sequential approach to the issue of child labour by first targeting children up to 14 years of age in hazardous work.</p> <p><b>2003 AR:</b> According to the Government: Special measures have been undertaken to combat trafficking of women and children.</p>
		<p><b>Information/ Data Collection and Dissemination</b></p>	<p><b>2012 AR:</b> According to the Government: National GDP will grow up to 8.5 per cent for 2011. If productivity grows, social programmes will become more sustainable.</p> <p><b>2006-2007 AR:</b> According to the 2001 Census, the estimated figures of working children were 12.66 million.</p> <p><b>AR 2002-2005 ARs:</b> According to the Government: Every ten years, a census is undertaken providing information on the extent and/or nature of child work.</p> <ul style="list-style-type: none"> <li>- Surveys of working children are also undertaken by National Sample Survey Organizations at stipulated frequencies. The last Census was undertaken in 2001. The results are presented separately by sex, occupation and type of activity. The age groups are from 5 to 14 years old.</li> <li>- The Government records the number of children withdrawn from child labour, the number of ex-child labourers pursuing formal or non-formal education and the sanctions applied to users of child labour.</li> </ul> <p><b>2000 AR:</b> According to the 1991 census, the estimated figure of working children was 11.28 million.</p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>		<p><b>2009 AR:</b> According to the Government: The Government is closely monitoring the implementation of child labour rehabilitation program through the National Child Labour Project (NCLP) and at both the national (by the Central Monitoring Committee) and state levels (by Monitoring Cells). Regular inspections and raids are being conducted by state governments to detect cases of violation and reports are compiled.</p> <p><b>2002 AR:</b> According to the Government: the following specific measures and programmes of action to eliminate the worst forms of child labour have been implemented: legal reform; inspection/monitoring mechanisms; penal sanctions; civil or administrative sanctions; and special institutional machinery.</p> <p><b>2000 AR:</b> According to the Government: The Child Labour Act provides for the appointment of inspectors. The Act also provides that an inspector or any other person or police officer may file complaints under the Act. The Act provides for penalties including imprisonment for terms ranging from three months up to one year and a fine.</p>
	<p><b>Involvement of the social partners</b></p>		<p><b>2009 AR:</b> According to the Government: Employers' and workers' organizations are being involved in the realization of the PR in India, along with NGOs and other actors.</p> <p><b>2003 AR:</b> According to the Government: Hind Mazdoor Sabha's observation indicates that workers' organizations are involved in awareness raising, advocacy, ensuring a special clause in wage agreements, running some Non-Formal Education and Rehabilitation Centres for child labourers and pressuring the Government to adopt policies of compulsory and free education and employment creation and income generation schemes.</p> <p><b>2002 AR:</b> According to the Government: The employers' and workers' organizations involved in the development and implementation of measures and programmes of action are represented as members of the Central Advisory Board on Child</p>

		<p>Labour and the National Steering Committee, ILO/IPEC. They participate in the deliberations of the Committee and the Board, and are involved in the implementation of projects at the district level.</p>
	<p><b>Promotional activities</b></p>	<p><b>2013 AR:</b> According to the employers' (CIE and PHDCCI) and workers' (AITUC, INTUC, LPF) organisations: There is an ongoing special meal programme conducted by the Government together with free bags for pupils and scholarship programmes.</p> <p><b>2012 AR:</b> According to the Government: There is a special meal programme in schools in India.</p> <p>According to CIE: If any child is found working in the private sector, he/she will automatically be pulled out and sent to school.</p> <p>According to BMS: They have four educational programmes in regions where children were employed in fireworks (Bhopal, Orissa, Hyderabad and Haryana). In Haryana, the campaign to call children to school was very successful and has coverage on the ITUC magazine. They are also planning a rally in Delhi before Parliament on July 26, 2011 to establish Trade unions rights (strike, pension, etc.).</p> <p>CITU mentioned that it had conducted several campaigns, workshops and other programmes to eliminate child labour in cooperation with ILO and IPEC.</p> <p><b>2011 AR:</b> According to the AIOE and the CIE: India has several instruments on the PR very strictly prohibiting child labour in the country. There are programmes on the abolition of child labour. Bridge schools have helped withdraw children from work for integration to school. Employers are supporting the Government move in this direction. There is child labour in the organized sector. The AIOE has produced and circulated guidelines to its members requesting them not to employ children neither in their personal business nor in the value chain.</p> <p><b>2009 AR:</b> According to the Government: Measures are being taken to secure prohibition and elimination of worst forms of child labour as prescribed under C.182. However, the Government is following a sequential approach and presently targeting children up to the age of 14 years only, which are to be provided free and compulsory education.</p> <p>The AIAI mentioned that its campaign activities had contributed to the combat against child labour in the country.</p> <p>The INTUC indicated that it had carried out a campaign on the ills of child labour in districts and the school environment.</p> <p><b>2007 AR:</b> According to the Government: A joint project in partnership with the US Department of Labour (US DOL) for rehabilitation of working children called the INDUS Project is under implementation since 2004. The INDUS Project is funded by US \$ 40 million with equal contribution of Government of India and US DOL. At present, INDUS is functioning in 21 districts in 5 states of the country, and presently 956 Transitional Education Centres are covering 47,800 children. A financial support has been provided for the rehabilitation of child labour in the financial year 2005-06. Moreover, under the Grant-in-Aid (GIA) Scheme, funds are released by NGOs to set up special schools on the model of the National Child Labour Project (NCLP) schools. At present, 220 special schools are covering 11,000 children. Financial support has also been provided for the rehabilitation of child labour in the financial year 2005-06.</p> <p>The EFI indicated that it was in favour of the eradication of child labour through tripartite fora, publication of labour market information including child labour and awareness raising activities on the PR.</p> <p>According to HMS and INTUC: Under the Decent Work Country Programme, HMS and INTUC organized workshops on fundamental Conventions. Moreover, HMS, INTUC and AITUC opened schools and promoted schooling for poor children in tobacco industries (Beedi handmade cigars) in the framework of INDUS. Activities included distribution of books and posters for child labour prevention and a week celebration for the abolition of child labour. In addition, HMS and INTUC organize</p>

		<p>workers' awareness raising activities on fundamental Conventions, national laws and judicial decisions.</p> <p><b>2006 AR:</b> According to the Government: Special schools have been established for providing formal and vocational training through the National Child Labour Projects (NCLPs)'. Supplementary nutrition, stipend, health care, etc., are also provided to children withdrawn from the employment. Three main policies are pursued, namely legal action plan for strict law enforcement; use of ongoing development projects for contributing to elimination of child labour; and projects for the welfare of working children in areas of high concentration of child labour.</p> <p><b>2002-2005 ARs:</b> According to the Government: The following specific measures and programmes of action to eliminate the worst forms of child labour have been implemented: employment creation/ income generation; social assistance (e.g. stipends, subsidies, vouchers); child rehabilitation following removal from work; awareness raising/ advocacy; and international cooperation programmes or projects.</p> <p><b>2000 AR:</b> According to the Government: National Child Labour Projects (NCLPs) have been set up to rehabilitate child labourers, including the establishment of special schools to provide non-formal education, vocational training, supplementary nutrition, etc. to children withdrawn from employment. So far, 83 child labour projects had been approved, with 150,000 children enrolled in special schools. Under the NCLP Scheme, three main policies are pursued: legal action plan for strict law enforcement; use of ongoing development projects for contributing to elimination of child labour; and projects for the welfare of working children in areas of high concentration of child labour.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2011 AR:</b> According to the AIOE and the CIE: 22 informal sector organizations of India came together and founded one umbrella organization (CEASE CHILD LABOUR) to withdraw children from the informal sector and put them into education, as education is the alternative to child labour.</p> <p><b>2009 AR:</b> According to the Government: The state governments have been requested to prepare their own State Action Plan for taking a targeted approach towards enforcement and rehabilitation measures concerning the NLCP. In addition, an evaluation of the implementation of the NLCP Scheme is being carried out with the help of independent agencies, which would provide inputs about its performance in different districts/States during the last Five-year Plan period and help in further expansion and improvisation of the Scheme in the current Plan. The Ministry has introduced an "Area Officers" Scheme under which Senior Offices of the Ministry are deputed to visit their allocated States where NCLP scheme is running to monitor the implementation of the Scheme.</p> <p><b>2006 AR:</b> According to the Government: National Child Labour Projects (NCLPs) are implemented in 250 districts with 5394 special schools rehabilitating 2.77 lakh children. An amount of Rs. 93.158 cores have been spent on various schemes for rehabilitation of child labour in the financial year 2004-05. Over 3.23 lakh children have already been withdrawn and mainstreamed into the formal education system.</p> <p><b>2005 AR:</b> According to the Government: The National Child Labour Projects (NCLP), Grant-in-aid projects and projects under IPEC have yielded encouraging results. Civil society organizations have also played an important role. Specific measures taken include employment creation/income generation, vocational and skills training, social assistance programmes and child rehabilitation following removal from work.</p> <p><b>2003 AR:</b> According to the Government: NCLPs were functioning in 100 districts, covering 211,000 children (in 2001) with funding of over Rs2.5 billion. Over 150,000 children had already been withdrawn and mainstreamed into the formal education system.</p>

<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014-2015 ARs:</b> CIE considered that law enforcement has been a major challenge.</p> <p><b>2013 AR:</b> According to the CIE and the PHDCCI: Poverty and the socio-economic conditions in particular lack of parents' employment are the main sources of child labour in the country. Moreover, the implementation and realization of the PR in the country requires an important government economic policy to generate employment activities in agricultural-based industries. Furthermore, child labour should be made cognizable and non-bailable offence under law, while the media should be more efficient in sharing information to the general public about the elimination of child labour and its wastefulness.</p> <p><b>2012 AR:</b> According to CIE: Poverty and the socio-economic conditions in the country are preventing the Government from ratifying C.138 and C.182. Also, there are various laws on minimum age for the depending on each sector of activity/industry of the economy.</p> <p><b>2010 AR:</b> According to the PHDCCI: Poverty and the socio-economic conditions in the country are the difficulties preventing the Government of India from ratifying C.138 and C.182.</p> <p>According to the AITUC: Tripartite meetings are needed with the Government members on this PR. The legal minimum age at work is 14 years and the trade unions are in negotiation with the government to bring the legal minimum age at work to 18 years.</p> <p><b>2009 AR:</b> According to the AIAI: The Government should adopt a more proactive approach on the PR issues. There is a need for the full implementation of free and compulsory education by putting in place a retention mechanism that culminates to graduation. Incentives such as: food, financial assistance and clothing when given, will aid to full implementation of the program. In addition, more vocational training centers should be established to sustain the non-formal educational training program. A supervisory mechanism should be put in place by multinational corporations that will steam the employment of child labourers as well as creating a safety standard for teenage workers. A code of practice to be used by labour inspectors will also help realize the PR.</p> <p><b>2007 AR:</b> According to the EFI: Child labour exists in the agricultural sector and the informal economy. It is almost non-existent in the formal sector.</p>
	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> CITU stated that Child labour is a complex and rampant phenomenon in India, deeply connected to cultural, political and the socio-economic situation and poverty of each region in the Country.</p> <p><b>2014 AR:</b> BMS considered that lack of implementation of labour and related laws and rights is the main challenge.</p> <p><b>2013 AR:</b> According to the AITUC, the INTUC and the LPF: Child labour is prohibited by law, but its implementation by the Government still remains difficult. Moreover, as a result of the abolition of the chapter of child labour in the penal law, the enforcement capacity of governmental institution against child labour has been lowered. Poverty remains also an important challenge to eradicate child labour. Special attention should be given to migrants in some provinces (Bihar) who are most likely to suffer from the worst form of child labour. Hopefully, important administrative procedures tend to limit migration of child labour from one province to the other.</p>	

		<p>The BMS reiterated the challenges it mentioned under the 2012 AR.</p> <p><b>2012-AR:</b> The BMS indicated that some of the challenges were as follows: (i) the economic situation (poverty especially in rural areas) pushes families to send their children as domestic workers or in tapestry; (ii) the lack of sustainable economy in sectors such as tapestry, textile (family owned and industry) where it is common belief that children have softer hands for quality work; and (iii) there are no incentives (income or social programmes) for protection of family owned businesses.</p> <p>According to CITU: Child labour is linked with parental poverty. Unless poverty is alleviated, child labour cannot be eradicated. The magnitude of child labour is variable in India and depends on various aspects of human development. However, it has come down to some extent in certain areas and states.</p> <p><b>2008 AR:</b> The AITUC indicated that the same challenges mentioned by the HMS and INTUC in the 2007 AR and added that remunerations should therefore be increased in order to improve the rate of schooling among children. It added that the main difficulty lied in the informal economy.</p> <p><b>2007 AR:</b> According to HMS and INTUC: Poverty is the major obstacle to the abolition of child labour in India. A Poverty Reduction Strategy Programme (PRSP) is being conducted to fight against poverty in the country.</p> <p><b>2003 AR:</b> The ICFTU maintained that governmental efforts to reduce child labour had yet to have much impact, and that the problem remained enormous. Around half of India’s child labourers are engaged in dangerous occupations and the other half work elsewhere in the informal sector. Some sectors with child labour produce for export (e.g. gem-stones, carpets and textiles). Further, ICFTU stated that the constitutional provision to provide free and universal primary education had not been put into effect.</p> <p><b>2003 AR:</b> According to HMS, the main obstacles are the political will of the Government, lack of free and compulsory education, poverty, unemployment, public apathy and land reforms.</p> <p><b>2002 AR:</b> According to the WCL, the main causes of child labour include poverty, especially in rural areas, lack of free educational facilities and consequent illiteracy, lack of labour inspectors and inadequate training and equipment for them, and lack of sufficient rehabilitation projects.</p>
	<p><b>According to the Government</b></p>	<p><b>2009 AR:</b> The Government recognized the nature and magnitude of the child labour problem in India. It also considered that poverty and illiteracy were the major challenges in the area of the elimination of child labour.</p> <p><b>2005 AR:</b> According to the Government: Poverty, unemployment and illiteracy are the main obstacles.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the CITU: There is a need for technical assistance to support poverty alleviation programmes and campaign for child labour eradication.</p> <p><b>2013 AR:</b> According to the CIE and the PHDCCI: ILO’s technical assistance is requested: (i) to develop school infrastructures; (ii) to organize awareness-raising campaign; (iii) for capacity building of tripartite partners, and; (iv) employment creation, skills training and income generation.</p> <p>According to the AITUC, the BMS, the INTUC and the LPF: ILO’s technical assistance is requested to promote the PR in the</p>



		<p>country through awareness-raising campaign, dissemination in local languages of the core Conventions and develop school infrastructures harmoniously in all provinces.</p> <p><b>2012 AR:</b> According to Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in India, in particular for capacity building, and especially in developing in-house capacity.</p> <p>According to the BMS: There is a need for ILO technical cooperation to facilitate the realization of this PR in India, in particular in the following areas: awareness-raising; sharing of experiences across countries/regions and training.</p> <p>CITU requested ILO to support poverty alleviation programmes for parents and campaigns for child labour eradication in specific areas.</p> <p><b>2010 AR:</b> According to the PHDCCI: ILO technical assistance is requested: (i) to develop school infrastructures; (ii) for fund raising campaign and activities; and (iii) for capacity building of tripartite partners.</p> <p>According to the AITUC: ILO/IPEC technical cooperation should be continued, together with the help of other NGOs.</p> <p><b>2009 AR:</b> The Government sought the extension of the ILO’s technical cooperation in developing a common strategy to realize the PR in the sub region.</p> <p>The AIAI requested further ILO’s technical support in the implementation of the skill development programmes of UNICEF, IPEC and WHO.</p> <p><b>2008 AR:</b> The AITUC requested ILO assistance to fight against poverty.</p> <p>The BMS stated that a country assessment on the Declaration Follow-up is needed.</p> <p><b>2007 AR:</b> According to HMS and INTUC: More ILO support is required under the PRSP in India.</p> <p><b>2005 AR:</b> According to the Government. The ILO-IPEC Programme is approved until 31 December 2006.</p> <p><b>2002 AR:</b> The Government sees a need for continued technical cooperation with the ILO in the following areas (in order of priority): (1) employment creation, skills training and income generation; (2) sharing of experience across countries/regions; (3) strengthening capacity of employers' and workers' organizations; (4) capacity building of responsible government institutions; and (5) awareness raising, legal literacy and advocacy.</p>
	<p><b>Offer</b></p>	<p><b>2007-2011 ARs:</b> ILO/IPEC, UNICEF, US DOL, NGOs.</p> <p><b>2002-2005 ARs:</b> In addition to ILO/IPEC, the Department of Women and Child Development and the Ministry of Labour are working with UNICEF, and the Ministry of Rural Development is working with the United Nations Development Programme (UNDP).</p> <p><b>2000 AR:</b> India was the first country to join IPEC, through a Memorandum of Understanding (MOU) signed in 1992.</p>
<p><b>EXPERT-ADVISERS’ RECOMMENDATIONS</b></p>		<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that few governments, such as India (and three other governments), had indicated their current lack of effort to ratify C.138 and/or C.182 (cf. paragraph 57 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p>
<p><b>GOVERNING BODY RECOMMENDATIONS</b></p>		<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of</p>





	<p>the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>78</sup> : IRAN, ISLAMIC REPUBLIC OF**

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (the Iran Confederation of Employers' Associations (ICEA)) and workers' organizations (the Iran Confederation of Islamic Labour Councils (ICILC), the Iranian Confederation of Labour Syndicates (ICLS), the High Confederation of Workers' Representatives (HCWR), the High Confederation of Workers' Association (HCWA), the Higher Confederation for Coordination of Islamic Labour Councils (HCCILC), the Higher Assembly of Workers' Representatives of the Islamic Republic of Iran (HAWR-IRI), and the Higher Confederation for Labour Syndicates (HCLS)) through communication of government reports and tripartite meetings on reporting issues.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the ICEA <b>2014 AR:</b> Observations by the ICEA <b>2013 AR:</b> Observations by the ICEA <b>2012 AR:</b> Observations by the ICEA <b>2009 AR:</b> Observations by the ICEA <b>2008 AR:</b> Observations by the ICEA <b>2007 AR:</b> Observations by the ICEA
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the HCCILC Observations by the HCCTU Observations by the CIWR Observations by the WH-IRI <b>2014 AR:</b> Observations by the ICLS <b>2013 AR:</b> Observations by the HCCILC Observations by the HAWR-IRI Observations by the HCLS <b>2012 AR:</b> Observations by the ICLS <b>2009 AR:</b> Observations by the ICILC <b>2008 AR:</b> Observations by the ICILC <b>2007 AR:</b> Observations by the ICILC

<sup>78</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>The Islamic Republic of Iran ratified in 2002 the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). However, it has not ratified the Minimum Age Convention, 1973 (No. 138) (C.138).</b>
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		<p><b>Ratification intention</b></p> <p><b>YES, since 2001, for C.138.</b></p> <p><b>2015 AR:</b> The Government indicated that there is some progress in terms of preparing the background for considering the ratification of C.138; and ratification is a matter of completion of preliminary efforts being undertaken, such as studies on child labour issues.</p> <p>ICEA, HCCILC, HCCTU, CIWR, and WH-IRI expressed their support for the ratification of C.138.</p> <p><b>2014 AR:</b> According to the Government: There is no much problem in terms of child labour, hence C.138 can easily be ratified; it is only a matter of time and completion of studies being done at various levels.</p> <p>ICEA’s support for the ratification of C.138 has not changed but it considers that implementation problems might encounter on the part of the Government.</p> <p>The ICLS expressed its support for the ratification of C.138, and added that the provisions of the instrument are already provided for in the Labour Code and that it did not see any obstacles to the ratification of C.138 by the I.R. of Iran.</p> <p><b>2013 AR:</b> According to the Government: Ratification of all unratified fundamental Conventions, including C.138, enjoys tripartite support and will be hopefully materialized upon the completion of the labour law reform and approval there of currently under tripartite review.</p> <p>The ICEA reiterated its support for the ratification of C.138 by the I.R. of Iran.</p> <p>The HCCILC, the HAWR-IRI and the HCLS also expressed their support for the ratification of C.138 as there are no obstacles to the ratification of this instrument by the I.R. of Iran.</p> <p><b>2012 AR:</b> According to the Government: There are no obstacles between the national Constitution and other statutory laws on the one hand, and the provisions of C.138, on the other. Therefore the Government is assessing the possibility to ratify C.138 through a series of comparative studies in order to adjust existing regulations, establish new regulations and eliminate legal obstacles with the aim of establishing a general national policy in the field of minimum age for working.</p> <p>The ICEA expressed its support for the ratification process of C.138, and stated that there were no legal obstacles to the ratification of this instrument, which should be ratified in a near future.</p> <p>The HCLS expressed its full support for the ratification of C.138 by I.R. Iran.</p> <p><b>2011 AR:</b> According to the Government: The Government is receiving the social partners’ and competent authorities’ views on the need for ratification of C.138. The provisions of this instrument are taken into consideration in the Labour Code and the Civil Code.</p> <p><b>2010 AR:</b> According to the Government: The national survey on ratification of C.138 is still in process. Upon its completion ratification issues will considered.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p><b>2014-2015 ARs:</b> The Government indicated that the Constitution covers and raises lots of relevant issues with respect to child labour.</p> <p>Article 30 of the Constitution provides that the Government has to secure the educational needs of all Iranian citizens free of charge until the completion of high school.</p>

		<p><b>Legislation, regulations and/or policy</b></p>	<ul style="list-style-type: none"> <li> <p><b>Policy:</b></p> <p><b>2012-2013 ARs:</b> According to the Government: With regard to section 227 of the Law of the 5<sup>th</sup> Development Plan approved on January 5, 2011, the Government shall take a legal action to prepare and develop “The National Document of Security of Women and Children in Social Relations” in collaboration with the relevant national authorities.</p> <p><b>2011 AR:</b> According to the Government: The following changes in law and practice took place: (i) Establishment of a special Court for children in the field of child labour for examining related complaints; (ii) Special NGOs combating child labour have been established; (iii) A centralized association for the protection of children and adolescents under threat has been created;</p> <p><b>2003-2005 ARs:</b> According to the Government: The national policy/plan aimed at ensuring the effective abolition of child labour, has included the ratification of the United Nations Convention on the Rights of the Child, C.182, and the provision of the labour inspection circular to labour departments.</p> </li> </ul>
			<ul style="list-style-type: none"> <li> <p><b>Legislation:</b></p> <p><b>2014-2015 ARs:</b> According to the Government: Although the labour law is being reviewed for amendment, it already provides for a precise and restricted threshold for minimum work age. However, the adoption of the following bills is under way in accordance with Section 227 of the Law of the 5<sup>th</sup> Development Plan of I.R. of Iran (2011 - 2015), including: (i) A Bill to protect Children and Youth at Risk of Delinquency by the Judiciary in cooperation with related institutions; (ii) A Bill to protect Abandoned Children by the State Welfare Organisation; (iii) A Bill to form a Fund to support the victims of social damages by the Judiciary in cooperation with related institutions; and (iv) A Bill of National Action Plan on the Elimination of Child Labour.</p> <p><b>2013 AR:</b> According to the Government, the HCCILC, the HAWR-IRI and the HCLS: The Labour Code provides sufficient legal provisions to ensure the minimum age for admission to employment or work. Employers are prohibited from employing children, and infringements are subject to sanctions.</p> </li> </ul>

			<p><b>2012 AR:</b> According to the Government: The Government is continuing the process of approval of the Bill to support children and adolescents who have no family head through a law on Guardians Councils.</p> <p><b>2011 AR:</b> According to the Government: The following measures have been adopted: (1) establishment of a working group for monitoring the applications of the regulations related to the child labour abolition in the judiciary; (2) adoption of penalties for violation of regulations by employers; (3) a Law has been adopted for the Protection of Household Women in the Parliament in order to support the household and children; (4) a special court for children in the field of child labour as well as special working group in the judiciary; and (5) adoption of penalties for violations of regulations by employers.</p> <p>The Labor Code (section 79) prohibits the employment of children below the age of 15, and regulates the employment of children aged from 15 to 18 /section 80-84).</p> <p><b>2000 AR:</b> The Government envisages examining all possible means of amending the legislation in order to tackle its detrimental effects and to respond better to the fight against child labour. An experts' committee, set up by the National Confederation of Employers, the National Central of Islamic Labour Councils and the Workers' House to propose amendments to the legislation, recommended the ratification of the Minimum Age Convention.</p>
		<b>Basic legal provisions</b>	(i) The Constitution, section 30; and (ii) the Labour Code, sections 79, 80, 82, 83 and 176; and (iii) The Law on Protection of Children and the Youth, 2002.
		<b>Judicial decisions</b>	NIL.
	<b>Exercise of the principle and right</b>	<b>Compulsory education</b>	<b>The age of both boys and girls at the end of this period is 15 years, with a general requirement of 8 years or grades of instruction.</b>
		<b>Minimum Age</b>	<p><b>2012-2013 ARs:</b> The Government has indicated that it was preparing a list of dangerous jobs where even children's legal employment would be duly prohibited.</p> <p><b>2000-2005 ARs: General minimum age for admission to employment or work for boys and girls: 15 years.</b></p> <p>This general minimum age covers the following types of work: home work, domestic service, commercial agriculture, light work, and work performed in export processing zones.</p> <p>The minimum age does not apply to work in family-owned/operated enterprises, self-employed work and family and small-scale agriculture though these types of work are subject to strict legal restrictions.</p> <p><b>Hazardous work: minimum age of 18 years:</b> section 52 of the Labour Code and its subparagraph 1 as well as the Directive on Difficult and Dangerous Work, section 14 of the Public Recruitment Code.</p>

		<p><b>Worst Forms of Child Labour</b></p>	<p><b>C.182 has been ratified.</b></p>
		<p><b>Special attention to particular situations</b></p>	<p><b>2012 AR:</b> According to the Government: The children who have no family head.</p> <p><b>2011 AR:</b> According to the Government: There is an interaction that have been arranged between public and non-governmental organizations for the protection for children and young persons that have been endangered by child labour, sexual abuse, drugs, etc.</p> <p><b>2005 AR:</b> According to the Government: Street children, including children in the informal economy.</p>
		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2014 AR:</b> According to the Government: The issues related to C.138 have been scientifically studied and sufficient information has been gathered. Presently, the Ministry of Labour and Social Welfare is further studying the situation and comparing it with existing standards and international practices. Overall, the Government is addressing the issue vis-à-vis C. 138 and is hopeful to see it at a final stage soon.</p> <p><b>2012 AR:</b> According to the Government: The last statistics on monitoring the implementation of child labour regulations are as follows. Out of 38630 inspections that were conducted in 2009 in connection with child labour, two employers were found guilty by courts.</p> <p><b>2011 AR:</b> According to the Government: National information networks were created between public organizations and non-governmental organizations for exchanging information and policy making in order to bring synergy between different organizations.</p> <p><b>2006-2009 ARs:</b> According to the Government: A feasibility study on ratification of C.138 is being carried out.</p> <p><b>2003 AR:</b> According to the Government: the Government records Information on sanctions applied to users of child labour.</p> <p><b>2000 AR:</b> According to the Government: A study on the supply and demand side of child labour was carried out in order to address the issue of child labour.</p>



	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2014 AR:</b> The Government reported that based on the latest statistics on monitoring the implementation of child labour regulations, 5,517 inspections were conducted in 2012 and 5,239 inspections were undertaken in 2013 in connection with child labour.</p> <p><b>2012 AR:</b> According to the Government: The last statistics on monitoring the implementation of child labour regulations are as follows. Out of 38630 inspections that were conducted in 2009 in connection with child labour, two employers were found guilty by courts.</p> <p><b>2009-2010 ARs:</b> According to the Government: The number of the labour inspectors has been almost doubled to ensure, <i>inter alia</i>, a strict monitoring on child labour. Sanctions are provided for in case of violation of the PR. This action is to prevent the recruitment of under-aged children in workshops and the informal economy, in particular.</p> <p><b>2000-2003 ARs:</b> According to the Government: Labour Inspection ensures law enforcement in both formal and informal economy. Penal sanctions ranges from fine to imprisonment (section 176 of the Labour Code) have been implemented to realize the principle and right (PR).</p> <p><b>2003 AR:</b> According to the Government: To bring about the effective abolition of child labour, the following measures had been implemented: legal reform; inspection/monitoring mechanisms and penal sanctions.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2014 AR:</b> The ICLS indicated that dialogue was ongoing with the Government and to some extent with employers' representatives.</p> <p><b>2013 AR:</b> According to the Government and the ICEA: The employers' and workers' organizations have a joint commitment to take serious action against child labour, i.e., while ensuring that 15 years is the minimum age for admission to employment or work.</p> <p><b>2012 AR:</b> According to the ICLS, the Government does not really involve social partners in preparing or implementing labour and social policies.</p> <p><b>2009-2010 ARs:</b> According to the Government: A comprehensive tripartite survey is being conducted at national level concerning ratification of C.138, with the participation of the social partners.</p>



	<p><b>Promotional activities</b></p>	<p><b>2014-2015 ARs:</b> The Government indicated that it had conducted dialogue and discussions with social partners, organized a tripartite National Decent Work Conference.</p> <p>ICEA indicated that improved relationship is being built between the workers' and employers' organizations.</p> <p><b>2012 – 2013 ARs:</b> According to the Government: Various seminars were held in 2010-2012 in Teheran and other cities to promote the awareness of people on the eradication of child labour the national level effectively, including the provision of specific training activities to students and trainees.</p> <p>The ICLS indicated its participation in the National Tripartite Labour Conference on Decent Work in Iran in January 2011.</p> <p>The ICEA indicated that particular attention had been given by NGOs to the issue of child labour, in particular through public advocacy and outreach activities.</p> <p><b>2009 AR:</b> According to the Government: Social protection is provided to poor families and orphans to facilitate their education and prevent child labour.</p> <p><b>2008 AR:</b> According to ICILC: Discussions were held with employers' associations to emphasize on the fact that children should not work under 15 years and that between 15 and 18 years of age, they are allowed to work as apprentice only.</p> <p><b>2006 AR:</b> According to the Government: The minimum age for admission to employment or work is being strictly observed, together with compulsory education.</p> <p><b>2005 AR.</b> According to the Government: the promotion of the PR is carried out through education and professional training with the support of the Employment Service.</p>
	<p><b>Special initiatives</b></p>	<p><b>2011 AR:</b> According to the Government: The changes in law and practice include setting up compulsory education to age 15.</p> <p><b>2009 AR:</b> According to the Government: The number of the labour inspectors has been almost doubled to ensure, <i>inter alia</i>, a strict monitoring on child labour.</p> <p><b>2007 AR:</b> According to the Government: Special initiatives are being taken to bridge the gap between the poor and the rich by granting the former group the shares of lucrative state enterprises under the Justice Shares Scheme. To avoid child labour, women, head of the household, are granted special protection and benefit from positive discrimination for access to employment. To curb unemployment and poverty as the main sources of child labour, the Government has embarked a titanic SMEs expansion project to provide 900,000 new productive employment opportunities per year. Vocational education and training has also been redirected to the labour market requirements.</p> <p><b>2003-2005 ARs:</b> According to the Government: Free Compulsory Education.</p> <p>According to the Government: the Welfare Organization has taken some measures that could benefit child workers. These include access to social protection and provision of support to child workers facing harmful conditions.</p>

<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2013 AR:</b> According to the ICEA: Child labour is not a widespread problem in the country. The minimum working age in the country is 15 years, although in practice it is often 18, except for handcraft and family businesses.</p> <p><b>2012 AR:</b> According to the ICEA: There are no official or publically supported measurements against child labour, nor have any new laws been put in place to improve the situation of child labour in the country. Child labour is not a widespread problem in the country, but there is a concern over the occurrence of child labourers in the streets and the lack of actors taking responsibility for the social damage caused by child labour. The main responsibility lies with the government, and tripartite action should be part of a sustainable strategy to counter child labour. Dealing with the problem of child labour, mainly occurring in the informal economy, is a major challenge for the ICEA, especially in respect of the difficulty and the dangerousness to dealing informal employers. There is a need for the Government to target the informal economy actors that are operating unlawfully, to interrupt their operations and to make it impossible to benefit from employing children under the minimum working age.</p> <p><b>2009 AR:</b> According to the ICEA: Child labour rate is very low in the country.</p>
		<b>Workers' organizations</b>	<p><b>2014 AR:</b> The ICLS indicated that child labour might occur in informal employment and in family businesses where monitoring and law enforcement is weak or absent.</p> <p><b>2013 AR:</b> The HCCILC, the HAWR-IRI and the HCLS indicated that child labour was limited in the country, except in the informal economy and family enterprises.</p> <p><b>2012 AR:</b> According to ICLS: There are number of cases of child labour prevailing mainly among migrant workers from Afghanistan, rural areas and in the informal economy.</p> <p><b>2009 AR:</b> According to the ICILC: Child labour rate is very low in the country.</p>
	<b>According to the Government</b>	<p><b>2014-2015 ARs:</b> The Government stressed that child labour is not a major problem in Iran; however sometimes existing bureaucracy might influence progress in the process of ratification of C.138.</p> <p><b>2012-2013 ARs:</b> The Government stated that the main challenges to the realization of this FPRW are as follows: (i) Lack of technical support by the ILO and other related international organizations; (ii) There is an insufficient rate of services offered by welfare and protective institutions to affected people and in connection with the abolition of child labour; and (iii) Data and statistical information on child labour issues are weak and not updated at the national level.</p> <p><b>2007 AR:</b> According to the Government: Poverty still exists in the country, but the Government is fighting against it through various poverty alleviation programmes including the Justice Shares Scheme and the protection and granting of special advantages to women heads of household (i.e. positive discrimination for access to employment).</p> <p><b>2005 AR:</b> According to the Government: The main obstacles encountered in Iran in realizing the PR are lack of resources, poverty, unemployment, insecurity in parents' employment, lack of effective monitoring system and legal sanctions, and the fact that work performed in family-owned or-operated enterprises is not subject to the Labour Code.</p>	

<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> The Government reiterated the request it made under the previous 2014 AR. HCCTU indicated the need for technical support in the area of labour standards.</p> <p><b>2014 AR:</b> The Government requested ILO technical assistance in creating more awareness on the convention and its requirements through various means. It highlighted the need for more interactions with ILO to enable fruitful outcomes.</p> <p>ICEA indicated the need for capacity building support for it to be able to provide better services, lobby with the government, and establish improved relationship with workers and small and medium enterprises (SMEs)</p> <p>The ICLS requested ILO technical cooperation in promoting and realizing the FPRW including the PR</p> <p><b>2013 AR:</b> The Government indicated that it was yet looking forward ILO’s technical support in relation to the request it made under the 2012 AR.</p> <p>The HCCILC, the HAWR-IRI and the HCLS requested ILO technical cooperation to promote and realize the FPRW including the PR in the country.</p> <p><b>2012 AR:</b> According to the Government: In order to accelerate the ratification of the C.138, the Government has taken different measures, such as consulting, amendment of the laws and regulations, capacity-building for labour administration, empowerment of social dialogue, and would request ILO technical assistance in this regard. In line with these measures, ILO’s technical support is also requested in training activities, guidelines and sharing of experiences on the abolition of child labour.</p> <p>The ICLS requested ILO technical assistance to strengthen tripartite capacities on the fundamental principles and rights at work, in particular in combating child labour, possibly through an IPEC national programme.</p> <p><b>2009-2011 ARs:</b> The Government requested ILO technical cooperation to facilitate the ratification process of C.138 through awareness raising, data collection and dissemination, policy advice, legal reform, capacity building for labour administration, employers’ and workers’ institutions and strengthening social dialogue. This assistance should be integrated in the decent work country program that would need ILO technical review and support.</p> <p>According to the ICILC: An ILO survey was needed to assess the situation of the PR in the country.</p>
		<p><b>2008 AR:</b> According to the ICILC: ILO technical cooperation may be needed for assessment of child labour in Iran and ratification of C.138.</p> <p><b>2007 AR:</b> The Government reiterated its request for ILO technical cooperation in the areas of priority mentioned under the 2005 AR.</p> <p>The ICEA and the ICILC requested ILO technical cooperation for training on child labour issues and the promotion of the fundamental principles and rights at work.</p> <p><b>2005 AR:</b> According to the Government, needs for ILO technical cooperation to facilitate the realization of the PR in Iran exist in the following areas, in order of priority: (1) legal reform; capacity building of responsible government institutions (e.g. labour inspection and administration); training of other officials (e.g. police, judiciary, social workers, teachers); data collection and analysis; strengthening capacity of employers’ and workers’ organizations; employment creation, skills training and income generation; social protection systems; awareness raising, legal literacy and advocacy; sharing of experience across countries/regions; cross-border cooperation mechanisms; inter-institutional coordination; special programme for the elimination of the worst forms of child labour; (2) policy advice.</p>



	<b>Offer</b>	UNICEF and NGOs.
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) considered that universal ratification of the child labour Conventions was not a distant dream but an achievable goal, in view of the number of States, including the Islamic Republic of Iran, having expressed their intention to ratify C.138 and/or C.182 (cf. paragraph 56 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>	
<b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director-General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the Resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>	



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)**<sup>79</sup>: LIBERIA

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , except for the 2000, 2002, 2003, 2004 and 2011 Annual Reviews (ARs).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<p><b>YES.</b></p> <p>According to the Government: Involvement of the Cemenco Liberia Cement Corporation (CLCC), the Liberia Chamber of Commerce (LCC), Consumer Trading (CT), the Monrovia Breweries (MB), the Rubber Planters Association of Liberia (RPAL), the Liberian Agriculture Company (LAC), Firestone Liberia (FL), <i>the Confederation of National Trade Unions of Liberia (ex CONATUL, which no longer exists)</i>, the United Workers Union of Liberia (UWUL); deriving from a merger of CONATUL and Liberia Labour Federation (LLF), the Federation of Road Transport Unions of Liberia (FRTUL), the United Seamen, Ports and General Workers' Union of Liberia and the Liberia Federation of Labour Unions (USPOGUL-LFLU), the Liberia Labour Congress (LLC), the General Agriculture and Allied Unions (GAAWUL), the Firestone Agricultural Workers' of Liberia (FAWUL) and the Press Union of Liberia (PUL) through communication of the baseline reports.</p> <p><b>2007 AR:</b> The Tripartite Resolution on the Humanization of Liberia Labour Force, adopted in October 2006, recommended the creation of an employers' organization in Liberia.</p>
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2015 AR:</b> Observations by the LCC</p> <p><b>2013 AR:</b> Observations by the CT</p> <p><b>2012 AR:</b> Observations by FL</p> <p><b>2010 AR:</b> Observations by the LCC</p> <p><b>2007 AR:</b> Observations by the LAC</p> <p>Observations by the RPAL</p> <p>Observations by the CLCC</p> <p>Observations by the MB</p> <p>Observations by FL</p>

<sup>79</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations by the LLC.  <b>2014 AR:</b> Observations by the LLC.  <b>2013 AR:</b> Observations by the FAWUL.  Observations by the GAAWUL.  <b>2012 AR:</b> Observations by the FAWUL.  Observations by the UWUL.  <b>2010 AR:</b> Observations by the LLC.  <b>2009 AR:</b> Observations by the LLC.  <b>2008 AR:</b> Observations by the USPOGUL-LFLU.  <b>2007 AR:</b> Observations by the CONATUL and its 19 affiliates.  Observations by the FRTUL and its 15 affiliates.  Observations by the USPOGUL-LFLU and its 14 affiliates.  Observations by the GAAWUL and its 8 affiliates.  Observations by the FAWUL.  Observations by the PUL.  <b>2005-2006 ARs:</b> Observations by the USPOGUL-LFLU.</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Liberia ratified the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182) in 2003. However, it has not ratified the Minimum Age Convention, 1973 (No. 138) (C.138).</b></p>

<p><b>THE PRINCIPLE AND RIGHT</b></p>		<p><b>Ratification intention</b></p>	<p><b>YES, since 2005, for C.138.</b></p> <p><b>2015 AR:</b> The Government reiterated its intention to ratify C.138 and requested as matter of urgency ILO technical assistance to sensitize the tripartite partners and legislators on C.138 and the need to speed up its ratification in the agenda of the House of the Representatives and the Senate.</p> <p>LCC expressed its support for the ratification of C.138. However, it emphasized that given the economic and social situation in Liberia coupled with limited enforcement capacity, the ratification of C.138 might take time.</p> <p>LLC reiterated its support for the ratification of C.138.</p> <p><b>2014 AR:</b> According to the Government: Ratification of C.138 is still pending before the Senate. Legislators need to be trained and the work of the ministries involved in the ratification of C.138 need to be harmonized to ensure ratification.</p> <p>LLC expressed its support for the ratification of C.138 since the tripartite parties support and are convinced about the need for the conventions. LLC stated that ratification would be a matter of time and awareness creation.</p> <p><b>2013 AR:</b> According to the Government: Ratification of C.138 is pending before the Senate. In 2011, the elections slowed down the process as new legislators took place. There is a need for advocacy and capacity building for the new legislators in order to speed up the process and ensure that ratification of C.138 and the Decent Work Bill will be adopted by the Senate.</p> <p>The CT indicated its full support for the ratification of C.138 by Liberia.</p> <p>The FAWUL and the GAAWUL also expressed their full support for the ratification of C.138.</p> <p><b>2012 AR:</b> According to the Government: The Government intends to ratify C.138. The process of labour law reform started three years ago and since then, it has been pending before the Senate. The lower House of Representatives has approved it, but the upper House of Senate is still reviewing this ratification. No Act has been registered for the past three years.</p> <p>The FL, the FAWUL and the UWUL expressed their full support for the ratification of C.138.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>2006 AR:</b> The 1986 Constitution, article 6, puts emphasis on mass education and the elimination of illiteracy, including equal access to educational opportunities and facilities.</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2007 AR:</b> According to the Government: A national policy for compulsory education is being carried out. This policy promotes education for all based on “each one teach one”.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2015 AR:</b> The Government indicated that the Decent Work Bill was passed in April 2014 by the House of Representatives.</p> <p><b>2014 AR:</b> The Government indicated that the Decent Work Bill, which includes the provisions of C.138, is yet to be adopted.</p> <p>LLC indicated that attempts are being made to formulate a legal framework to abolish child labour, and in this regard, a tripartite commission on child labour which will work in line with the Ministry of Labour to address all of the child labour issues has been established three years ago.</p>

			<p><b>2013 AR:</b> The Government, the FAWUL and the GAAWUL indicated that chapter 2 of the Decent Work Bill, which is in the process of being finalized, covers all the fundamental principles and rights at work (FPRW).</p> <p><b>2012 AR:</b> The Government indicated that a first public hearing was held in May 2011 on the tripartite drafting for the Decent Work Bill, which also contained provisions on the fundamental principles and rights at work.</p> <p>The FAWUL and UWUL indicated they had advocated for the Child Bill Agreement (CBA) that forbids workers from taking their children to work.</p> <p>The Labour Law, 1974, section 74.</p> <p><b>2008 AR:</b> According to the Government: a National Tripartite Conference will be organized in October 2007 in order to review labour legislations in Liberia.</p> <p><b>2007 AR:</b> The Tripartite Resolution on the Humanization of Liberia Labour Force, adopted in October 2006, recommended that legal loopholes on the minimum age in Liberia be solved in cooperation with the ILO.</p> <ul style="list-style-type: none"> <li>• <b>Regulations:</b></li> </ul> <p><b>2013 AR:</b> According to the FAWUL and the GAAWUL: Child labour is regulated in the collective bargaining agreements covering the Firestone Natural Rubber Company which prohibit employers from hiring children under the minimum age for admission to employment or work and parents from bringing children along to work with them.</p>
		<b>Basic legal provisions</b>	(i) The Constitution, article 6; and (ii) the Labour Law, 1974, section 74; The Decent Work Bill, 2014.
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Compulsory education</b>	<b>2006-2007 ARs:</b> According to the Government: it is carrying out a national policy for compulsory education. This policy promotes education for based on “each one teach one”.



		<b>Minimum age</b>	<p><b>General minimum age for admission to employment or work: 16 years (with some exceptions).</b></p> <p><b>2013 AR:</b> According to the Government: The newly drafted Decent Work Bill determined the minimum age for light work to 13 years and maximum two hours/day, although the definition of light work still needs to be specified. Compulsory education ends at 15 years, and the general minimum age for admission to employment or work is 16 years.</p> <p>According to the FAWUL and the GAAWUL: The elimination of child labour is prioritized by the Government and the social partners in Liberia. In this regard, the Government pressures employers not to employ children under the minimum age for admission to employment or work.</p> <p><b>2007 AR:</b> The Tripartite Resolution on the Humanization of Liberia Labour Force, adopted in October 2006, recommended that the minimum age should be reviewed in Liberia to match with the age of children at the end of compulsory schooling.</p> <p><b>2006 AR:</b> The Labour Law, Subchapter D, section 74, prohibits child labour subject to criminal penalties, and provides for a general minimum age for admission to employment and work of 16 years.</p> <p><b>2005 AR:</b> General minimum age for admission to employment or work: 16 years (with some exceptions).</p> <p>However, the Government stated that this was not enforced.</p>
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		<p><b>Worst Forms of Child Labour</b></p>	<p><b>C.182 is ratified.</b></p>
		<p><b>Special attention to particular situations</b></p>	<p><b>2015 AR:</b> According to the Government: The Child Labour Secretariat and the National Steering Committee on Child Labour monitor child labour issues, especially in Liberia plantations.</p> <p><b>2014 AR:</b> LLC indicated that with respect to child labour, age groups targeted are 10 – 17.</p> <p><b>2013 AR:</b> According to GAAWUL: Parents bringing their children to work along with them had been a particular challenge in the agricultural sector. However, this phenomenon has now been effectively regulated through collaboration between the Government and trade unions, but also through coordinated awareness raising campaigns conducted by multiple trade unions.</p> <p><b>2012 AR:</b> According to the Government: The Ministry of Labour has set up a Child Labour Commission that eases networking between the Ministry and plantations to help monitor cases of child labour.</p> <p>According to FL: There is a zero child labour tolerance policy in Firestone. Therefore, there are no instances of child labour at Firestone where the average worker is over twenty years of age.</p> <p>According to FAWUL: In early 2000, workers’ wage in Firestone plantations were at US\$3.38 and were based on a daily rate of 750 trees/worker/day which might have encouraged workers at the time to take their children in the field to help. However, this wage was still higher than the country minimum wage of \$2 per day. In 2011, Firestone raised the minimum wage to US\$4.42/day. Today, workers in Firestone tap an average of 300-500 trees/day, and there are no instances of child labour in Firestone plantations.</p> <p><b>2007 AR:</b> According to the CONATUL and the LFLU: Children working alongside with their parents in rubber plantations, and workers in the informal economy.</p>
		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2014 AR:</b> The Government indicated that a child labour survey, which had been carried out in collaboration with IPEC, was launched in June 2013.</p> <p><b>2013 AR:</b> According to the Government: Data on the occurrence of child labour has been collected through the national labour force survey, which includes a child labour component. The results from this survey are yet to be officially released.</p> <p><b>2008 AR:</b> The Government stated that a national survey on child labour should be launched shortly by the Department of Statistics.</p> <p><b>2007 AR:</b> According to the CONATUL: A mechanism for data collection on the PR should be established with ILO assistance.</p> <p><b>2005-2006 ARs:</b> According to the Government: There is a lack of information and data on the PR.</p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2015 AR:</b> According to the Government: The Ministry of Labour hosts a Child Labour Secretariat and a National Steering Committee on Child Labour chaired by the Minister of Labour. These bodies monitor child labour issues in the country.</p> <p><b>2013 AR:</b> The Government reported that the Child Labour Commission set up in 2005 was playing a coordination role and</p>	

		<p>facilitating the monitoring of child labour in the country, especially in major plantations.</p> <p>According to the FAWUL and the GAWUL: The Government plays a monitoring role against child labour.</p> <p><b>2012 AR:</b> According to the Government: The Ministry of Labour has set up a Child Labour Commission that eases networking between the Ministry and plantations to help monitor cases of child labour.</p> <p>According to FL: Firestone has instituted in its plantations a monitoring mechanism whereas in-house inspectors will visit plantations and oversee that workers have no children accompanying them, and no one in the plantation is below the age of eighteen years. For the time being no report on child labour cases by inspectors on the plantations.</p> <p><b>2007 AR:</b> The CONATUL indicated that the need to reactivate the National Commission on Child Labour (NACOMAL) in the near future is paramount.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2014-2015 ARs:</b> The Government indicated that social dialogue is practiced and that all social partners are involved in the ratification process.</p> <p><b>2013 AR:</b> According to the Government: Social dialogue is practiced through the National Tripartite Committee and through the drafting of the Decent Work Bill.</p> <p><b>2012 AR:</b> According to the Government, FAWUL and UWUL: The Decent Work Bill resulted from a tripartite drafting to review labour laws.</p> <p><b>2007 AR:</b> According to the Government: The case study and the workshop on the Humanization of Liberia Labour Force have been carried out in September and October 2006 in cooperation with the employers’ and workers’ organizations and the ILO.</p> <p>The Tripartite Resolution on the Humanization of Liberia Labour Force, adopted in October 2006, recommended the creation of an employers’ organization in Liberia, the reactivation of various tripartite committees and the establishment of a Commission on Discrimination at the Workplace.</p> <p>The USPOGUL-LFLU indicated that the Government had consulted the social partners before the amendment of the Labour Law.</p> <p><b>2005 AR:</b> According to the Government: A national tripartite conference was held in 2003, and a resolution calling for the establishment of a National Commission on Child Labour was adopted.</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: The Government and UNICEF organized in February 2014 a two-day interactive workshop for media workers on the theme “Reporting children issues and consequences of child labour and abuse”.</p> <p>LLC indicated that it undertakes advocacy, lobbying and organizes consultation workshops to promote awareness and ratification of C.138.</p> <p><b>2014 AR:</b> According to the Government: Projects targeting the elimination of child labour in the rubber industries are ongoing. Furthermore, a workshop has been conducted in collaboration with IPEC, and a report presenting the results from a child labour survey, was launched in June 2013 in Monrovia.</p> <p>LLC is doing all the necessary to get C.138 ratified, including holding a series of meetings on child labour issues. Also, LLC highlighted that the tripartite parties are closely working in partnership to abolish child labour, and that a Child Labour Bureau has been established, though not properly functional yet. LLC attempts to sensitise and provide education to the entire country.</p> <p><b>2013 AR:</b> According to the Government: A special focus has been given to promotional activities such as ensuring that children have access to education and giving parents means to alternative sources for livelihood. The Government had also</p>

		<p>conducted training of trainers in major rubber plantations.</p> <p>The GAAWUL mentioned that the challenge of parents bringing their children along to work with them in the agricultural sector had been effectively regulated through collaboration between the Government and unions, and through coordinated awareness raising campaigns conducted by multiple trade unions. The countrywide awareness raising campaign mentioned in the 2012 AR had been successfully carried out in 2011. FAWUL and GAAWUL reported that they had undertaken coordinated action against child labour, through a house-to-house awareness raising campaign, by monitoring and by distributing policy documents. In consent and collaboration with both the Government and employers' organizations, it had been agreed that the trade unions would take the responsibility of conducting media campaigns in order to get the message across a wide range of audience. FAWUL added that, through its own radio station, it had been undertaking an ongoing campaign disseminating information on a daily basis over the last seven years.</p> <p><b>2012 AR:</b> The Government indicated that a monitoring mechanism had been set up by the Ministry of Labour to monitor plantations and not allow children to work.</p> <p>FAWUL and UWUL indicated there were planning a massive campaign countrywide to eradicate child labour in Liberia.</p> <p><b>2010 AR:</b> The Government indicated that workshops were organized to sensitize Members of the Parliament and the House of Senate to the necessity of ratifying C.138.</p> <p>According to the LLC: A Child Labour Commission (CLC) has been set up on a tripartite basis to speed up the process of ratification of C.138 and facilitate the realisation of the PR in Liberia.</p> <p><b>2009 AR:</b> The Government indicated that it had organized awareness-raising forums with tripartite participants and representatives of the civil society.</p> <p>The LLC indicated that it had convened a tripartite committee meeting on labour laws concerning child labour.</p> <p><b>2008 AR:</b> The Government indicated that a tripartite national conference on labour law review will be organized in October 2007 and will engage the participation of the civil society. Moreover, a tripartite project is being currently discussed in collaboration with UNICEF and the International Rescue Committee (IRC). The Government added that 10 awareness workshops on child labour will soon be organized thanks to the financial support of the Government of Netherlands. Finally, it indicated that a national survey on child labour in Liberia will be launched in order to better assess the particular issue in Liberia and also strengthen the Department of Statistics.</p> <p>The UPSOGUL-LFLU indicated that it would be interested in participating to the national conference that will be held in October 2007.</p> <p><b>2007 AR:</b> According to the Government: A case study and a workshop on the Humanization of Liberia Labour Force have been carried out in September and October 2006 in cooperation with the employers' and workers' organizations and the ILO. The workshop adopted a tripartite resolution on this issue, including recommendations against child labour in Liberia.</p> <p>The USPOGUL-LFLU stated that it had provided special assistance to labour unions to print promotional materials and encourage awareness raising programmes on the PR.</p> <p>The CONATUL stated that it had supported the job creation policy of the Government to absorb the ex-child combatants.</p> <p><b>2005 AR:</b> According to the Government: The NACOMAL was created in 2003 and has since expanded to include both tripartite partners and child advocacy groups.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: The Child Labour Secretariat is currently working on a Child Labour Action Plan</p>

			<p>that will enhance the promotion of the effective abolition of child labour in Liberia. The Decent Work Bill has been passed in April 2014 and reduces the minimum age for full time employment from 16 to 15; which matches with the year of the child at the end of compulsory upper basic education.</p> <p><b>2013 AR:</b> According to the CT: The scholarship programme developed by Government to encourage children to attend school is successful.</p> <p>According to FAWUL and GAAWUL: As a result of successful campaigns and measures undertaken by the Government and by trade unions, child labour is close to eradication in the agricultural sector in Liberia. While the trade unions will continue their ongoing activities in this eradication process, it is requested that the ILO supports awareness raising measures through already established programs, and that regular assessments are being made in order to ensure that the problem of child labour does not return.</p> <p><b>2012 AR:</b> According to FL: For over five years, children street vendors have been banned during school hours.: Firestone have set up transportation services to carry workers ‘children to junior high schools with three different routing to access schools easier to ensure that none of them will be present in the fields. Elementary schools are easily accessible because in much larger numbers.</p> <p>FAWUL indicated it received a special award from the USA Embassy in Monrovia for completely stopping child labour in Firestone plantations.</p> <p>UWUL indicated they have a special fundraising programme. Funds collected help families get additional income and keep their children of the workplace.</p> <p><b>2007 AR:</b> According to the Government: The national policy for compulsory education for all based on “each one teach one” can be considered as a special initiative for the realization of the PR in Liberia. Moreover, a tripartite identification of realities and challenges faced in realizing the PR in the country has been carried out through a case study and a workshop on the Humanization of Liberia Labour Force, in cooperation with the ILO. This exercise concluded on a tripartite resolution on the Humanization of Liberia Labour Force that includes a request for technical cooperation for the better realization of the PR in the country.</p> <p>According to FL: Following the prohibition of the presence of children accompanying their parents in rubber plantations and the building of schools in the plantation areas by the Firestone Company, school attendance in these areas raised by 300 per cent between 2005 and 2006.</p> <p><b>2006 AR:</b> According to the Government: The NACOMAL was launched in May 2004 and includes employers’ and workers’ representatives and representatives of child advocacy groups. It monitors cases of child abuse (subject to criminal penalty) and takes corrective measures in accordance with national laws.</p>
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2015 AR:</b> According to the LCC: the current socio-economic condition in Liberia and the limited enforcement capacity of the Government pose major challenges in the process of ratification and realization of C.138.</p> <p><b>2013 AR:</b> According to the CT: The implementation and realization of the PR is difficult considering the socio-economic conditions of the country. The successful scholarship programme launched by the Government lack resources to support more children. Moreover, traditional and cultural barriers need to be overcome to eliminate child labour in the country.</p> <p><b>2012 AR:</b> According to FL: Poverty is a big challenge. The general public does not have a clear</p>

			<p>definition of what is child labour and what is not child labour.</p> <p><b>2010 AR:</b> The LCC raised the following challenges for Liberia to realize the PR: (i) socio-economic conditions; (ii) difficulties of implementation and enforcement capacity of the labour laws; (iii) illiteracy and lack of educational facilities. In addition to free education, the LCC believed that a stipend should be given to the parents to buy books, school uniforms and food; so that the children could study without bothering about the financial problems that schooling can create to the family.</p> <p><b>2007 AR:</b> A tripartite identification of realities and challenges faced in realizing the PR in the country has been carried out through a case study and a workshop on the Humanization of Liberia Labour Force, in cooperation with the ILO. Employers made a significant contribution in this exercise.</p> <p>According to the LAC: The effective abolition of child labour in Liberia is not possible in the foreseeable future because of poverty. Moreover, there are no monitoring and repressive mechanisms to realize the PR in Liberia.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2014-2015 ARs:</b> LLC stated that adapting the requirements of the Convention to the specific circumstances of the country is a challenge as well as lack of support in logistics and finance to keep the tripartite commission on ratification function as an independent body.</p> <p><b>2013 AR:</b> According to FAWUL and GAAWUL: Due to the measures undertaken by the Government and trade unions, the cases of employers employing children under the minimum age for admission to employment or work are very few. The challenges are at this stage relate to parents who bring their children to work along with them. Measures have been taken in order to address the problem, such as regulations in all collective bargaining stating that parents who bring their children to work along with them will be dismissed. It is now a question of disseminating this information so as to make parents aware of these regulations and the issue of child labour.</p> <p><b>2012 AR:</b> According to FAWUL and UWUL: Unemployment, lack of adequate resources for family, socio-economic factors are challenges for the realization of the fundamental principles ad rights at work.</p> <p><b>2010 AR:</b> According to the LLC: The LLC raised the following challenges: (i) the need for material support to the CLC; (ii) the socio-economic situation of the country; (iii) the existence of an informal economy; and (iv) the lack of policy and law enforcement by the Government.</p> <p><b>2009 AR:</b> According to the LLC: Time is needed for the development of an implementation plan to realize the PR.</p> <p><b>2008 AR:</b> According to the USPOGUL-LFLU: there are important challenges namely: (i) logistical problems; (ii) capacity building; (iii) leadership lacks among the workers' and employers' associations; (iv) the problem of unionizing affecting thus the right to collective bargaining; and (v) a lack of education and training among the social partners.</p> <p><b>2007 AR:</b> A tripartite identification of realities and challenges faced in realizing the PR in the country has been carried out through a case study and a workshop on the Humanization of Liberia Labour Force, in cooperation with the ILO. Workers' organizations made a significant contribution</p>



		<p>in this exercise.</p> <p>According to the CONATUL: (i) Political instability contributed to the inability of the Government to improve the realization of the PR in the country; (ii) no dissuasive legal procedures exist against violations of national laws; and (iii) there is a lack of education on the PR among the social partners.</p> <p>According to the USPOGUL-LFLU: No efforts are made by the Government to collect information or data on the PR.</p> <p><b>2005 AR:</b> According to the USPOGUL-LFLU: Ex-child combatants need to be reintegrated</p>
	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> According to the Government: There is a lack of database on child labour in Liberia.</p> <p><b>2014 AR:</b> According to the Government: It is critical that the relevant stakeholders and local communities do not interpret C.138 as being in conflict with customs and traditions in the country. The ratification process and the realization of the PR need to show great sensitivity to customs and traditions, to ensure approval of the ratification of C.138 by the legislators and successful elimination of child labour.</p> <p><b>2013 AR:</b> According to the Government: No major obstacles remain in the ratification process of C.138, and its provisions will be integrated in the Decent Work Bill. However, support is needed in order to finalize the Bill and consequently ratification of C.138. The challenges reported in the 2012 AR remain, as well as the challenge of eliminating child labour in the informal economy, which is now being targeted by the Government.</p> <p><b>2012 AR:</b> According to the Government: Enforcement of labour laws is difficult because of: (i) high unemployment rate (ii) lack of resources to provide jobs; (iii) lack of logistics for inspectors to monitor plantations (computers, vehicle, etc.); and (iv) lack of education and training among workers.</p> <p><b>2010 AR:</b> According to the Government: The main obstacle that had been encountered in Liberia in realizing the PR are as follows: (i) lack of social dialogue; (ii) lack of sensitization of the Members of Parliament and the House of Senate on the PR; (iii) difficulties to implement the PR; and (iv) the informal economy. The Government further indicated that collective endeavour is needed to realize and implement the PR.</p> <p><b>2009 AR:</b> According to the Government: There is a lack of capacity of the employers' and workers' organizations regarding national laws on the PR.</p> <p><b>2008 AR:</b> According to the Government: Enactment and enforcement of labour legislations are yet to be realized. The issue of accountability is also important as the unions are usually owned by individuals without any form of membership system. The Government indicated some of the challenges put forth by the USPOGUL-LFLU that are: (i) logistical problems; (ii) capacity building; and (iii) a lack of education and training among the social partners.</p> <p><b>2007 AR:</b> A tripartite identification of realities and challenges faced in realizing the PR in the country has been carried out through a case study and a workshop on the Humanization of Liberia Labour Force, in cooperation with the ILO. The Ministry of Labour and other technical ministries made a significant contribution in this exercise.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: ILO should urgently assist Liberia in organizing a national tripartite workshop on the unratified ILO core Conventions so as to speed up the ratification process of these instruments by Liberia. There is also a need for ILO technical support for the setting up of a data base system to track the number of children entering the national labour market.</p> <p>LCC indicated that ILO technical assistance in raising the awareness of the public and tripartite parties could play a positive</p>

		<p>role.</p> <p>LLC reiterated its technical assistance requirements as per the 2014 AR and requested further technical assistance on awareness creation for workers, advanced educational programme for its staff through scholarship.</p> <p><b>2014 AR:</b> The Government reiterated the request for technical cooperation made under the 2013 AR as regards to training for legislators, and added that there is a need for logistical support to carry out capacity building activities and ensure successful implementation and national and local ownership of ongoing and forthcoming projects on the elimination of child labour in the rubber industries. There is a wish from the Government's side for the ILO to be more responsive to the requests made by the Government.</p> <p>LLC underlined the need for international support to ensure the country is in line with the requirements of the Convention. It specifically indicated that ILO technical assistance is required to build the capacity of the Child Labour Bureau to make it more useful and functional.</p> <p><b>2013 AR:</b> According to the Government: There is a need for targeted ILO technical cooperation for legislators on the content and the implications of C.138, as well as technical assistance for lawmakers in the process of enacting the new labour law. Additionally, the Government would need support and technical assistance in order to strengthen its reporting capacity and fulfill its reporting obligations.</p> <p>According to the CT: There is a need for ILO technical cooperation to facilitate the realization of the PR in Liberia, in particular in the following areas: (i) capacity building for tripartite partners; (ii) sensitization campaign; (iii) eradication of poverty policy.</p> <p>According to FAWUL and GAAWUL: ILO's technical support is requested to strengthen and improve the ongoing activities to eradicate child labour in the Liberia agricultural sector.</p> <p><b>2012 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Liberia in particular in the following areas: (i) Training of labour inspectors and social partners (ii) strengthening Government capacity with logistics; (iii) awareness-raising campaign.</p> <p>According to FL: Informal economy actors should be sensitized on issues of child labour and labour inspectors should be supported by the ILO.</p> <p>According to FAWUL and UWUL: There is a need for ILO technical cooperation for training and workshops that include workers at all levels.</p> <p><b>2010 AR:</b> According to the Government: There is a need for ILO assistance to organize sensitization campaigns for the population and for Government's institutions.</p> <p>According to the LCC: There is a need for ILO assistance to organize awareness raising campaigns to inform employers of the lack of productivity of CL. In addition, ILO with other stakeholders must help the Government to implement free education to the children of Liberia.</p> <p>According to the LLC: There is a need for ILO technical cooperation to facilitate the realization of the PR in Liberia in particular in the following areas: (i) capacity building of the CLC and Government institutions; (ii) strengthening capacity of employers' and workers' organizations; (iii) awareness-raising campaign.</p> <p><b>2009 AR:</b> The Government requested ILO's technical cooperation to strengthen the capacity of government and employers' and workers' institutions on the PR and to support the ratification process of C.138.</p>
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		<p>The LLC requested ILO's support in the labour law revision process concerning the PR.</p> <p><b>2008 AR:</b> The Government and the USPOGUL-LFLU reiterated the same requests indicated in the 2007 AR.</p> <p>The Government also wishes one of its officials to participate in an ILO/TURIN course on participatory labour law-making.</p> <p>The USPOGUL-LFLU added that social dialogue should be strengthening with the Ministry of Labour and that the assistance was required with regard to the merging of the workers' organizations into a single trade union.</p> <p><b>2007 AR:</b> According to the Government: Following a case study and a workshop on the Humanization of Liberia Labour Force, carried out in September and October 2006 in cooperation with the ILO, a tripartite resolution on this issue was adopted, including recommendations for technical cooperation on the PR. The Government, the employers and trade unions called for a special ILO/IPEC action to help implement this resolution and realize the fundamental principles and rights at work in Liberia.</p> <p>In particular, the Liberian Agricultural Company observed that the ILO should provide assistance to the Government in establishing a Commission at the Ministry of Labour for the purpose monitoring and reporting cases of child labour in the Liberia.</p> <p>The CONATUL and the CLCC indicated that more training and educational programmes for social partners are required to disseminate information on the PR. The CONATUL also requested for technical assistance in building the capacity of unions' leaders and members.</p> <p>The USPOGUL-LFLU indicated that there is an urgent need for special assistance to workers' organizations to train their members and sensitize the public, and on the reintegration of the ex-child combatants into the community.</p> <p><b>2006 AR:</b> The Government reiterated its request for ILO technical cooperation and financial assistance for the operation of the National Commission on Child Labour (NACOMAL) that was launched in May 2004 and included employers' and workers' representatives and representatives of child advocacy groups. Furthermore, the Government welcomed ILO technical cooperation to organize a national tripartite seminar so as to assess priority needs related to the Declaration's principles and rights and focus on implementation. The Government supported the USPOGUL-LFLU's request for technical cooperation.</p> <p>According to the USPOGUL-LFLU: it wishes to be involved in the implementation of national programmes for the reintegration of child combatants. It also renews its request for technical and financial assistance to realize the PR among workers.</p>
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	<p><b>2005 AR:</b> The Government requested ILO technical cooperation and financial assistance for the operation of the National Commission on Child Labour. Furthermore, the Government welcomed ILO technical cooperation to organize a national tripartite seminar, so as to assess priority needs related to the Declaration’s principles and rights and focus on implementation.</p> <p>According to the USPOGUL-LFLU: There is a need for special assistance to workers’ organizations to sensitize the public and train its members on the reintegration of the ex-child combatants back into the community.</p>	
	<p><b>Offer</b></p>	<p>ILO, UNICEF, UNMIL, UNDP, UNDAF, USDOL, European Union, NGOs.</p>
<p><b>EXPERT-ADVISERS’ RECOMMENDATIONS/OBSERVATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) considered that universal ratification of the child labour Conventions was not a distant dream but an achievable goal, in view of the number of States, including Liberia, having expressed their intention to ratify C.138 and/or C.182 (cf. paragraph 56 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p>	
<p><b>GOVERNING BODY RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>	



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2009-2015)<sup>80</sup> : MARSHALL ISLANDS**

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , for the first time under the 2012 Annual Review (AR), but not under the previous reviews (i.e. ARs 2009-11). Marshall Islands Joined the ILO in 2007.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (the Marshall Chamber of Commerce (MICC)) and workers' organizations (Marshall Islands Teachers' Union (MITU)) by means of consultation and communication of a copy of the government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> Observations by MICC.	
	<b>Workers' organizations</b>	<b>2012 AR:</b> Observations by MITU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Marshall Islands has ratified neither the Minimum Age Convention, 1973 (No. 138) (C.138) nor the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182).</b> However, it has ratified the United Nations Convention on the Right on the Child (CRC) in 1998.

<sup>80</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.

		<p><b>Ratification intention</b></p>	<p><b>YES, for both C.138 and C.182.</b></p> <p><b>2014-2015 ARs:</b> The Government reiterated its intention to ratify C.138 and C.182; however it indicated that further ILO technical assistance is needed to create awareness and strengthen capacities of government officials and social partners on the fundamental principles and rights at work (FPRW) and the content of C.138 and C.182.</p> <p><b>2013 AR:</b> The Government reiterated the statement it made under the 2012 AR.</p> <p><b>2012 AR:</b> The Government mentioned its intention to ratify C.138 and C.182, and make relevant legal reform, in consultation with national stakeholders, and with ILO technical support. In this regard, tripartite capacities on ILO issues should be strengthened, including on fundamental principles and rights at work and international labour standards.</p> <p>According to MICC: It is critical to have C.138 and C.182 ratified by the Republic of the Marshall Islands (RMI) and enjoy ILO’s support in combating poverty and promoting education for all, rather than having child labour in the country. Furthermore, these instruments need to be ratified, as “RMI needs to have a good business community in a good playing field”.</p> <p>According to MITU: As a matter of human rights and the right to education guaranteed by the Bill of Rights in RMI Constitution, the MITU supports the ratification of all ILO fundamental Conventions by RMI, including C.138 and C.182.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES</b>, the Constitution of the Republic of the Marshall Islands, 1979, article II (Bill of Rights), section 15, provides for the recognition of the right of the people to education, among others. It further mentions in article V, section 1(3) (h) that the Cabinet shall be responsible for establishing and maintaining such public schools and for making such other provision as may be reasonable and necessary to provide educational opportunities for the people of the Republic.</p>

		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy:</b> According to the Rules and Regulations of the Ministry of Education (Revised 2008), chapter 8, section 15, on General Policy, the goal of the educational system shall be to provide to all children in the Republic, regardless of socio-economic status, handicap, or geographical location, the educational opportunity that will prepare them to develop into self-reliance individuals and to function socially, politically and economically in the society. This general policy prescribes, under chapter 10, section 14-10-2, that attendance to at public or non-public elementary school shall be compulsory for all school age children between the ages of four and fourteen. section 14-10-4 (e) of the same chapter provides that “Parents, or guardians, or other persons responsible for a student’s non-attendance at a school may be referred to a court of competent jurisdiction for enforcement of mandatory school attendance”.</li> <li>• <b>Legislation:</b> <ul style="list-style-type: none"> <li>(i) The Education Act 1991, section 55;</li> <li>(ii) The Minimum Conditions Inquiry Act, 1987;</li> <li>(iii) The Child Neglect and Abuse Act, 1991/130.</li> </ul> </li> <li>• <b>Regulations:</b> <ul style="list-style-type: none"> <li>(i) Rules and Regulations of the Ministry of Education (Revised 2008).</li> </ul> </li> </ul>
		<b>Basic legal provisions</b>	The Constitution, 1979, article II, section 12; (ii) The Education Act, chapter 8, section 15 and chapter 10, sections 14-10-2 and 14-10-4 (e); (iii) The Minimum Conditions Inquiry Act 1987; and (iv) The Child Abuse and Neglect Act, 1991/130.
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Compulsory education</b>	<b>YES</b> , free and compulsory education up to from ages 4 to 14.
		<b>Minimum age</b>	<b>NIL.</b> Marshall Islands labour laws do not regulate the employment of children. However, under Government’s second report to the Committee on the Right of the Child, the Minimum Conditions Inquiry Act, also known as the Child Labour Law, has been amended to prohibit employment of a person under the age of eighteen.
		<b>Worst forms of child labour</b>	<b>NIL.</b> However, according to Government second report under the Convention on the Right of the Child, employment of a person under the age of 18 is prohibited.
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<p>According to the Government: Children in special needs (disabled children and children in vulnerable groups).</p> <p>According to MITU: There is a programme for special education targeting vulnerable groups of children (i.e., the special needs or impaired children).</p>

		<b>Information/ Data collection and dissemination</b>	<b>NIL.</b>
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2008 AR:</b> According to the Government: (i) The Labor Division; (ii) the Ministry of Education; and (iii) the courts. In particular, under the Rules and Regulations of the Ministry of Education (Revised 2008), chapter 10, section 14-10-4 (e) “Parents, or guardians, or other persons responsible for a student’s non-attendance at a school may be referred to a court of competent jurisdiction for enforcement of mandatory school attendance”. The Education Act and regulations provided for sanctions against parents who do not ensure that their children go to school.	
	<b>Involvement of the social partners</b>	<b>2012 AR:</b> According to the Government: The MICC and the MITU have been involved in the adoption process of Marshall Islands Decent Work Country Programme (yet to be finalized), which includes issues concerning the promotion and realization of the fundamental principles and rights at work.	
	<b>Promotional activities</b>	<p><b>2012 AR:</b> According to the Government: The Government, the MICC and the MITU participated in the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010 where the fundamental principles and rights have been promoted addressed. Moreover, the officers of the Labor Division of the Ministry of Foreign Affairs were sensitized on the fundamental principles and rights at work during ILO’s assistance in reporting issues carried out in October 2011.</p> <p>The MICC and the MITU confirmed their participation in such activities and indicated that they had been sensitized on the same issues during the October 2011 ILO Mission. However, they requested more capacity building on child labour issues.</p>	
	<b>Special initiatives/Progress</b>	<p><b>2012 AR:</b> According to the Government: the Minimum Conditions Inquiry Act, also known as the Child Labour Law, has been amended to prohibit employment of a person under the age of eighteen. This law was passed because of the Government’s concern over the visible use of child labour, especially in family-run businesses in urban centers.</p> <p>According to the MITU: Under the Child Protection Baseline Research (CPBR), the MITU participated in 2011 in the collection of baseline research on issues of child protection, which included child abuse, neglect and exploitation. This project was carried out in collaboration with the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the National Training Council, the Pacific Resources in Education and Learning (PREL), a teacher and UNICEF. The results of this survey will be published soon and allow the establishment of national strategy to better ensure child protection in the country.</p>	





<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> According to the MICC: RMI is a developing country where poverty issues as well as traditional and cultural barriers on child labour need to be overcome.
		<b>Workers' organizations</b>	<b>2012 AR:</b> According to the MITU: (i) There is a discrepancy between ages of compulsory schooling under the Education Act 1991 (ages 4 to 18) and the Rules and Regulations of the Ministry of Education (Revised 2008) (ages 4 to 14). In practice, children cannot enter school before the age of 5 as there are no government funds to allow the children aged 4 to attend "head start". Therefore, MITU suggests that the ages of compulsory schooling be defined from 5 to 18 to stick with realities and the age for admission to employment (18), although this age has not yet been legally defined; (ii) The Education Act and its regulations are not enforced given that the Board of Education has been approved but it has never been convened the Secretary of Education; (iii) The Programme for Special Education does not reach all impaired children; (iv) Poverty issues are not addressed; and (v) As concerns the worst forms of child labour, some children have been victimised by few teachers or administrators. The Child Abuse and Neglect Act, 1991/130 should be revised to cover forced child labour.
	<b>According to the Government</b>	<b>2012 AR:</b> According to the Government: Child labour is not an issue in Marshall Islands. Schooling is free and compulsory up to the age of 18. Some children may help their parents in retail outlet from time to time, but except from rare cases, this does not prevent them from attending school and performing homework. Moreover, legal sanctions exist for parents or guardians whose children do not attend school. Other than children assisting parents in the operation of retail outlets, there have been no obvious infractions of the Minimum Conditions Inquiry Act. However, the four major obstacles concerning the effective abolition of child labour in Marshall Islands are linked to: (i) poverty; (ii) the absence of legal provisions; (iii) the lack of tripartite capacity on this issue; and (iv) the lack of public awareness-raising on this issue.  In response to the MICC's and MITU's comments, the Government stressed the need to review and harmonize legal provisions on minimum age and legal provisions for admission to employment or work in consultation with national stakeholders, and with ILO technical support.	

<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 ARs:</b> The Government reiterated that ILO technical support in training government officials and the social partners on FPRW, including the content of C.138 and C.182 so as to consider possible ratifications, and to maintain the momentum and enabling environment which was created following ILO technical cooperation in 2011. This support could also include international tripartite experience-sharing with other countries on FPRW and reporting issues, including participation in the ILO Training in Turin.</p> <p><b>2013 - 2014 ARs:</b> According to the Government: The Government would appreciate ILO technical support in promoting the Fundamental Principles and Rights at Work (FPRW), including the content of all core Conventions so as to consider possible ratifications. This support could also include international tripartite training so as to share experience with other countries.</p> <p><b>2012 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of this PR in Marshall Islands, in particular in the following areas, in order of priority: (1) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; legal reform (labour law and other relevant legislation); (2) strengthening data collection and capacity for statistical analysis; and (3) sharing of experiences (best-practices) across countries/regions; training of other officials (e.g. police, judiciary, social workers, teachers).</p> <p>The Government, the MICC and the MITU would appreciate that income generation programmes for poor parents in Marshall Islands be supported by the ILO, under the Decent Work Country Programme or the ILO International Programme for the Elimination of Child Labour (IPEC). The MICC and MITU supported the government's request for ILO technical cooperation, and in particular the strengthening of their capacity building on the fundamental principles and rights at work. The MICC further requested a permanent ILO presence in RMI. The MITU stressed the need for a holistic approach on the fundamental principles and rights at work and labour law reform.</p>
	<b>Offer</b>	ILO (Decent Work Country Programme in elaboration phase, assistance in reporting under the AR), UNICEF (Child Protection Baseline Research).
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>NIL.</b>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)**<sup>81</sup>: MYANMAR

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the 2000 Annual Review (AR). No change reports for the 2001, 2006 and 2007 ARs.
	<b>Involvement of Employers' and Workers organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organization, the Union of Myanmar Federation of Chamber of Commerce and Industry (UMFCCI), and workers organisations such as: the Confederation of Trade Unions of Myanmar (CTUM) [formely know as the Federation of Trade Union of Myanmar (FTUM) and the Federation of Trade Unions – Burma (FTUB)], the Workers' Welfare Associations and the Ceramic Industrial Labour Organization (CILO), the Myanmar Trade Union Federation (MTUF), and the Agriculture and Farmers Federation of Myanmar (AFFM).
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the UMFCCI. <b>2014 AR:</b> Observations by the UMFCCI. <b>2013 AR:</b> Observations by the UMFCCI. <b>2012 AR:</b> Observations by the UMFCCI. <b>2010 AR:</b> Observations by the UMFCCI. <b>2008 AR:</b> Observations by the UMFCCI.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the CTUM. Observations by the MTUF. <b>2014 AR:</b> Observations by the FTUM.

Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body. For any further information on the ratification of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilolex.org](http://www.ilolex.org).

<sup>81</sup> Las referencias por países dentro del Examen anual de la Declaración de la OIT están basadas sobre los element



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Myanmar has ratified the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182) in December 2013. However, it has not yet ratified the Minimum Age Convention, 1973 (No. 138) (C.138).</b>
		<b>Ratification intention</b>	<p><b>To be considered in appropriate time for C.138.</b></p> <p><b>2015 AR:</b> The Government indicated that Myanmar is in the process of studying the alignment of its national laws to the requirements of the Convention, and hence ratification would be considered at an appropriate time in the future.</p> <p>UMFCCI reiterated its support for the ratification of C.138, but emphasized that ratification alone is not sufficient and building capacity for implementation is important.</p> <p>CTUM supports the ratification of C.138 and lobbies the Government to move ahead with ratification.</p> <p>MTUF expressed its support for the ratification of C.138, however, emphasized that improvement of economic conditions in the country is necessary prior to ratification of the Convention.</p> <p><b>2014 AR:</b> According to the Government, the UMFCCI and the FTUM: C.182 will be ratified very soon in the framework of the Joint Myanmar/ILO Strategic Action Plan to eradicate forced labour by 2015.</p> <p><b>2013 AR:</b> The Government reiterated its statement made under the 2012 AR.</p> <p>The UMFCCI indicated its full support for the ratification of C.138 and C.182 and mentioned that the suspension of the international embargo would help foster better implementation of the international labour standards (ILS) in Myanmar.</p> <p><b>2012 AR:</b> The Government reiterated that the ratification of C.138 and C.182 would be considered in appropriate time.</p> <p>The UMFCCI reiterated its support for the ratification of C.138 and C.182.</p> <p><b>2010 AR:</b> According to the Government: The new Constitution was adopted by the referendum held in May 2008, and the ILO should cooperate with Myanmar for the ratification of all ILO fundamental Conventions. Ratification of C.138 and C.182 would be considered in appropriate time to do so.</p> <p><b>2008 AR:</b> The Government indicated that the ratification of C.138 and C.182 would be considered as soon as the new Constitution is promulgated. It further mentioned that Myanmar had ratified the Convention on the Rights of the Child.</p> <p>The UMFCCI supported the ratification of C.138 and C.182.</p> <p><b>2001 AR:</b> based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001), the Government intended to ratify C.138 and C.182.</p>

<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>2015 AR:</b> According to the Government: Equal rights provisions relating to mothers, children and expectant women are included in article 351 of Chapter VIII of the State Constitution 2008.</p> <p><b>2012 AR:</b> According to the Government: The Constitution of the Republic of the Union of Myanmar was ratified by the referendum held in May 2008 with 92.48 per cent affirmative votes.</p> <p><b>2010 AR:</b> According to the Government: The new State Constitution was adopted by referendum in May 2008.</p> <p><b>2008 AR:</b> The Government indicated that it was currently reviewing the Constitution in order to include the PR.</p>
	<p><b>Policy, Legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2012 AR:</b> According to the Government: Myanmar National Plan of Action for Children 2006-2015 which consists of plans based on the MDGs and the WFFC will take measures for implementation in 4 focused areas – Health and Nutrition, Water and Sanitation, Education and Child Development, and Child Protection. Myanmar National Plan of Action for TIP 2007-2011.</p> <p><b>2008 AR:</b> According to the Government, the Ministry of Health is carrying out its National Health Plan. The implementation of the Integrated Management of Maternal and Childhood Illness is still ongoing by the Department of Health. The Government has also implemented plans to achieve the Education for All within the Millennium Development Goals.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <ul style="list-style-type: none"> <li>(i) The Child Law 1993, sections 65 and 66;</li> <li>(ii) Shops and Establishments Act, 1951;</li> <li>(iii) Factories Act, 1951;</li> <li>(iv) The Overseas Employment Act, 1999; and</li> <li>(v) Other legislations that address specific aspects of the rights of working children.</li> </ul> <p><b>2015 AR:</b> According to the Government: The Ministry of Social Welfare, Relief and Resettlement has been endeavouring to ensure the protection of the rights of working children as well as the elimination of child labour. Accordingly, the 1993 Child Law is being reviewed by the Ministry to ensure compliance with the PR. Moreover, the Ministry of Labour, Employment and Social Security has been reviewing the existing labour laws in respect of the Minimum age to make amendments. The provisions in the 1951 Factories Act related to the employment of children were amended in line with the minimum age of the Convention 138. In the same manner, in the new shops and Establishments Law, all the provisions related the minimum age for the employment reflect the requirements mentioned in the Convention.</p> <p>According to UMFCCI: Minimum wage law, social security law and skills development law have been enacted in 2013 and 2014.</p> <ul style="list-style-type: none"> <li>• <b>Regulations:</b></li> </ul> <p>The Child Law Rules and Regulations; The Overseas Employment Rules, 2000.</p>

		<b>Basic legal provisions</b>	(i) The Constitution of 2008; (ii) The Child Law, 1993, and its rules and regulations; (iii) The Shops and Establishments Act, 1951; (iv) The Factory Act (1951); (v) The Overseas Employment Act, 1999; and (vi) The Overseas Employment Rules, 2000.
		<b>Judicial decisions</b>	Juvenile Justice, Penal Code.
	<b>Exercise of the principle and right</b>	<b>Compulsory education</b>	<b>YES.</b>
		<b>Minimum age</b>	<p><b>2015 AR:</b> According to the Government: The 1993 child law has been redrafted by the Ministry of Social Welfare, Relief and Resettlement in cooperation with relevant Ministries and has been submitted to the Union Attorney General Office after conducting a national level consultation on 4-5 June 2015. Moreover, Myanmar paid special attention to apply the minimum age for employment in line with the Convention No.138.</p> <p><b>2012 AR:</b> According to the Government: The Factories and General Labour Laws Inspection Department has been enforcing and monitoring the minimum age for employment.</p> <p><b>2005 AR:</b> According to the Government: General minimum age for admission to employment or work: 18 years for both boys and girls.</p> <p><b>Hazardous work:</b> The minimum age for engaging in hazardous work is 18 years for boys. Women and children shall not be allowed to work in any hazardous work.</p> <p>2012 AR: The Child Law 1993, sections 65 and 66, provides that the penalties with aims to protect the child from being employed or permitted to perform work which is hazardous to his/her life, or may cause diseases or is harmful to his/her moral character.</p>
		<b>Worst Forms Child Labour</b>	<b>C.182 is ratified.</b>
		<b>Information/ Data collection and dissemination</b>	<p><b>2015 AR:</b> According to the Government: A Memorandum of Understanding between the Ministry of Labour, Employment Social Security and ILO was signed on 14th November 2013 for undertaking a Labour Force Survey and a Child Labour and School-to-Work Transition Survey in Myanmar. A national training workshop on labour statistics has been initiated to conduct Myanmar Labour Force Survey and a Child Labour and School-to-Work Transition Survey 2014-2015.</p> <p><b>2012 AR:</b> The Government stated that the Ministry of Labour has issued on an annual basis the Human Resources Development Indicator.</p> <p><b>2008 AR:</b> According to the Government: The Ministry of Labour issued the Human Resource Development Indicator in 2005 containing information on school children.</p> <p><b>2000 AR:</b> According to the Government: information or statistics, data and trends are still under preparation.</p>

	<p><b>Prevention/Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2015 AR:</b> According to the Government: In implementing ILO Convention 182, the Myanmar Program on the Elimination of Child Labour (My-PEC) has been implemented since 2014 in cooperation with ILO. My-PEC is a Four-year project from 2014 January to 2017 December. Under My-PEC programme, a Technical Working Group on working Children (TWG-CL) was formed composed of tripartite and NGOs’ representatives. TWG-CL was formed with (31) multi-stakeholders of relevant ministries, NGOs and INGOs. It aims to assist in the eradication of child labour in Myanmar through the implementation of the provisions of relevant international standards.</p> <p><b>2012 AR:</b> According to the Government: Legislation, inspection and other social works are enforced and initiated by the Government Departments concerned. In addition, the Committee for the Prevention of Military Recruitment of Under-Aged Children and the Trafficking in Person Preventive Committee have also been enforcing and monitoring the underage recruitment and trafficking in person. Furthermore, protective and preventive measures against child abuse, neglect, exploitation, violence and discrimination are being taken in line with the Convention on the Rights of the Child. The State, Division, District and Township Child Rights Committees, which are being organized in accordance with the Child Law, also undertake activities for protection of children in collaboration with the UNICEF.</p> <p><b>2011 AR:</b> According to the Government: In Myanmar, protective and preventive measures and actions against child abuse, neglect, exploitation, voidance and discrimination are being taken in line with the principle and right (PR) and in collaboration with the UNICEF. The Factories and the General Labour Laws Inspection Department has been enforcing and monitoring the minimum age for employment. Sections 65 and 66 of the Child Law provides that the penalties with the aims to protect the child from being employed or permitted to perform work which is hazardous to the life of the child, which may cause diseases to the child or which is harmful to the child moral character. Legislation, inspection and other social works are enforced and initiated by the Government Departments concerned: The Committee for the Prevention of Military Recruitment of Under-Aged Children and the Trafficking in Person Preventive Committee have also been enforcing and monitoring the underage recruitment and trafficking in person.</p>
		<p><b>2009 AR:</b> According to the Government: sections 65 and 66 of the Child Law state the penalties with aims to protect the child from being employed or permitted to perform work which is hazardous to the life of the child, which may cause disease to the child or which is harmful to the child moral character.</p> <p><b>2008 AR:</b> According to the Government: The Ministry of Health is carrying out the program of health under the National Health Plan. In 1998, the Department of Health implemented the Integrated Management of Maternal and Childhood illness.</p> <p><b>2002 AR:</b> According to the Government: In order to enforce the minimum age for employment, inspection/monitoring mechanisms have been implemented.</p> <p><b>2000-2004 ARs:</b> According to the Government: In addition to punishments contained in labour laws, section 66 of the Child Law provides that whoever commits the offence is punishable by up to two years of imprisonment or fine which may amount to Ks.10,000 or both – Legislation, inspection and other social works are enforced and initiated by the Government Departments.</p>





	<p><b>Involvement of the social partners</b></p>	<p><b>2015 AR:</b> According to the Government: the UMFCCI and other employers' organizations, and workers organisations such as CTUM, AFFM-IUF, AFFM and MTUF, and other labour organizations under the Labour Organization Law, 2011 have been involved.</p> <p><b>2012 AR:</b> The Government indicated that the PR was promoted at national level with the involvement of the National Committee on the Rights of the Child, the Committee for the Prevention of Military Recruitment of Under-aged, the Trafficking in Person Preventive Committee, Related ministries, UN agencies (especially UNICEF), international and national NGOs, the civil society and actors in the private sector.</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: The Ministry of Labour, Employment and Social Security has implemented various activities under the Myanmar Programme on the Elimination of Child Labour. During the fiscal year 2014-2015, the Government has conducted 323 awareness-raising seminars and meetings and 229 trainings on Child Labour in collaboration with the ILO and UNICEF. Also, Myanmar convened the events of the World Day against Child Labour in Nay Pyi Taw and Yangon. The Government would expect that the World Day Against Child Labour could catch the attention of the key stakeholders who play important roles in the effective abolition of child labour.</p> <p><b>2014 AR:</b> The Government indicated that a tripartite delegation of Myanmar had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards held in May-June 2013 where issues concerning the PR were addressed.</p> <p><b>2012 AR:</b> According to the Government: The Government has implemented not only formal education but also non-formal education to promote the rural area. Myanmar also attended the meeting concerning the Declaration of Education for All (EFA) held in Thailand in 1990 and to be conformity with the said Declaration, Myanmar has implemented the plan of the Education for All. There is also prescribed the School Enrollment Week, the Government is trying her best to increase enrollment of the students by cooperation with the responsible persons, the person from the Department of Education, the NGOs and the social partners.</p> <p><b>2011 AR:</b> According to the Government: The Government has implemented not only formal education but also non-formal education to promote the rural area. It has also implemented a national plan of the Education for All.</p> <p><b>2008 AR:</b> According to the Government: promotion was undertaken in the formal and informal education with a special emphasis on rural areas. Moreover, a school enrolment week has been developed in collaboration with the Department of Education and employers' and workers' organizations and NGOs in order to increase the enrolment of students. The Ministry of Labour has implemented the program concerning the protection of children in collaboration with UNICEF, namely through workshops.</p> <p>The UMFCCI indicated that it promotes and participates in trainings, seminars intended to workers.</p>

	<p><b>Special initiatives</b></p>	<p><b>2015 AR:</b> According to the Government: A Stakeholders Forum on Labour Law Reform was conducted on 18-19 May 2015 in Yangon in cooperation with the United States, Japan, Denmark and the International Labour Organization (ILO). The Stakeholder Forum was intended to complement and strengthen domestic tripartite consultations and existing labour-related initiatives, provide international support for Myanmar’s labour reforms, and foster collaboration among international and domestic stakeholders. Ultimately, this engagement was intended to contribute towards constructive industrial relations and progressive improvement of worker rights and working conditions as Myanmar’s economy integrates into the global economy.</p> <p><b>2014 AR:</b> According to the Government, the UMFCCI and the FTUM: The 1993 Child Law is being reviewed by the Ministry of Social Welfare, Relief and Resettlement to ensure compliance with the PR. A Reintegration Committee has been established in 2012 with a view to reintegrating working children through education and vocational training, in cooperation with UNICEF. Moreover, a tripartite delegation of Myanmar had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards held in May-June 2013 where issues concerning the PR were addressed.</p> <p><b>2011-2012 ARs:</b> According to the Government: The Committee for the Prevention of Military Recruitment of Under-Aged Children and the Trafficking in Person Prevention Committee has been established. Moreover, under the prescribed School Enrolment Week, the Government is striving to increase enrollment of the pupils in cooperation with the responsible persons, the Department of Education, NGO’s and the social partners.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2015 AR:</b> According to UMFCCI: The pace of progress in the ratification of C.138 has been constrained by the country’s slow transition process in all sectors.</p> <p><b>2008 AR:</b> According to the UMFCCI: The economic conjuncture is very fragile due to the economic embargos and sanctions placed on Myanmar by several Western countries.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2015 AR:</b> According to MTUF: Existing poor economic conditions pose challenges that undermine the ratification of C.138.</p>
	<p><b>According to the Government</b></p>	<p><b>2015 ARs:</b> The Government reported the challenges as: a) limited knowledge and awareness on Child Labour among government officials, employers, workers and other stakeholders, b) limited number of labour inspectors, c) lack of trainings for labour inspectors, d) limited co-operation between employers and workers, e) limited labour market and job opportunities and f) insufficient income and poverty.</p> <p><b>2012 AR:</b> According to the Government: The ILO should provide more technical support to help promote and realize the PR in Myanmar.</p>	



<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government, UMFCCI, FTUM and MTUF: There is a need for technical cooperation to consolidate awareness creation at different levels, to build technical capacity of the government staff and the social partners, and to implement C. 182. Specifically, the Government indicated that there is a need for undertaking research, data collection and designing of work plans.</p> <p><b>2014 AR:</b> The Government, the UMFCCI and the FTUM requested ILO technical assistance to help implement C.182.</p> <p><b>2013 AR:</b> According to the UMFCCI: There is a need for ILO technical cooperation to facilitate the realization of this PR in Myanmar, in particular in the following areas: (i) sharing of experiences across countries/regions; (ii) capacity building of responsible government institutions; (iii) training of other officials (police, judiciary, social workers, teachers); and (iv) awareness-raising campaign and dissemination in local languages.</p> <p><b>2012 AR:</b> According to the Government: Training courses should be provided by the ILO for capacity building of responsible governmental institutions (i.e., labour inspection and administration). The UMFCCI requested ILO's support for capacity building of employers, in particular in training of trainers (TOT) on the fundamental principles and rights at work.</p> <p><b>2011 AR:</b> According to the Government: Training courses should be provided by the ILO for the capacity building of the responsible governmental institutions (i.e., labour inspection and administration).</p> <p><b>2004 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the principle of the effective abolition of child labour in Myanmar. In this respect, capacity building of responsible governmental institutions (e.g. labour inspection and administration) is the most important type of technical cooperation needed, followed by social protection systems.</p>
	<p><b>Offer</b></p>	<p>ILO, UNICEF, Save the Child, Myanmar Maternal and Child Welfare Association.</p>
<p><b>EXPERT-ADVISERS' RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) considered that universal ratification of the child labour Conventions was not a distant dream but an achievable goal, in view of the number of States, including Myanmar, having expressed their intention to ratify C.138 and/or C.182 (cf. paragraph 56 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs noted the paucity of practical information of several reports, including the one of Myanmar, which complicated their task of assessing the extent to which the PR is realized in the countries concerned. They drew the attention of governments to the possibility of requesting technical assistance from the Office to facilitate fuller and more comprehensive reporting (cf. paragraph 52 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2005 AR:</b> The ILO Declaration Expert-Advisers state that Myanmar records the highest minimum age (18) permitted by law for the employment of children (paragraph 202 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	



<p><b>GOVERNING BODY RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>82</sup>: NEW ZEALAND**

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Reviews (ARs) in 2000. No change report for the 2003 AR.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to Government: Involvement of the Business New Zealand (BNZ) and New Zealand Council of Trade Unions (NZCTU) ( <i>Te Kauae Kaimahi</i> ) through communication of Government's report.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by BNZ <b>2013 AR:</b> Observations by BNZ <b>2012 AR:</b> Observations by BNZ <b>2011 AR:</b> Observations by BNZ <b>2010 AR:</b> Observations by BNZ <b>2009 AR:</b> Observations by BNZ <b>2008 AR:</b> Observations by BNZ <b>2007 AR:</b> Observations by BNZ <b>2006 AR:</b> Observations by BNZ <b>2005 AR:</b> Observations by BNZ <b>2004 AR:</b> Observations by BNZ <b>2003 AR:</b> Observations by BNZ <b>2002 AR:</b> Observations by BNZ <b>2001 AR:</b> Observations by BNZ <b>2000 AR:</b> Observations by BNZ

os siguientes en la medida en que estén disponibles: memorias de los Gobiernos, observaciones de las organizaciones de empleadores y de trabajadores, estudios específicos con profundidad preparados bajo el auspicio del país y de la OIT, y observaciones/recomendaciones de los Expertos Consejeros en la Declaración de la OIT y el del Consejo de Administración. Para obtener más información sobre la realización de este principio y derecho en un país determinado, en relación con un convenio ratificado, se ruega ver: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

<sup>82</sup> Country



	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations by the NZCTU  <b>2014 AR:</b> Observations by the NZCTU  <b>2013 AR:</b> Observations by the NZCTU  <b>2011 AR:</b> Observations by the NZCTU  <b>2010 AR:</b> Observations by the NZCTU  <b>2009 AR:</b> Observations by the NZCTU  <b>2008 AR:</b> Observations by the NZCTU  <b>2007 AR:</b> Observations by the NZCTU  <b>2006 AR:</b> Observations by the NZCTU  <b>2005 AR:</b> Observations by the NZCTU  <b>2004 AR:</b> Observations by the NZCTU  <b>2003 AR:</b> Observations by the NZCTU  <b>2002 AR:</b> Observations by the NZCTU  <b>2001 AR:</b> Observations by the NZCTU  <b>2000 AR:</b> Observations by the NZCTU</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>New Zealand ratified in 2001 the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). However, it has not ratified the Minimum Age Convention, 1973 (No. 138) (C.138).</b></p>

		<p><b>Ratification intention</b></p>	<p><b>Ratification possibilities for C.138 will be considered after policy and research work and national evaluation of related issues.</b></p> <p><b>2015 AR:</b> The Government reiterated its previous statement that given New Zealand’s consistent approach to children’s employment, existing policies and legislative framework already provide effective age thresholds for entry to work in general, and for safe work, and that the Government continues to monitor the situation.</p> <p>NZCTU position is that the Government should ratify C.138 given the Country’s obligations under other international human rights treaties, and also that C.138 is a core Convention that ILO member States are expected to ratify.</p> <p><b>2014 AR:</b> The Government reported that given New Zealand’s consistent approach to children’s employment, existing policies and legislative framework already provide effective age thresholds for entry to work in general, and for safe work, and that the Government continues to monitor the situation.</p> <p>According to BNZ: BNZ supports the Government’s view that New Zealand’s existing policies and legislative framework already provide effective thresholds for entry to work in general and for safe work. As BNZ has said on many occasions, allowing young people to work during out-of-school hours has long been seen as a good way for them to acquire valuable labour market experience – experience both of the kind of jobs available in their area and that will stand them in good stead when later looking for full-time work. Given a choice of job candidates, an employer is far more likely to take on a young person with some understanding of the world of work (with, for example, established time-keeping skills) than one with no such understanding. The problem with C.138 is that it requires an actual age below which young persons cannot be in paid employment; an inflexible interpretation of the age requirement means New Zealand’s de facto employment age is not recognised. New Zealand clearly observes the Convention’s principles but owing to the Convention’s prescriptive nature, not what might best be described as ‘the letter of the law’.</p> <p>The NZCTU advocated for legislative measures to enable the ratification of C.138. While the scope of the problem is not clear, NZCTU believes that children are extremely vulnerable to exploitation in work. The lack of a minimum employment age hampers New Zealand’s ability to ratify other ILO Conventions such as C.189 on Domestic Workers. The NZCTU does not agree with the Government’s statement that “the existing policies and legislative framework provides effective thresholds for entry into work and safe work.”</p>
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		<p>According to BNZ: It is important to recall that in New Zealand the employment of young persons under the age of 18 has long been seen as a means of acquiring good work habits which stand them in good stead when later seeking permanent employment. For all such young persons, general health and safety laws apply – as well as some specific protections in certain areas – and exploitation of young workers is neither condoned nor a feature of the New Zealand labour market. It would be unfortunate for the ILO to assume that the kind of work undertaken by young people during out of school hours is in any way comparable to ‘child labour’ (or the worst forms of child labour) as these terms are commonly understood. For these reasons, BNZ is not able to support ratification of C.138 at present.</p> <p>The NZCTU supported the Government’s moves to ratify C.138, but indicated its preference for a clearer timeframe for action and more consultation on the current issue of child labour.</p> <p><b>2009 AR:</b> The Government, BNZ and NZCTU maintained their positions.</p> <p><b>2008 AR:</b> According to the Government: New Zealand’s policy is to ratify Conventions once the law, policy and practice fully comply with the provisions of the Convention. New Zealand wishes to reiterate that the process of assessing the possibility of ratifying C.138 includes an analysis of what legislative changes may be required with a view to ensuring full compliance with the provisions of this Convention.</p> <p>According to BNZ: As in previous years, BNZ continues to oppose the ratification of C.138 because it doubts that the Committee of Experts will accept a <i>de facto</i> minimum age for full-time employment. In New Zealand there is a perception that might contrast with the Committee’s. As both the Government and BNZ have explained, the employment of younger persons has traditionally been considered to benefit young people by teaching them valuable work skills and increasingly, with both parents employed, by ensuring that children are looked after in at least some of their out of school hours through gainful employment. (While out of school care is provided in New Zealand, young teenagers often consider themselves to be beyond care of this kind.) There would appear to be little to be achieved by ratifying a Convention, which would then open up New Zealand to a pointless challenge.</p> <p>According to the NZCTU: The NZCTU refers to New Zealand’s ratification of the UN Convention on the Rights of the Child (CRC) with reservation regarding article 32.2 of this instrument, and also the recommendation by the CRC Committee that the Government revise the legislation and set the minimum age for employment. The NZCTU further cites child advocates’ opinion that the Government should review examples of child employment legislation from countries with similar culture, such as the United Kingdom, and the Australian states of Queensland and Victoria. The NZCTU notes that although the Government has made some progress towards ratifying C.138, it has not yet developed draft legislation that would meet ILO standards for compliance.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>2006 AR:</b> According to the Government: New Zealand policy is not to ratify a Convention unless law, policy and practice fully comply with the provisions of the Convention.</p> <p>The NZCTU recommended ratification of C.138 by New Zealand.</p> <p><b>2002-2005 ARs:</b> The Government reported that it was assessing, in the context of reviewing its reservation to article 32(2) of the UN Convention on the Rights of the Child, whether a general minimum age would be the most appropriate protection against the exploitation of children in work. This work, once completed, would assist with determining whether New Zealand is able to ratify C.138.</p>

		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b> <p><b>2012 AR:</b> According to the Government: Updates on national policy includes improving the knowledge base for policy development.</p> <p><b>2011 AR:</b> According to the Government: The existing policies and legislative framework already provide effective age thresholds for entry to work in general, and for safe work. As in the previous ARs: These policies and legislative framework include: (1) The Education Act 1989; (2) The Health and Safety in Employment Act 1992; (3) The Health and Safety Employment Regulations; (4) The Prostitution Reform Act 2003; (5) The Sale of Liquor Act 1989.</p> <p><b>2007 AR:</b> According to the NZCTU: The NZCTU notes the Government announcement of new policy initiatives including “the development of specialized trade academies, expanded opportunities for school-based apprenticeships and enhanced trade and technology-based learning opportunities”. As yet the NZCTU has received no detail on such proposals. The NZCTU would welcome the opportunity to work with the Government on developing these proposals to maximize their relevance and fairness to young workers.</p> </li> <li>• <b>Legislation:</b> <p>The Health and Safety Employment Regulations 1995 restrict people under the age of 15 from working in dangerous workplaces, and they restrict people under the age of 16 from night work.</p> <p>According to BNZ: The legislative provisions referred to by the Government under this heading are as effective as any arbitrary age for employment would be in providing protections for young people in employment.</p> <p><b>2014-2015 ARs:</b> The Government restated that New Zealand’s existing policies and legislative framework which provide effective age thresholds for entry to work in general, and for safe work include the following: (i) The Education Act 1989 requires children to attend school until the age of 16 (with some limited exemptions, such as to attend alternative education or training), while employers are prohibited from employing children under 16 during school hours or when it would interfere with their attendance at school; (ii) The Health and Safety in Employment Act 1992 sets out duties to provide safe workplaces, and applies to all workers regardless of age. The Health and Safety Employment Regulations 1995 restricts people under the age of 15 from working in dangerous workplaces, and they restrict people under the age of 16 from night work; (iii) The Prostitution Reform Act 2003 prohibits people under the age of 18 from engaging in sex work. New Zealand Government takes the issue of underage prostitution very seriously. Police has included people trafficking in their Criminal Investigations Bureau (CIB) training module. This will help identify potential victims of underage prostitution. Police enquiries have not uncovered any evidence of underage prostitution; and (iv) The Sale of Liquor Act 1989 bans people under the age of 18 from selling liquor on licensed premises.</p> </li> </ul>
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		<p>NZCTU added that other restrictions apply to children and young people (for example there are restrictions on casino work for under-20s). There is a useful summary table here: <a href="http://www.dol.govt.nz/infozone/myfirstjob/parents/restrictions.asp">http://www.dol.govt.nz/infozone/myfirstjob/parents/restrictions.asp</a>. NZCTU stated that it does not believe that there is sufficient evidence for the government to claim that the age thresholds are appropriate and that children are subject to safe work. According to the latest available (2011) Injury Statistics</p> <p>(<a href="http://www.stats.govt.nz/browse_for_stats/health/injuries/InjuryStatistics_HOTP11.aspx">http://www.stats.govt.nz/browse_for_stats/health/injuries/InjuryStatistics_HOTP11.aspx</a>): work-related claims 15-24 year olds had significantly higher average annual workplace injury rates (116 claims per 1,000 FTE) than the general population (97 claims per 1,000 FTE). Data is not reported on under-15 year olds in that series.</p> <p><b>2009-2010ARs:</b> According to the Government: These policies and legislative framework include:</p> <p>(i) The Employment Relations Act 2000, sections 65, 54 and 5 (written employment agreement: individual and collective agreements and trial period); (ii) The Education Act 1989 requires children to attend school until the age of 16 (with limited exemptions such as to attend alternative education or training), while employers are prohibited from employing children under 16 during school hours or when it would interfere with their attendance at school; (iii) The Health and Safety in Employment Act 1992 sets out duties to provide safe workplaces, and it applies to all workers regardless of age. The Health and Safety Employment Regulations 1995 restrict young people under age 15 from working in dangerous workplaces, and they restrict people under 16 from night work; (iv) The Prostitution Reform Act 2003 prohibits people under 18 from sex work; (v) The Sale of Liquor Act 1989 bans people under 18 from selling liquor in licensed premises; and (vi) The Health and Safety in Employment Regulations 1995 as amended in 2008: protection of young people from hazardous work and extension of age restrictions on hazardous work and night work.</p> <p><b>2008 AR:</b> According to the Government: Relevant legislation adopted since 2006 includes the Education Amendment Act 2006. The National Student Number (NSN) was introduced into Part 30, section 341, of the Education Act 1989. This amendment provides additional security for monitoring the attendance and achievement of New Zealand students. The Government mentioned that as of 1 April 2007, under the Minimum Wage Act 1983, the adult minimum wage (for employees aged 18 years and over) is \$11.25 per hour and the youth minimum wage (employees aged 16-17 years) is \$9.00 per hour.</p> <p><b>2006 AR:</b> According to the Government: It passed into law the Employment Relations Amendment Act 2004.</p> <p><b>2003 AR:</b> According to the Government: New Zealand's national legislation does not establish a general minimum age for admission to employment.</p>
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		<p><b>Basic legal provisions</b></p>	<p>(i) The Employment Relations Act 2000, sections 65,54 and 5 (written employment agreement: individual and collective agreements and 90-day trial period); (ii) The Education Act 1989; (iii) The Prostitution Reform Act 2003 (prohibition of people under the age of 18 from sex work); (iv) Holidays Act 1981; (v) Wages Protection Act 1983; (vi) Equal Pay Act 1972; (vii) Health and Safety in Employment Act 1992; (viii) The Health and Safety Employment Regulations 1995 (restrictions for people under the age of 15 from working in dangerous workplaces, and people under the age of 16 from night work); (ix) The Sale of Liquor Act 1989 (ban for people under the age of 18 from selling liquor on licensed premises; (x) the Explosives Act 1957; (xi) Guardianship Act 1968; (xii) Children, Young Persons and their Families Act 1989; (xiii) Summary Offences Act 1981; and (xiv) Crimes Act 1961.</p>
		<p><b>Judicial decisions</b></p>	<p><b>NIL.</b></p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>Compulsory education</b></p>	<p><b>YES, the age of both boys and girls at the end of this period is 16 years (the Education Act 1989).</b></p>
		<p><b>Minimum age</b></p>	<p><b>2008 AR:</b> The NZCTU view is as follows: While noting that there is a strong cultural and community acceptance in New Zealand of part-time and casual employment for many young people, there is a need for legislation that would be both consistent with the aims of UNCRC and C.138, but without unduly restricting the right of children and young people to earn their own money. The development of legislation restricting the employment of young people from 13 to 15 years to light work as described in article 7 of the C.138, and setting the standard minimum age of employment at 16 years for other work would appear to meet these aims.</p> <p><b>2000-2005 ARs:</b> According to the Government: New Zealand’s national legislation does not establish a general minimum age for admission to employment. The Government does not believe that all forms of child employment are harmful. While restrictions exist on the employment of young persons (mainly in education and occupational safety and health legislation), there is a long-established practice of the employment of children in a range of work, including newspaper rounds and fruit picking.</p> <p>The Government considers that the employment of children in this type of work is not harmful, and indeed is socially desirable, since it prepares them for independence and greater responsibility.</p>
		<p><b>Worst Forms of Child Labour</b></p>	<p><b>C.182 is ratified.</b></p>

		<p><b>Special attention to particular situations</b></p>	<p><b>2013 AR:</b> The Government reiterated the statement it made under the 2011 AR.</p> <p><b>2012 AR:</b> According to the Government: Particular attention continues to be paid to young people working in farms. In November 2010, the Department launched a quad bike farm safety campaign. One of the four basic safety steps promoted was “Don’t let children ride adult quad bikes (over 90cc)”. The campaign is supported by information, and, from April 2011, has been broadened to include enforcement.</p> <p><b>2011 AR:</b> According to the Government: Particular attention has been paid to young people working in farms, as statistics show that New Zealand farmers and growers, and their families, suffer more accidents and illnesses in earning a living. Young people are especially at risk.</p>
		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2014-2015 ARs:</b> The Government indicated that it continues to provide information on matters related to children and young people and work with the aim of improving current practice. In this regard, the New Zealand Government is improving its information base through surveying school students. In 2012 the Youth2000 survey surveyed secondary school children from around 100 New Zealand schools and around 10,000 school students. It is running for the fourth time in 2013 (with results available mid-2014), and was previously run in 2001, 2007 and 2012. The Youth’12 survey offered representative and accurate information from young people in secondary schools throughout New Zealand about a wide range of risks and protective factors affecting young people. Youth’13 aims at getting as many school students as possible aged 13-18 to take part.</p> <p>NZCTU suggests that the Government should undertake a more systematic data collection and study of the issue of child labour in New Zealand. The Youth2000 survey mentioned in the Government’s report collects useful data on student employment but it appears that this has not yet been analysed in detail.</p> <p><b>2013 AR:</b> According to the Government: The Government is improving its information base through surveying school students. The Youth2000 survey is surveying secondary school children from around 100 New Zealand schools and around 10,000 school students. The survey is intended to gain representative and accurate information from young people in secondary schools throughout New Zealand about a wide range of risks and protective factors affecting young people.</p>

		<p>According to the NZCTU: There is limited statistical information on which to assess the extent of under-age employment in industry in New Zealand. Official employments are only available in respect of people on age but not on a disaggregated basis. As a starting point, age coding could be combined with other information on tax databases for information about those young people whose tax payments on wages are deducted by employers. Moreover, the NZCTU mentioned findings of a research report of the department of labour: (i) The estimated number of secondary students in part time work is assessed at over 100,000. The report suggests that if children of intermediate and primary school age were included as well, the total number of school children could be significantly higher. (ii) 46 per cent of those in the surveys aged 13 are in some form of paid work and there is evidence of 6 year olds working. (iii) 50 per cent of children do not have written employment agreements as required by law. (iv) 7 per cent of children under 16 years of age work between 10 pm and 6 am. This is currently illegal in the absence of an approved Code of Practice. (v) No detailed Accident Compensation Corporation (ACC) statistics as to accidents and injuries suffered by child workers. The NZCTU recommends that the Government collect data for young workers in one or two year bands and also gathers information on young workers earning less than the minimum wages. The NZCTU considers it difficult to assess whether New Zealand employment practice complies with C.138 or not, due to a lack of data on children under the age of 15 years in the workforce and the aggregation of workers aged 15 to 19 years. Furthermore, the NZCTU indicated that a survey will produce more information; it is not a substitute for an effective system for collecting, collating, and analyzing statistical information on a regular basis about the prevalence and type of work undertaken by children and young people on a regular basis. The information needs to be collected consistently and evaluated over time for trends of work activities with work related injury and fatality rates.</p> <p><b>2012 AR:</b> According to the Government: The Government continues to take a strategic approach to information sharing and gathering about matters related to children and young people and work. The assumption is that improving knowledge and awareness of the rights and practices related to children and young people and employment will improve current practice and also better enable an evaluation of the regulatory framework, including on matters related to the ratification of C.138.</p> <p><b>2011 AR:</b> According to the Government: The Government is taking a strategic approach to information sharing and gathering about matters related to children and young people and work. The assumption is that improving knowledge and awareness of the rights and practices related to children and young people and employment will improve current practice and also better enable an evaluation of the regulatory framework, including on matters related to the ratification of C.138. The strategic approach involves: (i) Improving promotion on children and young peoples' employment rights, including through measures such as the new on-line resource <i>My First Job</i>; (ii) Improving the knowledge base for policy development. Work underway includes an analysis of existing research on School Children in Paid Employment, which draws on previously untapped information sources, official statistics, and published research. An output of this work is a report which outlines what we know about the extent of youth employment in New Zealand, the associated conditions, and outcomes and gaps in this information.</p>
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This research is available at: <http://www.dol.govt.nz/consultation/myfirstjob/School-Children-in-Employment-Research-Summary.pdf>; and (iii) Improving engagement with stakeholders. An ongoing process of involving stakeholders in an evaluation of the online resource will raise awareness, improve the content of the resource through insight into the target audiences' understanding and practice, and improve understanding of the impact of the current regulatory framework.

According to the NZCTU: It has specifically sought collection and analysis of statistical information disaggregated by age on children and young people's participation in work. To date, statistical information on children's employment is still collected on a grouped, but not age disaggregated basis. The Action for Children in and Youth in AOTEAROA (ACYA) report to the United Nations Committee on the Right of the Child (UNCROC) is also accompanied by a number of working papers, including papers on Employment of Children and Child Poverty and Child Health. ACYA commented on O'Neil's research for the Department of Labour, noting: (i) the estimated number of secondary students in part time work is assessed at over 100,000. ACYA believes that if children of intermediate and primary school age were included as well, the total number of school children could be significantly higher; (ii) 46 per cent of those in the surveys aged 13 are in some form of paid work and there is evidence of 6 year olds working; (iii) 50 per cent of children do not have written employment agreements as required by law; (iv) 7 per cent of children under 16 years of age work between 10 pm and 6 am. This is currently illegal in the absence of an approved Code of Practice; (v) only limited research findings on young children working as contractors and the possible harm they may incur; and (vi) no analysis of ACC statistics as to accidents and injuries suffered by child workers.

Moreover: (1) The estimated number of secondary students in part time work is assessed at over 100,000. ACYA believes that if children of intermediate and primary school age were included as well, the total number of school children could be significantly higher. (2) 46 per cent of those in the surveys aged 13 are in some form of paid work and there is evidence of 6 year olds working. (3) 50 per cent of children do not have written employment agreements as required by law. (4) 7 per cent of children under 16 years of age work between 10 pm and 6 am. This is currently illegal in the absence of an approved Code of Practice. (5) Only limited research findings on young children working as contractors and the possible harm they may incur. (6) No analysis of ACC statistics as to accidents and injuries suffered by child workers. ACC statistics on work-related injuries (in 2006) showed around 300 children under 15 years old visited their local doctor for a work injury. Accident compensation entitlements or rehabilitation assistance, such as physiotherapy subsidies, were paid to around 10 children under 9; around 15 children in the 10-14 age bracket, and between 1,000-2,000 young people in the 15-19 age group.



		<p><b>2010 AR:</b> According to the Government: The Department of Labour has gathered information from its Contact Centre and inspectorates about what issues are being raised by young people (and those who make contact on behalf of young people). In 2009 the Department released the first in the National Monitoring Series of labour market reports on Youth Labour Market Outcomes. This provided a 5 year overview of trends for youth in education and employment. The change helps ensure that young people doing contract work have similar protection to young people working as permanent employees. The changes do not affect home occupiers engaging young people for domestic or gardening work in their own homes, and there is a special exemption allowing young contract workers aged 13 and over to use tractors for agricultural work provided they are fully trained or being trained. New policy initiatives that have been announced include the development of specialized trade academies, expanded opportunities for school-based apprenticeships and enhanced trade and technology-based learning opportunities. The Government has also announced its intention to accelerate the introduction of the Youth Guarantee Scheme. This will provide 16 and 17 year olds with an entitlement to free school-level education at a wider range of institutions, including schools, polytechnics, wānanga<sup>83</sup> and private training establishments or through apprenticeships.</p> <p>According to the NZCTU: The NZCTU agrees with the need to undertake additional research on young people in the workforce both as employees and as contractors. There is a general scarcity of information about the causes and situations of workplace injuries. The Department of Labour has received research indicating significant under-reporting of workplace accidents to young workers. There is also widespread under-reporting of accident compensation claims, particularly in the informal labour market where injuries may be attributed to non-work accidents as a way of the employer avoiding increased ACC premiums. The CTU believes that better information about the extent of children and young people working would help to quantify the highest areas of risk. Such information should be disaggregated and presented in individual year groupings to should which ages are most vulnerable.</p> <p><b>2008 AR:</b> According to the NZCTU: There is a need for better information on the extent of children’s and young people’s participation in the labour force. Noting the BNZ suggestion that New Zealand’s current laws and practices are broadly compliant with C138 through restricting employment of young people to that which does not interfere with their schooling, the NZCTU calls for better data on the numbers and ages of young workers, and the quantum of hours they work, to verify whether this assumption is accurate. As a starting point, age coding could be combined with other information on tax databases for information about those young people whose tax payments on wages are deducted by employers. The NZCTU recommends that the Government collect data for young workers in one or two year bands rather than grouped into five yearly bands (For example, to collect data on how many <i>eleven and twelve year old</i> children; how many <i>thirteen and fourteen year old</i> children; and how many <i>fifteen year old</i> children.) and also collect information on the hours they work (e.g. per week) to create a more substantive information base.</p>
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baselines under the ILO Declaration Annual Review are based on the following elements to the extent t

		<p>The NZCTU considers it difficult to assess whether New Zealand employment practice complies with C.138 or not, due to a lack of data on children under the age of 15 years in the workforce and the aggregation of workers aged 15 to 19 years.</p> <p><b>2007 AR:</b> According to the Government: The Department of Labour has completed a review of its data collection methods. Although the reports developed using these new methods have not yet been released, they are not expected to affect the Department's child labour information.</p> <p>According to the NZCTU: The NZCTU is pleased that the Government is taking steps to rectify the lack of disaggregated data. Data like Accident Compensation Cooperation (ACC) statistics give an indication that there are young people injured in the workplace but little other information is known.</p> <p><b>2006 AR:</b> According to the Government: The Department of Labour has recently tendered work to carry out a stock take on existing data collection methods. Data collection on child labour is covered by this project. The stock take will be completed next year and will be helpful to evaluate and improve data collection methods. The results of the exercise will be included in next year's report.</p> <p><b>2005 AR:</b> According to the Government: The most recent survey in 2002 was taken from Auckland regional schools, and collected information on the rates of participation in work, rates of pay, nature of work, and extent of employment rights.</p> <p>An analysis of the Christchurch Health and Development Study data show that working while still at school does not have any significant effect (detrimental or beneficial) on academic performance.</p> <p><b>2002 AR:</b> According to the Government: It undertakes surveys that provide statistical information on the extent and/or nature of child labour; the results of surveys are presented separately by sex and by age (15-19 years).</p> <p>The Government undertook research into options for improving information on youth participation in the labour market.</p> <p><b>2001 AR:</b> According to the Government: A reporting process has been carried out in order to identify options for improving information on the working patterns of children under the age of 16 years, with a view to undertaking further study of the position of these children in the labour market.</p> <p><b>2000 AR:</b> According to the Government: The Occupational Safety and Health Service (OSH) database records workplace injuries and deaths that have been investigated by OSH.</p> <p>According to the NZCTU: The NZCTU and the Post Primary Teachers' Association had recently carried out a survey through high schools to look at young people in employment.</p>
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	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2013 AR:</b> According to the Government: The Operational Manual for the Ministry of Business, Innovation and Employment’s (MBIE) Labour inspectorate was revised in November 2011. This followed legislative changes providing new enforcement tools for Labour inspectors. The operational manual provides guidance to inspectors when they are making complaint response decisions. For example, a complaint made by a young person will influence the decision to take direct intervention, as opposed to other options such as no further action or guided self-resolution.</p> <p><b>2011 AR:</b> According to the NZCTU: The review of the Approved Code of Practice (ACOP) for Youth (and children) working in the Entertainment Industry was conducted without direct advice to the NZCTU. The NZCTU subsequently requested additional submission time which was then given. The NZCTU understands the finalized Code will address many of the concerns that the NZCTU and other submitters raised over this Code, but this has not yet been released.</p> <p><b>2010 AR:</b> According to the NZCTU: While Government inspectors are able to respond to complaints, there does not appear to have been any increased vigilance in monitoring this sector in general. The NZCTU welcomed the legislative changes requiring rest and meal breaks, and extending health and safety in employment coverage to self-employed contractors. Many young people are employed as contractors in the distribution sector and there have been reports of unregulated and hazardous work in this sector. Legislation only has value if it is enforced.</p> <p><b>2008 AR:</b> The Government indicated that the New Zealand Department of Labour had established a Children’s Employment Work Programme (CEWP) Advisory Group to oversee the children’s employment work programme and any other issues relating to children’s employment. The CEWP Advisory group replaced the Child Labour Officials Advisory Committee (CLOAC), which has been in abeyance since 2004. Moreover, it stated that the Advisory Group was in the process of finalising its terms of reference in consultation with tripartite partners and confirming the work programme for 2007/08.</p> <p>According to the NZCTU: As at February 2007, there had been nine people convicted of employing or using prostitutes under the age of 18 as provided by sections 20-23 of the Prostitution Reform Act. The NZCTU notes that the sentences given to those convicted of these offences appear lenient and unlikely to deter further abuse of under-age sex workers.</p> <p><b>2006 AR:</b> According to the Government: Although New Zealand does not have a minimum age for employment, the measures currently in force in New Zealand do contribute to the protection of children in employment.</p> <p><b>2003-2005 ARs:</b> According to the Government: Inspection/monitoring mechanisms, penal sanctions and special institutional machinery have been implemented to enforce Minimum Ages for employment.</p> <p><b>2002 AR:</b> According to the Government: Legal reforms had been implemented to realize the principle and right (PR), whereas inspection/monitoring mechanisms are envisaged.</p> <p><b>2000 AR:</b> According to the Government: The right to enforce an employment contract through the Employment Tribunal and Employment Court is available to all employees, including children.</p> <p>The Education Act is administered and enforced by the Ministry of Education. A fine of up to \$1,000 may be imposed in relation to a breach of any of the Education Act provisions.</p> <p>The Family Court also provides a formal resolution process and may make a range of orders to protect the child and support care and protection arrangements.</p>
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	<p><b>Involvement of the social partners</b></p>	<p><b>2008 AR:</b> The NZCTU notes the Government replacement of the Child Labour Officials Advisory Committee (CLOAC) with a new body, the Children’s Employment Work Programme (CEWP) Advisory Group. CLOAC included representation by NZCTU. Consultation on NZCTU input to CEWP is continuing. The NZCTU understands from discussions with officials that CEWP will include C138 in its work agenda as well as work on C182.</p> <p><b>2002 AR:</b> According to the Government: The Government’s social partners, the NZCTU and NZEF, were being consulted on various issues including those relating to legal reform and inspection/monitoring mechanisms.</p>
	<p><b>Promotional activities</b></p>	<p><b>2014-2015 ARs:</b> According to the Government: The former Department of Labour (now Ministry of Business, Innovation and Employment - MBIE) updated in 2011 its manual “Achieving Sustainable Compliance” which presents the Ministry’s policy on the enforcement of employment standards. The manual includes the policy guidelines used by labour inspectors. The manual is available at: <a href="http://www.dol.govt.nz/er/compliance-policy/2011CompliancePolicy.pdf">http://www.dol.govt.nz/er/compliance-policy/2011CompliancePolicy.pdf</a>. MBIE has an online resource which promotes the rights of children and young people in relation to work. The My First Job online resource combines information from across government departments relating to children and young persons and employment. It provides information on common issues young people experience in the workplace, and also has advice for parents, guardians, and employers. The webpage is available at: <a href="http://www.dol.govt.nz/infozone/myfirstjob/">http://www.dol.govt.nz/infozone/myfirstjob/</a>.</p> <p>According to BNZ: BNZ supports the Government’s statement but adds that the kind of work in which young people in New Zealand engage is not ‘child labour’ as the ILO would understand that term. Child labour in an ILO sense is not condoned and would be dealt with severely were it found to exist. All young people in New Zealand receive tax-payer funded primary and secondary education up to the age of 16 years and beyond that age if they choose to stay on at school.</p> <p>According to NZCTU: NZCTU believes that insufficient efforts are being made to understand the scope and severity of the child labour problem and that more detailed data collection and study is needed. NZCTU emphasized that the My First Job online resource is useful but not sufficient and that it has not been adequately updated (for example, it still refers to the new entrant’s minimum wage which was superseded by the starting-out wage in 2013). Much of the information appears to have been taken from the general employment information site (and in some instances children are directed straight to the adult site) and the language is often technical and therefore difficult to understand. Given clear research findings that children are unaware of their minimum health and safety and employment rights, the lack of proactive promotion and education around these rights is concerning. NZCTU notes that the Labour Inspectorate’s policy on enforcing labour standards involves a greater emphasis on employee self-help than previously.</p> <p><b>2013 AR:</b> According to the Government: MBIE has an online resource which promotes the right of children and young people in relation to work. The “<i>My first job</i>” online resource combines information from across government departments relating to children and young persons and employment. It provides information on common issues young people experience in the workplace, and also has advice for parents, guardians and employers.</p>

		<p><b>2012 AR:</b> According to the Government: (i) The final report on School Children in Paid Employment discussed in the 2010 Declaration report has been released. The report outlines what we know about the extent of youth employment in New Zealand, the associated conditions, and outcomes and gaps in this information. The research is available at: <a href="http://www.dol.govt.nz/publications/research/schoolchildren-in-paid-employment/schoolchildren-in-paid-employment.pdf">http://www.dol.govt.nz/publications/research/schoolchildren-in-paid-employment/schoolchildren-in-paid-employment.pdf</a>; (ii) The Labour Department also undertook research projects exploring user feedback on the <i>My First Job</i> online resource. The results showed that the site was easy to understand and navigate, and that the content was comprehensive. However, the participants did make a number of suggestions to increase the visual appeal and search-ability, and for further information that could be included. The Department is considering the suggestions to enhance the online resource; (iii) The Department of Labour continues to regularly update the online resource <i>My First Job</i>. The <i>My First Job</i> online resource was discussed in the 2010 Declaration report.</p> <p><b>2011 AR:</b> According to the Government: The Government is taking a strategic approach to information sharing and gathering about matters related to children and young people and work. The assumption is that improving knowledge and awareness of the rights and practices related to children and young people and employment will improve current practice and also better enable an evaluation of the regulatory framework, including on matters related to the ratification of C.138. The strategic approach involves: (i) Improving promotion on children and young peoples' employment rights, including through measures such as the new on-line resource <i>My First Job</i>; (ii) Improving the knowledge base for policy development. Work underway includes an analysis of existing research on School Children in Paid Employment, which draws on previously untapped information sources, official statistics, and published research. An output of this work is a report which outlines what we know about the extent of youth employment in New Zealand, the associated conditions, and outcomes and gaps in this information. This research is available at: <a href="http://www.dol.govt.nz/consultation/myfirstjob/School-Children-in-Employment-Research-Summary.pdf">http://www.dol.govt.nz/consultation/myfirstjob/School-Children-in-Employment-Research-Summary.pdf</a>; and (iii) Improving engagement with stakeholders. An ongoing process of involving stakeholders in an evaluation of the online resource will raise awareness, improve the content of the resource through insight into the target audiences' understanding and practice, and improve understanding of the impact of the current regulatory framework.</p> <p>According to the NZCTU: The NZCTU has contributed with affiliates to testing the material for <i>My First Job</i>. This is a valuable resource that should be developed further with links to relevant standards and other supporting information. The information should cover the situation of contractors and application of occupational health and safety (OHS) provisions for these workers, particularly in relation to delivery work.</p>
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	<p><b>Special initiatives/ Progress</b></p>	<p><b>2011 AR:</b> According to the Government: The Department of Labour has developed a new online resource which promotes the rights of children and young people in relation to work. The <i>My First Job</i> online resource combines information from across government departments relating to children and young persons and employment. It provides information on common issues young people experience in the workplace, and also has advice for parents, guardians, and employers. This will be regularly updated to ensure it remains current.</p> <p><b>2009 AR:</b> NZCTU reports Government’s initiatives that include: (i) Education and Training initiatives; (ii) Income and Improvements; (iii) Improvements in work conditions and status, and information about worker rights.</p> <p><b>2008 AR:</b> The New Zealand Department of Labour has developed a proposal of potential policy options that may ensure full compliance of New Zealand law, practice and policy with the spirit of C.138. The Department of Labour has been engaged in a longstanding process of discussion with the ILO regarding compatibility of its law, policy, and practice with C.138. In April 2007 the Minister of Labour sent the Chairperson of the Committee of Experts on the Application of Conventions and Recommendations a letter outlining New Zealand's law, policy, and practice and requesting the Committee issue a general comment on application of the Convention. Officials are currently waiting for a response to this letter.</p> <p><b>2005 AR:</b> According to the Government: A number of government initiatives have been developed to provide improved financial assistance and social services to families and also improve health and education outcomes for clients of the Department of Child, Youth and Family Services:</p> <ul style="list-style-type: none"> <li>– The Blueprint Investment Strategy Phase 1 was undertaken to improve health and education services for Department of Child, Youth and Family Services (CYF) clients.</li> <li>– Student Aides: This initiative provides support to maintain CYF clients’ attendance, engagement and achievement in mainstream schools through the provision of one-to-one Student Aides in the classroom and, if necessary, in the playground.</li> <li>– The Government is also currently carrying out a work programme to improve knowledge of existing protections for children at work, compliance with children’s employment rights, and detection of exploitation when it does occur.</li> <li>– At international level, the Government expresses its intention to renew its assistance to other States and international organizations to combat child labour.</li> </ul>
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<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2011 AR:</b> According to BNZ: It is important for young people to continue to be able to acquire early experience of paid employment since this is a real help to them when looking for a permanent job. New Zealand is not alone in having a relatively high rate of youth unemployment and a young person with previous experience as a reliable employee will have a head start when it comes to finding work.</p> <p><b>2010 AR:</b> According to BNZ: Regarding the Government's comment that with the continuing economic recession some young people may be more vulnerable to exploitation, BNZ has its own concerns that the removal of the youth minimum rate and its replacement by a new entrants' rate of limited application has, perhaps unwittingly, contributed to the current high rate of youth unemployment.</p> <p>While government activity to inform young people of their employment rights and obligations is useful, there seems to be less recognition of the part out of school employment can play in helping students of school age achieve the core competencies set out in the new New Zealand school curriculum.</p> <p><b>2008 AR:</b> According to BNZ: BNZ is concerned about the NZCTU's comments on child poverty which have little if anything to do with the question of whether or not there is an actual minimum age for employment in New Zealand. As BNZ said in 2006, if some children work because of necessity that is not something that would be cured by having an age below which no child could work. It is also the case that while (as the NZCTU recommends) the minimum wage has been increasing, it may be that these increases are having an entirely opposite effect to that intended, keeping beneficiaries in their poverty trap because productivity levels do not reflect the wage payable. With regard to accidents to young people (referred to under the heading 'Exercise of the principle and the right') it needs to be recognized that 'workplace accidents' include such things as drowning in public swimming pools (classified as workplaces although the young person involved was not 'at work') and accidents to children on farms (where the children involved were similarly not 'at work'), which, while not acceptable, very much reflect the amount of farming activity occurring in this country and in no way equating to the lack of an actual minimum age for employment.</p> <p><b>2007 AR:</b> According to BNZ: There may be some involvement of young persons in prostitution but that is not related to the lack of a minimum age for employment. The provision of commercial sexual service under the age of 18 years is legally prohibited and anyone in receipt of such services, encouraging their provision or profiting from their provision can be subject to a maximum of 7 years' imprisonment. Most young people work to build up their own financial resources or in order to acquire non-essential items that parents may not feel obliged to provide. If there are young persons who work due to household necessity, this is not a situation which a minimum employment age can cure.</p> <p>BNZ agrees with the Government that not all forms of child employment are harmful but instead are socially desirable.</p>
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		<p><b>Workers’ organizations</b></p>	<p><b>2015 AR:</b> According to NZCTU: The extremely low numbers of labour inspectors in New Zealand add to the difficulties in checking on the problems and experiences of young people and children in employment. While NZCTU acknowledges that a few additional staff have recently been recruited it is far too little given the scale of the issues and New Zealand’s number of labour inspectors on international comparisons. There are also some specific issues about children and employment that are of a societal nature requiring dedicated resources for labour inspectors working with children and young people to ensure their employment rights are protected.</p> <p><b>2013 AR:</b> According to the NZCTU: Young people in rural parts of New Zealand are accustomed to helping on local farms, but there is still a high rate of farm-based accidents caused by the use of farm vehicles including ATVs and tractors by people under the age of 15.</p> <p><b>2011 AR:</b> According to NZCTU: Some children and young people have had negative experiences of work in New Zealand. Others have found their work experience beneficial and have appreciated the opportunity to earn their own money and improve their skills for future career choices. There is still a lack of regulation and minimum standards for employment of children and young people. Child poverty increases the risk of exploitation through low wages and at risk through work practices or conditions for which they receive little training or safety protection. Youth employment is a major issue in New Zealand. The unemployment rate for youth was 17.6 per cent for the year to June 2010, well above the annual average rate for all persons of 6.64 per cent. Youth have experienced substantial job losses during the recession, with some continuing to look for work, some returning to study, and others leaving the labour market altogether. In the June 2010 quarter, the number of unemployed youth aged 15-19 years was 37,800. Finally, the NZCTU is still concerned about an exemption for the use of tractors by Children and young people in rural parts of New Zealand who are accustomed to helping on local farms, including driving tractors and ATVs (all-inclusive guided squads), and working with animals.</p> <p><b>2010 AR:</b> According to the NZCTU: While the Government website has some information about the recent changes, the information is not easily located and would be difficult for many employers or young contract workers to find. The NZCTU does not know whether additional material has been sent to principal contractors, particularly in the distribution sector. The information available to young people on the website does not cover many risk situations that they may face. The NZCTU recommends that the Government prepare additional fact sheets to cover this area. The NZCTU is prepared to assist with feedback on information material. Moreover, the NZCTU notes with some concern the exemption for the use of tractors by children in the Government guide on “Youth Age Restrictions on Dangerous Work”.</p>

			<p>“There is an exemption for young people over the age of 12 doing agricultural work as contractors allowing you to drive or ride tractors, but only if you’ve been fully trained or are being trained.”</p> <p><a href="http://www.osh.govt.nz/publications/factsheets/youth-age-restrictions.html">http://www.osh.govt.nz/publications/factsheets/youth-age-restrictions.html</a> The NZCTU is unsure who would assess the adequacy of training in the use of a tractor for these young workers. While the NZCTU acknowledges that young people in rural parts of New Zealand are accustomed to helping on local farms, there is still a high rate of farm based accidents involving tractors and similar equipment and young people are more at risk. The NZCTU suggests that standards of training and assessment should be specified. Furthermore, the NZCTU notes that rising unemployment is encouraging young people to seek further training or education as an alternative to joblessness. But the funding caps on tertiary education institutes and lack of increased funding means that some young people will miss out on such opportunities. There are also concerns that a number of apprenticeships will be interrupted as some employers close down or reduce their businesses. There is insufficient planning to accommodate the need to transfer apprenticeships in such situations. There are estimated to be over 2,000 apprentices in the building and construction sector alone who have lost their jobs. The industry and individual employers are working to support these apprentices but there does not appear to be any cohesive Government plan of support or options for apprentices who lose jobs and whose training is interrupted.</p> <p>Amongst the programmes that were cut are the “<i>Innovations Pool for Students At Risk</i>,” and Adult and Community Education (ACE), which funds most night classes for adult recreational and skills education. ACE frequently provides a transition to other education for people who have not completed formal education. There are also cuts to tertiary education including vocational training. These reductions are likely to reduce the accessibility of training and education options for young people. The Government has announced changes to the Immigration Act to enable children illegally in New Zealand to have an application made for a Limited Purpose Permit in order to access publicly funded education, i.e. primary and secondary education at a state school. Currently such children may not be registered at a publicly funded school. In some cases the illegal status is a temporary situation while immigration documentation is completed. This change is a positive move but will need more support to enable young people to participate. The CTU also notes the Government has announced its “intention to accelerate the introduction of the Youth Guarantee Scheme (to) provide 16 and 17 year olds with an entitlement to free school-level education at a wider range of institutions, including schools, polytechnics, wānanga and private training establishments or through apprenticeships”. While the NZCTU welcomes the prospect of more education opportunities for young people, it is concerned there may not be adequate institutional resourcing to support such an extension. Unless funding caps are lifted or additional resources found for tertiary education institutes, the education sector may find it difficult to accommodate additional students.</p>
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		<p>The latter group suffers a reduction in income from deduction of child support payments, and may additionally be paying voluntary contributions directly to their children or former partner. Benefits rates have been reduced from 1 April 2006 as part of Government reform of the benefit system. While those already on a benefit did not get a reduction, new applicants for a benefit are paid at a lower level. With increases in costs of electricity, housing, food and other basics there is a commensurate increase in effective poverty. Child poverty is a motivating factor in children and young people choosing to work, even for very low wages. Many social commentators support an increase in the minimum wage as one step towards addressing poverty. Other commentators focus on measures to help adults off a benefit and into work. In general, the NZCTU supports training and skill development initiatives that will enable adult workers to take up well paid, meaningful work. Community agencies working directly with those on benefits recommend increases in the amount of financial assistance given, with more attention given to actual costs, and a quicker response where circumstances change. The NZCTU sees the benefit system as a temporary safety net for most recipients, and supports measures to ensure that children are not subjected to severe hardship or poverty during the time they are dependent on Government assistance.</p> <p><i>Need for Better Data.</i> The NZCTU is pleased that the Government is taking steps to rectify the lack of disaggregated data. Data like Accident Compensation Cooperation (ACC) statistics give an indication that there are young people injured in the workplace but little other information is known. <b>2006 AR:</b> According to the NZTCU: The collection of labour statistics needs to be improved to include the collection of disaggregated information relating to the employment and conditions of children and young people, among others.</p> <p><b>2005 AR:</b> According to the NZTCU: (i) few statistics are collected about the work activities of child and youth workers; few health and safety guidelines and codes of practice specifically for young people; (ii) students from lower socio-economic and younger age group are more likely to be working to supplement the family income; (iii) 57 per cent of young prostitutes were known to have come from poor or very poor families.</p> <p><b>2002-2003 ARs:</b> The NZCTU noted the inadequacy of current information on youth participation in the labour market. It also indicated that children of school-going age should not be in a situation where they need to work in order to support themselves or others financially.</p> <p><b>2000 AR:</b> The NZCTU raised the following observations: (i) the failure of the New Zealand Government to ratify C.138 shows a failure to recognize the principle of the effective abolition of child labour; (ii) the New Zealand Household Labour Force Survey does not cover children under 15 years old; and (iii) the Labour Inspectorate is now operated primarily as an information service with a very low number of inspectors.</p>
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	<p><b>According to the Government</b></p>	<p><b>2012-2013 ARs:</b> According to the Government: There is a need to improve knowledge and awareness of the rights and practices related to children and young people.</p> <p><b>2010 AR:</b> According to the Government: The Government has decided not to raise the age threshold from 15 to 16 for working in a number of sectors considered hazardous such as construction, logging and tree-felling operations. But the Department of Labour is looking at non-regulatory options to ensure the protection of young people under the age of 16 from hazardous work through developing practice guidelines and information. The Department of Labour is continuing to investigate workplace practices relating to persons between 16 and 18 years of age engaged in hazardous work. This work also includes reviewing literature containing experts' views on children's development, and their physical and psychological limits in relation to work. With the continuing economic recession, some young people may be more vulnerable to exploitation as they are competing on the job market for fewer jobs, against more experienced and skilled workers.</p> <p><b>2008-2009 ARs:</b> The Government reiterated the fact that all forms of child labour are harmful. While restrictions exist on the employment of young persons (mainly in education and occupational safety and health legislation), there is a long-established practice of the employment of children in a range of work, including newspaper rounds and fruit picking. The Government considers that the employment of children in this type of work is not harmful, and indeed is socially desirable, since it prepares them for independence and greater responsibility.</p> <p><b>2007 AR:</b> According to the Government: The Department of Labour has completed a review of its data collection methods. Although the reports developed using these new methods have not yet been released, they are not expected to affect the Department's child labour information.</p> <p>The Government further stated the following: (i) The Government does not believe that all forms of child employment are harmful. While restrictions exist on the employment of young persons (mainly in education and occupational safety and health legislation), there is a long-established practice of the employment of children in a range of work, including newspaper rounds and fruit picking; The Government considers that the employment of children in this type of work is not harmful, and indeed is socially desirable, since it prepares them for independence and greater responsibility; (ii) There has been no new relevant legislation passed since 2005 save for Minimum Wage Order 27 March 2006. For persons 16 or 17 years old, the minimum wage is NZ\$8.20 per hour, and for a person who is aged 18 or over, the minimum wage is NZ\$10.25 per hour. The Code of Good Faith was amended to take account of the Employment Relations Act (No. 2) 2004, and came into force on 11 August 2005.</p> <p><b>2006 AR:</b> In response to the NZCTU observations, the Government mentioned that the Department of Labour had recently tendered work to carry out a stock take on existing data collection methods. It indicated that data collection on child labour was covered by this project. The stock take would be completed next year and would be a helpful tool to evaluate and improve data collection methods. The results of the stock take would be included in next year's report.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> NZCTU reiterated its request that assistance should be sought from the ILO as to the best way to measure and analyse the prevalence and characteristics of child labour to address unsafe or exploitative work practices and move towards ratification of C.138.</p> <p><b>2014 AR:</b> NZCTU indicated that technical assistance should be sought as to the best way to measure and analyse the prevalence and characteristics of child labour with a view towards fixing unsafe or exploitative work practices and moving towards ratification of C138.</p> <p><b>2013 AR:</b> According to the NZCTU: New Zealand needs an effective system for collecting, collating and analyzing statistical information about the prevalence and type of work undertaken by children and young people in the country.</p> <p><b>2009-2012 ARs:</b> According to the Government and the NZCTU: Comments are the same as under the 2008 AR.</p> <p><b>2008 AR:</b> According to the NZTCU: The NZCTU notes that it may be helpful to the New Zealand situation if the ILO provides technical assistance to develop draft minimum age for employment legislation that is consistent with the aims of the United Nations Convention on the Rights Of the Child and C.138 and suits the national circumstances in New Zealand (i.e. legislation that would restrict the employment of young people from 13 to 15 years to light work as described in article 7 of the C.138, and would set the standard minimum age of employment at 16 years for other work.).</p>
	<p><b>Offer</b></p>	<p>ILO/IPEC.</p> <p><b>2005 AR:</b> At international level, the Government expressed its intention to renew its assistance to other States and international organizations to combat child labour.</p>
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that few governments, such as New Zealand (and three other governments), had indicated their current lack of effort to ratify C.138 and/or C.182. They recalled the following: "(...) in last year's Introduction we noted remarks from some constituents (the governments of Australia and New Zealand and Business New Zealand – BNZ) concerning the potentially negative effect of ratifying Convention No. 138 for young persons to enter the labour market. We pointed out that these concerns can be adequately addressed through the various possibilities inherent in the principle, for instance light work, or vocational training and apprenticeship. It is crucial to discuss this in tripartite consultation in each country, and we note that both of the social partners in New Zealand are commenting on this issue: while BNZ opposes the ratification of Convention No. 138, the New Zealand Confederation of Trade Unions (NZCTU) recommends ILO assistance to seek possible legislative action to allow light work from 13 years of age and set the general minimum age at 16 years, in line with Convention No. 138. We hope there will be continued efforts by the Office and, in particular, the International Programme on the Elimination of Child Labour (IPEC) on this issue." (cf. paragraph 57 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs listed New Zealand among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification. Furthermore, the ILO Declaration Expert-Advisers stated they hoped that the momentum of the positive dialogue on the realization of the PR would be kept, and the intention to ratify C.138 would be realized soon in New Zealand. They also mentioned the following: "Australia, New Zealand and the United States have expressed their intention to renew their assistance to other States and international organizations to combat child labour, including in its worst forms. Their assistance ranges from financial aid to participation in international forums. It is important to maintain a continuity of social programmes to combat child labour. Once programmes are interrupted, it is difficult to maintain the momentum. The sustainability of such programmes will be enhanced with the active support of employers' and workers' organizations" (cf. paragraphs 13 and 234 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	





<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>





**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2014-2015)**<sup>84</sup>: REPUBLIC OF PALAU

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, for the first time under the 2014 Annual Review (AR). Palau joined ILO in May 2012.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES: According to the Government: Involvement of the Palau Chamber of Commerce (PCC) through communication of the Government report.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>		
	<b>Workers' organizations</b>		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Palau has ratified neither the Minimum Age Convention, 1976 (No.138) (C.138) nor the Worst Forms of Child Labour Convention, 1999 (No182) (C.182).</b>
		<b>Ratification intention</b>	<b>Under consideration for both C.138 and C.182.</b> <b>2015 AR:</b> According to the Government: The ratification of C.138 and C.182 is under consideration. <b>2014 AR:</b> The Government has requested ILO technical assistance to help it consider ratification of all fundamental Conventions, including C.138 and C.182.
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES,</b> According to the Government: The Fundamental Rights are spelled out in Article IV of the Constitution of Palau, 1979.
		<b>Policy, Legislation and/or regulations</b>	
		<b>Basic legal provisions</b>	

hey are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

<sup>84</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent t

		<b>Judicial decisions</b>	
	<b>Exercise of the principle and right</b>	<b>Compulsory education</b>	
		<b>Minimum Age</b>	
		<b>Worst Forms of Child Labour</b>	
		<b>Special attention to particular situations</b>	
		<b>Information/ Data collection and dissemination</b>	
	<b>Monitoring, enforcement and sanctions mechanisms</b>		
	<b>Involvement of the social partners</b>	<b>2015 AR:</b> According to the Government: Social partners are currently involved in consultation process of the ILO technical assistance aimed at undertaking gap analysis and benchmarking labor laws, policies and practices in relation to the ILO's eight fundamental conventions.	
	<b>Promotional activities</b>		
	<b>Special initiatives</b>		
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	
		<b>Workers' organizations</b>	
	<b>According to the Government</b>		



<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> According to the Government: the Government approved for ILO to provide technical assistance aimed at undertaking gap analysis and benchmarking labor laws, policies and practices in relation to the ILO's 8 fundamental conventions.</p> <p><b>2014 AR:</b> According to the Government: Given that Palau is a new member State, the Government wishes to request ILO technical assistance for: (i) better understanding and reporting on the Fundamental Principles and Rights at Work, and (ii) reviewing its national legislation to assess compliance with ILO fundamental Conventions on child labour (C.138 and C.182).</p>
	<b>Offer</b>	
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	NIL.	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	
<b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the Resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>	



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>85</sup>: SAINT LUCIA**

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, but NOT for the 2000, 2001, 2004 and 2006-2011 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to Government: Involvement of the employers' organisations (the St. Lucia Employers' Federation- SLEF and the Chamber of Commerce and Industry of Saint Lucia –CCISL) and the workers' organisations (the St. Lucia Seamen Waterfront – SLSW ; the General Workers' Trade Union-GWTU; and the Committee of Workers of Saint Lucia – CWSL) through communication of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by SLEF <b>2014 AR:</b> Observations by SLEF <b>2008 AR:</b> Observations by SLEF	
	<b>Workers' organizations</b>	<b>2008 AR:</b> Observations by the General Workers' Trade Union (GWTU) and the Saint Lucia Civil Service Association (SLCSA).	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	Saint Lucia ratified in 2000 of the Worst Forms of Labour Convention, 1999 (No. 182) (C.182). However, it has not yet ratified the Minimum Age Convention, 1973 (No. 138) (C.138).  <i>Saint Lucia ratified the United Nations Convention on the Right on the Child (CRC) in 1993.</i>

hey are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

<sup>85</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent t



		<p><b>Ratification intention</b></p>	<p><b>YES, since 2002.</b></p> <p><b>2015 AR:</b> According to the Government: There are no impediments to the ratification of C.138, and that the Department of Labour recognises that the Government should be able to ratify this Convention.</p> <p><b>2014 AR:</b> The Government reported that there should be no hindrance to the ratification of the C.138 in 2014.</p> <p>SLEF indicated that a new labour code was adopted in 1 August 2012, which complies with the provisions of C.138. Accordingly, the ratification of this convention should soon be finalised.</p> <p><b>2013 AR:</b> According to the Government: C.138 should be ratified very soon as a result of the revision of Labour Act No 27 of 2006 that matches the minimum age for admission to employment or work with the age at the end of compulsory schooling, i.e. 15 years.</p> <p><b>2012 AR:</b> According to the Government: Saint Lucia anticipates ratifying C.138 after the new Labour Code takes effect.</p> <p><b>2008 AR:</b> The Government indicated its intention to ratify C.138 once the 2006 Labour Code would be adopted in conformity with C.138.</p>
			<p><b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001), the Government intended to ratify C.138.</p>
	<p><b>Recognition of the principle</b></p>	<p><b>Constitution</b></p>	<p><b>NO.</b></p>

	<b>and right (prospect(s), means of action, basic legal provisions)</b>	<b>Policy, legislation and/or regulations</b>	<p><b>2015 AR:</b> According to the Government: The Labour Act is now in conformity with the Education Act on the issue of the minimum age for admission to employment.</p> <p><b>2013 AR:</b> According to the Government: Labour Act No 27 of 2006, section 122, has been revised and ordered in 2012 to match the minimum age for admission to employment or work with the age at the end of compulsory schooling, i.e. 15 years.</p> <p><b>2012 AR:</b> The Government stated that the Labour Code had basically given effect to the provisions of C.138.</p> <p><b>2008 AR:</b> According to the Government: The 2006 Labour Code prohibits employment of children aged 15 and under (section 122). The Education Act No. 41 of 1999 (sections 27 and 47) makes it an offence to employ a child of compulsory school age (5 to 15 years).</p> <p>The Labour Code has not entered into force yet. Therefore, the Employment of Women, Young Persons and Children (chapter 100) – which: (i) defines a child as a person under the age of 14; and (ii) prohibits its employment only in industrial undertakings is still in force.</p> <p>Moreover, the Government declares that its education policy on compulsory education (from 5 to 15 years of age) and its policy of universal secondary education (between 12-17 years of age) contribute to the realization of the PR.</p> <p><b>2002-2005 ARs:</b> According to Government: The Government’s Education Sector Development Plan for 2000-2005 promotes the principle and right (PR). The Government also states that the Labour Code, which is currently in draft form, will re-emphasize its policy on child labour (section B 81).</p>
		<b>Basic legal provisions</b>	(i) The St. Lucia Labour Act No. 37 of 2006; (ii) The Education Act No. 41 of 1999; (iii) The Employees (Occupational Health and Safety) Act; and (iv) Employment of Women, Young Persons and Children, Saint Lucia Revised Ordinances of 1957.
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Compulsory Education</b>	<b>YES, the age of both girls and boys at the end of compulsory schooling is 15 years.</b>

		<p><b>Minimum age</b></p>	<p><b>2008 AR:</b> According to the Government: section 122 of the Labour Code prohibits the employment of children under the minimum school leaving age, with the following exceptions: (i) job training; (ii) community services outside school hours; and (iii) work done in technical schools or by members of a recognized youth organization outside of school hours, for the purpose of raising funds. However, pending the entering into force of the Labour Code, 2006, the Employment of Women Young Persons and Children, chapter 100, is still in force and forbids the employment of a child i.e. a person under the age of fourteen years in any industrial undertaking.</p> <p><b>2002-2005 ARs: The general minimum age for admission to employment or work is 14 years for both boys and girls.</b></p> <p>The general minimum age for admission to employment covers family and small scale agriculture; it does not cover the following types of work: work performed in a family-owned or operated enterprise; work performed in enterprises below a certain size; home work; domestic service; self-employed work; commercial agriculture; light work; and work performed in export processing zones.</p>
<p><b>Exercise of the principle and right</b></p>	<p><b>Exercise of the principle and right</b></p>	<p><b>Minimum age</b></p>	<p><b>Hazardous work: No definition.</b> However, the Employees’ (Occupational Health and Safety) Act, section 23, prohibits persons under the age of 18 years from engaging in industrial work (examples of industrial undertakings are provided for in the schedules of the legislation).</p>
		<p><b>Worst forms of child labour</b></p>	<p><b>C.182 is ratified.</b></p>
		<p><b>Special attention to particular situations</b></p>	<p><b>2012 AR:</b> According to the Government: The Department of Human Services is engaged in public education and advocacy on the rights of children, with emphasis on sexual abuse of children. The Government has ensured there is sufficient access to secondary schools by school aged children. The Ministry of Education puts measures to help marginalised children or those at risk of dropping out of school.</p>
		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2008 AR:</b> According to the Government: The national database on child labour has not been developed. There is still a need for further publicity of the issue by the Ministry of Labour. The Ministry of Education’s policy of monitoring of secondary schools helps. Also, counselors at schools treat cases of truancy with seriousness. However, the Ministry of Education is preparing to undertake a study on student drop outs. This should provide information about any connection between child labour and school absenteeism.</p> <p><b>2005 AR:</b> According to Government: A national database is being developed to identify children at risk.</p> <p><b>2002 AR:</b> According to Government: information on the sanctions applied to users of child labour and officially recorded.</p>

	<p><b>Prevention/Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2012 AR:</b> According to the Government: The Ministry of Education puts measures to help marginalised children or those at risk of dropping out of school.</p> <p><b>2008 AR:</b> According to the Government: The Department of Human Services investigates cases of children at risk i.e. in abusive situations. Moreover, workplace inspections are carried out by the Department of Labour.</p> <p><b>2002-2005 ARs:</b> According to Government: Formal inspection visits by the Labour Department look for infringements of the law on work of young persons. The Department of Human Services monitors reported instances of child labour.</p>	
	<p><b>Involvement of the social partners</b></p>	<p><b>2015 AR:</b> According to the Government: The social partners were extensively involved in the preparation of the Labour Act. Their involvement is also evident in collective agreements, such as for example, scholarships to children of employees are negotiated by employers and trade unions.</p> <p><b>2014 AR:</b> The Government indicated that social partners are principally involved in the examination of the Government’s reports and to some extent in the preparation of the Labour Act.</p> <p><b>2002-2005 ARs:</b> According to Government: Social partners are in a tripartite task force to draft the new Labour Code.</p>	
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: The Ministry of Education continues to pursue a policy that aims to ameliorate disadvantaged school children in so far as bursaries, school transport, and technology tools are concerned. Despite financial constraints, the Government continues to provide for children’s education via initiatives such as bursaries, and the provision of tools to secondary school children e.g. lap top computers. This is believed to prevent students of school age from being forced into employment situations. The Department of Human Services continues its advocacy on the rights of children.</p> <p><b>2012 AR:</b> According to the Government: The Department of Human Services is engaged in public education and advocacy on the rights of children, with emphasis on sexual abuse of children. The Government has ensured there is sufficient access to secondary schools by school aged children.</p> <p><b>2008 AR:</b> The Government indicated that there were no new activities organized supplementing the financial resources of families in need, apart from the one undertaken by the Department of Human Services.</p> <p><b>2005 AR:</b> According to Government: The Department of Human Services provides educational assistance in the form of stipends, uniforms and other subsidies. There is also a school-feeding program. The Government also states that it is also organizing awareness raising/advocacy activities on the PR.</p>	
	<p><b>Special initiatives/Progress</b></p>	<p><b>2013 AR:</b> According to the Government: Labour Act No 27 of 2006 has been revised and ordered in 2012 to match the minimum age for admission to employment or work with the age at the end of compulsory schooling, i.e. 15 years.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2015 AR:</b> SLEF remains concerned about the cases of children helping their families on weekends and school vacation in some forms of commercial activity which could possibly encroach on their school days.</p> <p><b>2008 AR:</b> According to the SLEF: SLEF is not aware of the existence of child labour in the country. However, there are cases where children help their family out during holidays and on weekends.</p>



		<p><b>Workers' organizations</b></p>	<p><b>2008 AR:</b> According to the GWTU: some cases of child labour exist to some extent in the informal economy, where children are expected to help out their family after school or on weekends.</p> <p>The SLCSA added that child labour is not an issue in the country anymore due to the decline of the banana sector and the importance put on education. However, during Summer and Easter vacations, children can be seen along the roadsides selling craft items to tourists.</p>
	<p><b>According to Government</b></p>		<p><b>2015 AR:</b> The Government indicated that the present economic reverse and the retrenchment of workers could contribute to children being forced into commercial situations. There seems to be a decrease in a number of children engaged in commercial activity during weekends, while the Government suspects the existence of clandestine forms of child labour this is yet to be confirmed through empirical evidence.</p> <p><b>2013 AR:</b> The Government indicated that it was suspecting the existence, in very clandestine forms, of child labour in the country.</p> <p><b>2012 AR:</b> According to the Government: If Child labour exists the Government suspects that it may be in a very clandestine form.</p> <p><b>2008 AR:</b> According to the Government: The 2006 Labour Code has not entered into force yet and legislation not complying with international labour standards is still applicable. The Department of Labour is not certain of the existence of child labour. Therefore, the main challenge is to ascertain its existence through solid research and statistical analysis.</p> <p><b>2002-2005 ARs:</b> According to Government: Child labour is an issue in the informal economy. There is also a mismatch between the minimum age for admission to employment (14) and the compulsory school leaving age (15), which the new Labour Code will address by prohibiting the employment of children who have not completed 15 years of age.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>		<p><b>2015 AR:</b> According to the Government: The Department of Labour requires assistance to carry out a survey for ascertaining the existence and forms of clandestine child labour. The Government hopes that this can help properly identify and respond to issues related to child labour.</p> <p><b>2013 AR:</b> According to the Government: ILO technical assistance would be needed to carry out a survey on the magnitude of child labour in Saint Lucia. Furthermore, Government's officials would need special training and experience sharing on the FPRW. A national tripartite action plan on the fundamental principles and rights at work (FPRW) can be drawn up at the end of national workshop organized in the country in cooperation with ILO.</p> <p><b>2012 AR:</b> According to the Government: Technical assistance is needed to undertake a study to pinpoint any forms of child labour.</p> <p><b>2008 AR:</b> The Government required assistance from the ILO for carrying out the following: (i) a case study on child labour to be validated by a seminar on its follow-up, in collaboration with employers' and workers' organizations; and (ii) capacity building and training of labour officials.</p> <p><b>2005 AR:</b> According to Government: There is a need for technical cooperation with the ILO to assist in the realization of the PR in the following areas, by order of priority: (1) Training (sensitization of government officials on issues of child labour); (2) raising awareness of situations that could lead to involvement of children in work; (3) Data collection: improvement of the documentation on child labour; (4) Assistance in policy-making and the setting up of a national database concerning children at risk</p>



	<b>Offer</b>	ILO.
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	NIL.	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101st Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	
<b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the Resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>	



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)** <sup>86</sup>: SOMALIA

*THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)*

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the 2006 Annual Review (AR). No change reports under the 2007 AR (national crisis) and the 2011 AR.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<p>According to the Government: The Somalia Employers' Association (SEA) has been established in January 2007. Small workers' unions have been also established, but the umbrella national union is yet to be established, as part of an ongoing process.</p> <p>According to the Government: A process is being developed in view of establishing in the country new employers' and workers' organizations. An employers' organization has been set up during the year 2009: Somalia chamber of commerce and industry (SCCI). The Somali Federation of Trade Union (SOFETU) has been recognized by the Government in 2010. This Federation is composed of 16 trade unions. The Federation of Somali Trade Unions (FESTU) was created in March 2010 and is composed of five affiliates. FESTU indicated the prospect of three more sectoral unions to join the Federation in a near future. One of its affiliates is the National Union of Somali Journalist (NUSOJ). The Somali Congress of Trade Union (SCTU) is a newly created union.</p>
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2015 AR:</b> Observations by SCCI</p> <p><b>2014 AR:</b> Observations by SCCI</p> <p><b>2010 AR:</b> Observations by SCCI</p>
	<b>Workers' organizations</b>	<p><b>2015 AR:</b> Observations by the FESTU Observations by the SCTU</p> <p><b>2014 AR:</b> Observations by the FESTU</p> <p><b>2013 AR:</b> Observations by the FESTU and NUSOJ</p> <p><b>2012 AR:</b> Observations by the FESTU and its 16 affiliates</p>

hey are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

<sup>86</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent t

<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Somalia has ratified the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). It has not yet ratified the Minimum Age Convention, 1973 (No. 138) (C.138).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>YES, since 2007, for C.138</b></p> <p><b>2015 AR:</b> The Government indicated that it has been fighting against child labour and reiterated its intention and political commitment to ratify C.138.</p> <p>SCCI, FESTU and SCTU expressed their full support for the ratification of C.138.</p> <p><b>2014 AR:</b> The Government confirmed its intentions to ratify C. 138 and C. 182; however it reiterated that ILO technical assistance is required to move ahead with the ratification process.</p> <p>SCCI and FESTU expressed their support to the position of the Government in ratifying the Conventions.</p> <p>The FESTU considered the ratification of C.138 and C.182 as a priority. It indicated, however, that no progress had been made in the ratification process over the last year.</p> <p><b>2013 AR:</b> The Government of Somalia reiterated its request for ILO's assistance to accelerate the ratification process of all unratified ILO fundamental Conventions, including C.138 and C.182.</p> <p>The FESTU and NUSOJ expressed their full support for the ratification of C.138 and C.182, also indicating that no progress had been made over the last year.</p> <p><b>2012 AR:</b> According to the Government: A comprehensive review of Labour laws will be undertaken once the country is out of the current crisis.</p> <p>The FESTU expressed its full support for the ratification of C.138 and C.182, while emphasizing that priority would be given to overcoming difficulties linked with the current political and security situation in the country.</p> <p><b>2010 AR:</b> The Government indicated its intention to ratify the core Conventions only when the country experiences a peaceful process that would allow the adoption of new legislation.</p> <p>The SCCI fully supported the ratification of all core Conventions by Somalia. However, they shared the Government's opinion that ratification of any Convention would be difficult because of the political situation of the country.</p> <p><b>2009 AR:</b> The Government confirmed its intention to ratify all the ILO fundamental Conventions, including C.138 and C.182, as soon as possible and with ILO's technical support.</p> <p><b>2008 AR:</b> The Government intends to ratify the ILO fundamental Conventions, but lacks technical capacities. Once the technical guidance which was requested to the ILO in 2005 is received, the Government will start the ratification process in consultation with the social partners.</p> <p><b>2006 AR:</b> According to the Government: With a view to considering ratification of all ILO fundamental Conventions, the Government would appreciate receiving ILO technical assistance in organizing a national workshop on labour standards and the Declaration on Fundamental Principles and Rights at Work (FPRW).</p>

	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	YES, the principle of the effective abolition of child labour (PR) is recognized in Somalia under articles 18.4 and 24.2 of the 2004 Somali Transitional Federal Charter (STFC).
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li><b>Policy:</b> NO, however: <b>2006-2008 ARs:</b> The Government intended to adopt a policy on the principle and right (PR).</li> <li><b>Legislation:</b> The PR is recognized under section 90 of the Labour Code, Law no. 65 of 1972. <b>2014 AR:</b> The Government indicated that it is in the process of reviewing the labour law using the 8 fundamental Conventions as guidance.</li> </ul>
		<b>Basic legal provisions</b>	(i) The 2004 Somali Transitional Federal Charter (STFC) (article 90); and (ii) the Labour Code, 1972 (sections 90 and 94).
		<b>Judicial decisions</b>	NIL.
	<b>Exercise of the principle and right</b>	<b>Compulsory education</b>	YES, the age of boys and girls at the end of compulsory schooling is 15 years, with a general requirement of 8 years/grade of instruction.
		<b>Minimum age</b>	<b>2006 AR: General minimum age for admission to employment or work: 15 years for both boys and girls, that also covers light work, but not hazardous work.</b> <b>Hazardous work is defined</b> in the legislation and the minimum age for engaging in that type of work is 18 years, for both boys and girls (section 94 of the Labour Code).
		<b>Worst Forms of Child Labour</b>	<b>C.182 is ratified.</b>
		<b>Special attention to particular situations</b>	<b>2013 AR:</b> The FESTU is currently carrying out a survey as part of targeting forced and child labour in five agricultural areas.
		<b>Information/ Data collection and dissemination</b>	<b>2013 AR:</b> The FESTU is currently carrying out a survey as part of targeting forced and child labour in five agricultural areas. This survey has been developed in collaboration with the ILO regional office in Nairobi.
	<b>Monitoring, enforcement and sanctions mechanisms</b>	NO.	
<b>Involvement of the social partners</b>	<b>2014 AR:</b> The FESTU reported that while no tripartite dialogue exists in the country, the dialogue between the social partners had improved over the last year, including discussions concerning child labour.		



	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> SCCI indicated that it has participated in discussions related to child labour issues. FESTU and SCTU stated that they organize workers and run campaigning for ratification.</p> <p><b>2014 AR:</b> The Government, SCCI and FESTU expressed their willingness to march with international community's fight against child labour.</p> <p><b>2008 AR:</b> A government official was trained on International Labour Standards (ILS) and the Declaration Follow-up between May-June 2007 under the sponsorship of the ILO/Turin Centre.</p>	
	<p><b>Special initiatives/Progress</b></p>	<p><b>NO.</b></p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2015 AR:</b> SCCI stated that lack of human resource and institutional capacity to do the work as well as time taking procedures involved pose challenges in the process of ratification.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> FESTU and SCTU indicated that Parliament has not yet debated on the C.138 and this affects the timing of the ratification process. Also, FESTU restated that limited institutional capacity to recognize and deal with child labour issues continues to be a challenge for ratifying C.138.</p> <p><b>2014 AR:</b> According to the FESTU: The weak government structure and the inability of the Government to recognize and deal with the problem of child labour seriously hampers any attempts to realize the PR and move ahead with the ratification of C.138 and C.182. Furthermore, there is a lack of social dialogue.</p> <p><b>2013 AR:</b> According to FESTU and NUSOJ: Child labour and child soldiers are widespread problems in the country. Child soldiers are being used by the transitional Government, by regional administrators, by warlord and militias.</p> <p><b>2012 AR:</b> According to FESTU: The problem of worst forms of child labour in Somalia mainly concerns child soldiers: The main challenges in realizing the PR are related to the political situation, the lack of peace and security, and the fact that child soldiers are a sensitive issue that needs to be dealt with carefully, as it may affect trade unions' security in the national context.</p>



	<p><b>According to the Government</b></p>	<p><b>2014–2015 ARs</b> According to the Government: Many challenges including security have been overcome and now the tripartite system can work adequately and ratification of the Convention will happen soon.</p> <p><b>2013 AR:</b> The Government indicated that global and sustainable peaceful situation in the country was a challenge to the implementation of the fundamental principles and rights at work (FPRW) in Somalia. It further mentioned the lack of tripartite capacities on the FPRW, ratification and reporting issues.</p> <p><b>2012 AR:</b> According to the Government: The political crisis, the lack of skilled workers and the low capacity of social partners make it difficult to realize the PR.</p> <p><b>2010 AR:</b> According to the government the problem of instability because of the war, stops all plan to promote the C.138 &amp; C.182. According to the Government: The Government reiterated the same peace and capacity challenges that made it difficult to realize the PR.</p> <p><b>2009 AR:</b> The Government reiterated the same peace and capacity challenges that made it difficult to realize the PR.</p> <p><b>2008 AR:</b> According to the Government: there is a worrying number of working children and child soldiers due to poverty and the instability because of the national crisis.</p>
		<p><b>2007 AR:</b> The Government reported no change because of difficult national circumstances.</p> <p><b>2006 AR:</b> The Government indicated that the main obstacle that had been encountered in Somalia in realizing the PR were as follows: (i) political situation; (ii) legal framework; (iii) lack of training and capacity of labour administration and employers' and workers' organizations; (iv) the effects of the civil war; (v) poverty and unemployment; (vi) displacements of the population; and (vii) lack of schools and civic education.</p>

<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: Somalia needs ILO technical assistance, mainly through a national tripartite workshop to finalize the ratification process of C.138 and tripartite training and capacity building on the FPRW. SCCI indicated the need for ILO support to build institutional capacity, develop database system, create educational level awareness and promote tripartite engagement.</p> <p>FESTU and SCTU expressed that ILO technical assistance is required to support the engagement of workers with the Government and Parliament, to understand better ways to campaign in trade unionism, to build capacity in trade union development and to sensitize relevant Government personnel and employers’ organisations to facilitate the ratification process of C.138.</p> <p><b>2014 AR:</b> The Government reiterated the need for ILO’s technical assistance to facilitate the ratification of C. 138 and C. 182. SCCI and FESTU supported this request. The FESTU further indicated that it was intending to carry out a child labour survey and that ILO support would be needed in this regard. It also stressed the need for an ILO Decent Work Country Programme in Somalia.</p> <p><b>2013 AR:</b> The Government reiterated its request for ILO’s technical support to: (i) speed up the ratification process of ILO unratified fundamental, including C.138 and C.182, and; (ii) build up tripartite capacities on the FPRW, ratification and reporting issues.</p> <p>The FESTU requested ILO technical cooperation to facilitate the realization of the PR by strengthening capacity of workers’ organizations on FPRW including the elimination of child labour, and by organizing a special training programme for workers’ representatives on the PR.</p> <p><b>2012 AR:</b> According to the Government: The ILO is needed for capacity building of all social partners.</p> <p>The FESTU requested ILO’s assistance in dealing with child labour and the particular sensitive issue of child soldiers in Somalia, in particular through initial awareness raising about the problem.</p> <p><b>2010 AR:</b> According to the Government: The country needs assistance in making labour laws and support in fighting child labour. The Government indicated there is a need for ILO assistance in the following areas: (i) Training for the responsible government institutions and strengthen Government’s building capacity when peace time comes; (ii) Assistance in the effective abolition of child labour and its worst forms, particularly for the child soldiers. The Government further made a plea for ILO to keep Its activities in the country despite the war.</p> <p>According to the SCCI: ILO technical assistance will be needed to train the responsible government institutions and strengthen government’s building capacity when peace time comes.</p> <p><b>2009 AR:</b> The Government reiterated the requests for ILO technical cooperation made since the 2006 AR and expressed its interest in having an ILO Decent Work Country Programme developed in Somalia when national situation allows it.</p> <p><b>2008 AR:</b> The Government reiterated its request for ILO/IPEC technical assistance made under the 2006 AR. Furthermore, it requested a special ILO assistance to fight against child involvement in armed conflict, namely through prevention, and rehabilitation of child ex-combatants through skills training.</p>
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		<p><b>2006 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Somalia, in particular in the following areas, in order of priority: (1) Policy advice; (2) Capacity building of responsible government institutions; (3) Employment creation, skills training and income generation; (4) Strengthening capacity of employers' and workers' organizations; (5) Special programme for the elimination of the worst forms of child labour; (6) Legal reform; (7) Training of other officials (police, judiciary, social workers, teachers); (8) Awareness raising, legal literacy and advocacy; (9) Social protection systems; (10) Data collection and analysis; (11) Sharing of experiences across countries/regions; (12) Cross-border cooperation mechanisms; (13) Inter-institutional coordination.</p> <p>Furthermore, after 15 years of civil war and political turmoil, in 2004, a Transitional Federal Parliament and Transitional Federal Government were formed in Nairobi, Kenya. The Government has launched a programme with the view to establish a new labour administration, new employers' and workers' organizations, new tripartite institutions, revised labour laws and new labour courts.</p> <p>In this historical and instrumental process for national peace, stability and reconstruction, the ILO assistance is most needed to enable the Government to apply the Convention in law and practice, and report accordingly. In view of considering the ratification of all ILO Fundamental Labour Conventions, the Government requests the organization of a national workshop on these standards and the Declaration, with ILO technical assistance.</p>
	<b>Offer</b>	ILO (including assistance in reporting under the 2006 AR).
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) considered that universal ratification of the child labour Conventions was not a distant dream but an achievable goal, in view of the number of States, including Somalia, having expressed their intention to ratify C.138 and/or C.182 (cf. paragraph 56 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs noted the paucity of practical information of several reports, including the one of Somalia, which complicated their task of assessing the extent to which the PR is realized in the countries concerned. They drew the attention of governments to the possibility of requesting technical assistance from the Office to facilitate fuller and more comprehensive reporting (cf. paragraph 52 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2006 AR:</b> The IDEAs encouraged the Government of Somalia that had provided its first report under the Declaration to follow up and had expressed its willingness to ratify C.87 and C.98 (cf. paragraph 34 of the 2006 Annual Review Introduction – ILO: GB.295/5).</p> <p><b>2005 AR:</b> The IDEAs looked forward to receiving a first reply from the Somalia and other countries that had never reported under the Declaration Annual Review (cf. paragraph 8 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2003-2004 ARs:</b> The IDEAs expressed concern that several countries, including Somalia, had never reported under the Declaration Annual review. They recommended that the Office initiate a dialogue with Somalia and other countries that had never reported under the Declaration Annual Review (cf. paragraph 9 of the 2003 Annual Review Introduction – ILO: GB.286/4, and paragraph 16 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)**<sup>87</sup>: SURINAME

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, except under the 2011 Annual Reviews (AR).	
	<b>Involvement of Employers' and Workers organizations in the reporting process</b>	YES, according to the Government: Involvement of employers' organizations (the Vereniging Surinaams Bedrijfsleven (VSB); and the Associatie van Surinaamse Fabrikanten (ASFA)) and workers' organizations (the Confederation of Labour Unions in Suriname (RAVAKSUR) members are: the Centrale van Landsdienaren Organisatie (CLO); the Federatie van Agrariërs en Landarbeiders (FAL); the Progressieve Werknemers Organisatie (PWO); the Organisatie van Samenwerkende Autonome Vakbonden (OSAV); the Progressieve Vakcentrale C-47 (C-47), and the General Alliance of Labour Unions in Suriname (AVVS, or De Moederbond) by means of consultations and communication of the Government's report.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by VSB. <b>2014 AR:</b> Observations by VSB. <b>2012 AR:</b> Observations by VSB.	
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by PWO. <b>2014 AR:</b> Observations by RAVAKSUR. <b>2013 AR:</b> Observations by C-47. <b>2012 AR:</b> Observations by C-47. Observations by CLO. Observations by RAVAKSUR. <b>2009 AR:</b> Observations by RAVAKSUR. <b>2008 AR:</b> Observations by CLO.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	Suriname ratified in 2006 the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). However, it has not ratified the Minimum Age Convention, 1973 (No. 138) (C.138).

they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

<sup>87</sup> Las referencias por países dentro del Examen anual de la Declaración de la OIT están basadas sobre los elemen



		<b>Ratification intention</b>	<p><b>YES, since 2000, for C.138.</b></p> <p><b>2015 AR:</b> According to the Government: The Ministry of Labour, Technological Development and Environment has already submitted its proposal for ratification of the Convention No. 138 to the Council of Ministers for the government approval. The new Council of Ministers was installed in August 2015 for a new term of five years. After the approval by the Council, the documents will be submitted to the State Council for approval and ultimately to The National Assembly for the final government decision towards execution and completion of the national ratification process. In July 2015 the new setting of the National Assembly was also established for the term of five years. The ratification is part of the Decent Work Country Program Suriname 2014-2016.</p> <p>The VSB reiterated its support for the ratification of C.138.</p> <p>PWO expressed its support for the ratification of C.138, adding that the national law should be amended and the minimum age for compulsory schooling should also be revised.</p> <p><b>2014 AR:</b> According to the Government: Suriname reiterates its intention to ratify C.138, but legal</p>
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amendments are needed before any further steps can be taken in the ratification process. Legal amendments relating to the age for compulsory schooling are still pending before the Ministry of Education.

The VSB and the RAVAKSUR expressed their support for the ratification of C.138 by Suriname and indicated that the minimum age for compulsory schooling would need to be amended.

**2013 AR:** According to the Government: Suriname reiterates its earlier position concerning the ratification process of C.138. However, several amendments are pending before the Ministry of Education to modify the minimum age for compulsory schooling.

The VSB and C-47 strongly supported the ratification of all non-ratified core Conventions including C.138, and mentioned that national laws should be amended accordingly.

**2012 AR:** According to the Government: The Government will ratify all core Conventions within a year. There is a strong consensus among the social partners for ratification all non-ratified fundamental Conventions by Suriname, including C.138. ILO should organize urgently a workshop on the Declaration's follow-up in Suriname so as to help facilitate the ratification process together with a better implementation of the fundamental principles and rights at work.

C-47 expressed its support for the ratification of C138 by Suriname.

**2009 AR:** The Government reiterated its earlier position concerning the ratification process of C.138. RAVAKSUR supported this ratification, but mentioned that national laws should be amended accordingly.

**2008 AR:** The Government indicated that once the labour law review on compulsory schooling education is completed, the Council of Ministers will review previous memos regarding the ratification of C.138.

The CLO expressed its support for the ratification of C.138.

**2006 AR:** According to the Government: C.182 has been approved for ratification by the National Assembly. The next step is the signing of the Instrument of Ratification by the President of the Republic of Suriname.

**2005 AR:** The Government stated that C.182 had been approved for ratification by the National Assembly and C.138 was also being prepared for approval by the Council of Ministers and submission to the competent authorities.

**2004 AR:** The Government indicated that C.182 had been submitted to the competent authority in June 2003 for ratification.

**2001 AR:** based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001), the Government intended to ratify C.138.

**2000 AR:** The Government reported that C.138 had been discussed by a Tripartite Labour Advisory Board and a proposal made to the Government for ratification.

	<p><b>Recognition of the principle and right (prospect(s), means of action, basic provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>The Constitution (article 35, sub 3 and article 37) recognizes the principle and right (PR). Suriname ratified the United Nations Conventions on the Right of the Child.</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2012-2013 ARs:</b> The Government indicated that there was a National Commission on Child Labour.</p> <p><b>2005 AR:</b> According to the Government: A process of amending existing legislation has been initiated in order to bring it into conformity with C.182.</p> <p><b>2004 AR:</b> The Government intended to adopt a national policy/plan aimed at ensuring the effective abolition of child labour. In addition, for the 2002-06 cycles, the Government had launched a Policy Plan for Children. The main objective of this policy is aimed at enhancing the position of children in general and to give them a better chance in life. In order to achieve the main objective, one of the issues to be addressed was the elimination of child labour. Articles within the Labour Act regarding the prohibition of child labour are also being reviewed.</p> <p><b>2003-2004 ARs:</b> The Government intended to adopt a national policy/plan aimed at ensuring the effective abolition of child labour.</p> <p><b>2002 AR:</b> There is no national policy or plan aimed at ensuring the effective abolition of child labour, but after the results of a 1998 survey were known, one would be adopted.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2015 AR:</b> According to the Government: No changes have occurred in law and practice in the previous 12 months with regard to the Minimum Age Convention, 1973 (No. 138). The proposal for upgrading of the compulsory school age from 12 to 16 years is still at the Board of Ministers for approval. The Ministry of Labour was consulted during the course of formulation of the draft bill in this regard.</p> <p><b>2014 AR:</b> According to the Government: The legislation on the age for compulsory schooling needs to be harmonized with the minimum age for employment.</p> <p><b>2012 AR:</b> According to the Government: A State Decree on Hazardous Work was published in December 2010.</p> <p>The Labour Act related to the PR.</p> <p><b>2007 AR:</b> According to the Government: A total revision of the labour legislation is now considered. The Ministry of Labour, Technological Development and Environment is finalizing the terms of reference with the Ministry of Planning. Together, they are in the process of seeking financial aid to finalize the revision.</p> <ul style="list-style-type: none"> <li>• <b>Regulations:</b> sections 17-21 of the Labour Act; the Sea-fishing Decree of 1980 related to the PR.</li> </ul>

		<b>Basic legal provisions</b>	(i) Constitution (articles 35 and 37); (ii) the Labour Act (sections 17-21); and (iii) the Sea-fishing Decree of 1980 and (iii) a State Decree on Hazardous Work, December 2010.
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Compulsory education</b>	<b>YES: There is a compulsory educational system; the age limit for completion of compulsory schooling is 12 years. The number of years or grades of instruction required to complete compulsory education is set at 6 years.</b>
		<b>Minimum Age</b>	<p><b>2003 AR: General minimum age for admission to employment or work: 14 years for both boys and girls.</b></p> <p>However, the law also allows those who have passed the age of compulsory schooling (12 years) to work under certain conditions.</p> <p>The general minimum age for admission to employment does not cover work performed in a family-owned/operated enterprise, family and small-scale agriculture and light work.</p> <p><b>Light work:</b> Children, who have exceeded the age of completion of compulsory schooling, can perform certain forms of labour, which are stipulated in the State Decree. The types of activities are: have to be necessary for learning a profession or are normally performed by children; must not be physically or mentally too demanding; and must not be hazardous.</p> <p><b>Hazardous work: The minimum age for engaging in hazardous work is 18 years for boys and girls.</b></p>
		<b>Worst forms of child labour</b>	<b>C 182 is ratified.</b>
		<b>Special attention to particular situations</b>	<b>2013 AR:</b> According to the Government, the VSB and the C-47: More should be done to protect children working in the informal economy, rice fields, gold mines and the sex industry. More attention should be paid to children from indigenous and tribal cultures.
		<b>Information/ Data collection and dissemination</b>	<p><b>2002 AR:</b> According to the Government: A survey had been undertaken by the Labour Market Department of the Ministry of Labour providing statistical information on the extent and/or nature of child work. The results of the survey are not yet completed but reports show that an increasing number of street children were offering their services as commercial sex workers in Paramaribo.</p> <p><b>2000 AR:</b> According to the Government: The Labour Market Directorate has conducted a study on the local situation, which showed no incidence of child labour in renowned enterprises. However, reports show that there is a rise in child labour in the mining sector and in the informal sector, particularly as street vendors.</p>
	<b>Prevention, monitoring, enforcement and sanctions</b>	<b>2012 AR:</b> According to the Government: There is a strong monitoring system with labour inspectors and a National	

	<p><b>mechanisms</b></p>	<p>Commission on Child Labour.</p> <p><b>2008 AR:</b> The Government mentioned that a National Commission on Child Labour under the Ministry of Labour would be established shortly in cooperation with other public sectors and will cover provisions of C.138.</p> <p><b>2003 AR:</b> According to the Government: The PR is implemented through enforcement of the Labour Act by the Labour Inspection Unit, as well as through penal sanctions mentioned in sections 29-34 of the Act.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2014-2015 ARs:</b> According to the Government: Tripartite bodies are operating and meeting regularly, such as the Labour Advisory Group and the Social Economic Advisory Group. However, ratification of C.138 has not come across as prioritized by the social partners.</p> <p>The VSB and the RAVAKSUR indicated their involvement in the High Powered Committee for the Elimination of Child Labour, and that they had advised to the Minister of Education that the minimum age for compulsory schooling should be increased.</p> <p><b>2013 AR:</b> According to the VSB and the C-47: All social partners are being involved in the realization of the PR in Suriname, along with NGOs and other actors. The tripartite partners are participating in the High Powered Committee for the Elimination of Child Labour.</p> <p><b>2012 AR:</b> According to the CLO and RAVAKSUR: The labour market and relations between the social partners and Government have been well functioning during the last 10 years. Following general elections in 2010, a new Government has been appointed in Suriname.</p> <p><b>2005 AR:</b> According to the Government: Workers’ and employers’ organizations will be involved in the development and implementation of these measures/programs of action.</p>
	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: The National Commission to Eliminate Child Labour (NCECL) has made progress in preparing a National Action Plan for the period for five years (2015 – 2020). A draft plan has been submitted to the stakeholders for their comments which are awaited. Seminars will be ultimately held to conclude the Plan. The Ministry of Labour and the National Commission to Eliminate Child Labour will implement actions after the Plan is adopted. The Government of Suriname / Ministry of Labour is engaged in the Country Level Engagement and Assistance to Reduce (CLEAR) Child Labour. The US Department of Labour (USDOL) Bureau of International Labour (ILAB) funds the projects in this regard to implement technical assistance activities to reduce the worst forms of child labour. The NCUK held regular meetings where members of the Commission presented recommendations on behalf of their organization for the Plan of Action. Specialists of the ILO Fundamental Principles and Rights at Work-CLEAR Global Team were on mission in Suriname in March 2015. They had consultations with the relevant government department involved in child labour activities (such as the Labour Inspection), the workers’ and the employers’ organizations. Within the project a work plan with regard to training will be developed for the Labour Inspection. Documents in this regard are already submitted by the Labour Inspection.</p> <p><b>2014 AR:</b> The VSB and the RAVAKSUR indicated that promotional activities had been carried out through the High Powered Committee for the Elimination of Child Labour and through the Committee on Youth in the private and public sectors. The VSB added that it was participating in the establishment of schools to ensure that all children have access to schools.</p> <p><b>2012 AR:</b> C-47 mentioned that it had participated in workshops organized by RAVAKSUR including training on child labour</p>



		<p>issues. It further indicated its participation in the ILO/TURIN Pre-Conference Course on International Labour Standards in May–June 2011 where issues concerning the PR were addressed.</p> <p><b>2008 AR:</b> The CLO indicated that it had organized several skills trainings on the issue of child labour.</p> <p><b>2002 AR:</b> According to the Government: Suriname participates in the Plan of Action (2001) program on the promotion of children’s rights, where problems are reviewed and taken into consideration in accordance with the UN Convention on the Rights of the Child.</p>	
	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: The Government introduced the programme “Naschoolse Opvang” some years ago. This programme gives children the opportunity to stay longer in school during the day. The Government provides for nutritious food for these children and participating teachers have the opportunity to council and assist children with their preparation and homework. The Government also abolished the annual registration fees for basic education in October 2013, which were paid by parents and caretakers. In July 2013, the Government introduced free basic care for children from 0 to 16 years of age. All these measures are meant to prevent drop-outs and child labour. The Ministry of Labour is also engaged in a Pan American Development Foundation (PADF)-programme aimed at youth at risk and youth in conflict with justice, with the goal of training and strengthening the labour exchange services and the Foundation of Labour Mobilisation and Development for vocational training, which gives identified youth the opportunity to receive vocational training to be more employable and to prevent risky behaviour. In cooperation with UNICEF, the Government is also implementing an Adolescent Programme. A strategic document on human trafficking has been approved by Board of Ministers, and this document considers a child labour paragraph as an action plan. However, the Ministry of Labour is still engaged in the PADF-program ‘Kari Yu’.</p> <p><b>2012 AR:</b> The Government indicated that it had issued State Decree on Hazardous Work in December 2010 so as to protect, among other, children from dangerous work.</p> <p><b>2002 AR:</b> According to the Government: The signing of the Convention on the Rights of the Child; the involvement of the Government in the UNICEF program, resulting in the intention to ratify C.182 can be regarded as successful examples in the abolition of child labour.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2014-2015 ARs:</b> According to the VSB: The major challenges to the elimination of child labour in Suriname are related to: (i) lack of infrastructure obstructing children from attending schools in certain areas; (ii) the extensive informal economy; and (iii) the economic and political system, although the political situation has stabilized since the transition period in 2010. In terms of sectors, challenges related to the elimination of child labour are particularly evident in the agriculture, fisheries, and mining sectors.</p> <p><b>2013 AR:</b> According to the VSB: The major challenges to the elimination of child labour in Suriname are: (i) lack of awareness campaign among indigenous and tribal people; (ii) the informal economy such as gold minors, sex industry and the agricultural sector; (iii) poverty and socio-economic conditions, and; (iv) lack of capacities of labour inspection.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2015 AR:</b> According to the PWO: The main challenge to the elimination of child labour is how to deal with it in the informal economy and the mining sector, in particular, the gold industry.</p> <p><b>2014 AR:</b> According to the RAVASKUR: Challenges related to the elimination of child labour are particularly evident in the agriculture, fisheries, and mining sectors.</p>

		<p><b>2013 AR:</b> According to the C-47: The major challenges to the elimination of child labour in Suriname are: (i) lack of awareness campaign among indigenous and tribal people; (ii) the informal economy such as gold minors, sex industry and the agricultural sector; (iii) poverty and socio-economic conditions; (iv) lack of capacity of labour inspection and (vi) lack of political will.</p> <p><b>2012 AR:</b> According to C-47: Child labour does not exist in the formal sector, but there a few cases of children are operating in the informal economy, mostly as street vendors after school hours. There are also few cases of children working as gold minors in rural areas. Moreover, labour inspections services lack capacities to carry out their work adequately.</p> <p>According to the CLO and RAVAKSUR: Child labour is not a widespread problem in Suriname and among child labourers there is only a small proportion of children in hazardous working conditions.</p> <p><b>2009 AR:</b> The major challenge to child labour exists in the informal and agricultural sectors of the economy. As a result, sensitization of these sectors would be needed to improve the realization of the PR in the country. Moreover, national laws need to be amended to comply with the provisions of C.138.</p> <p><b>2008 AR:</b> According to the CLO: Poverty is the major issue in Suriname.</p>
	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> The Government indicated that legislation has to be amended especially with regard to the link between compulsory school age and the minimum age to perform labour. The DWCP-S puts emphasis on this issue. Segregated data is needed with information about all sectors and all geographical areas in Suriname and covering all forms of child labour. The execution and implementation of a Labour Market Information System is also part of the DWCP-S.</p> <p><b>2014 AR:</b> According to the Government: There are legal obstacles related to the age for compulsory education, as there is a mismatch between the minimum age for compulsory schooling and the minimum age for employment.</p> <p><b>2012 AR:</b> According to the Government: The new informal sector (gold mining, commerce ...) actors and the migrant Chinese workers are more difficult to monitor. There is also a mismatch between the age of the child at the end of compulsory schooling (12) and the minimum age for admission to employment or work (14).</p> <p><b>2009 AR:</b> According to the Government: For a holistic gain from the provisions of C.138, there is need for the convening of a social partners' forum that will agree on a practicable minimum-age law.</p> <p><b>2008 AR:</b> According to the Government and the CLO: the national legislative review is still awaited; there is not sufficient collaboration among the other public sectors (such as the agricultural, industrial or health sectors); and finally, leadership among workers and employers is lacking.</p> <p><b>2003 AR:</b> According to the Government: the main obstacles encountered in the realization of the principle of the effective abolition of child labour, were the lengthy procedures for the modification and passage of legislation, and a lack of capacity building of officials especially from the Labour Inspection Department.</p> <p><b>2002 AR:</b> According to the Government: The main obstacles encountered with respect to realizing the principles were the need to update legislation, especially the Labour Act, and the delay in processing the 1998 survey results.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: Suriname is preparing a Decent Work Country Programme with ILO assistance and guidance. Part of the programme is to promote the implementation of the ILO Conventions after ratification has taken place.</p>

		<p>PWO indicated the need for ILO technical cooperation through national activities and programmes aimed at improving child labour challenges and issues.</p> <p><b>2014 AR:</b> The Government indicated that it would consider requests for ILO technical cooperation at the appropriate time.</p> <p>While the social partners believed that it was up to the Government to request technical cooperation from the ILO, the VSB and the RAVAKSUR indicated that support would be needed to carry out awareness raising campaigns on the elimination of child labour, workshops and other capacity building activities. The VSB added that requests for technical assistance from the employers' side were submitted to the IOE.</p> <p><b>2013 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of this PR in Suriname, in particular in the following areas: (i) capacity building for responsible government institutions; (ii) awareness raising campaign; (iii) organization of training workshops for the tripartite partners on the fundamental principles and rights at work (FPRW) and international labour standards (ILS); and (iv) reinforced IPEC national Programme.</p> <p><b>2012 AR:</b> The Government reiterated its requests for ILO urgent support in organizing a workshop on the Declaration's follow-up in Suriname so as to help facilitate the ratification process for the three unratified fundamental Conventions.</p> <p>C-47 requested ILO support to better fight against child labour, in particular through awareness raising for school attendance and workers' education on child labour.</p> <p><b>2009 AR:</b> According to the Government: ILO's support is needed in facilitating a study on the percentage of children engaged in child labour and the demographic endemic spread. Support is also needed in the establishment of a tripartite commission that will encourage deliberations on good practices for child protection.</p> <p>The RAVAKSUR mentioned that ILO's continued support was needed through the national IPEC Program.</p> <p><b>2008 AR:</b> The Government requested that a country assessment be conducted in Suriname on the Declaration Follow-up and that some best-practices examples on the said issue be provided.</p> <hr/> <p><b>2007 AR:</b> According to the Government: A total revision of the labour legislation is now being considered. The Ministry of Labour, Technological Development and Environment is finalizing the terms of reference with the Ministry of Planning. Together, they are in the process of seeking financial aid to finalize the revision.</p> <p><b>2005 AR:</b> The Government requested an in-depth study of the situation in order to establish a Plan of Action for the elimination of the worst forms of child labour and for the training and awareness raising programs on labour inspectors, specifically in recognizing child labour and acting against it.</p>
	<p><b>Offer</b></p>	<p><b>2015 AR:</b> Within the DWCP-S the ILO Decent Work Team and Office for the Caribbean will provide assistance after national identification of issues. In context of the CLEAR project the ILO will also provide for technical support and assistance.</p> <p><b>2012 AR:</b> According to the Government: A national Decent Work Country Programme was adopted in cooperation with ILO. ILO/IPEC/CIDA Sub-Regional Child Labour Project ("Identification, elimination and prevention of the worst forms of child labour in the Anglophone and Dutch-speaking Caribbean"); UNICEF Caribbean Sub-Regional Program.</p>
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>		<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) considered that universal ratification of the child labour Conventions was not a distant dream but an achievable goal, in view of the number of States, including Suriname, having expressed their intention to ratify C.138 and/or C.182 (cf. paragraph 56 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p>



	<p><b>2007 AR:</b> The IDEAs noted the paucity of practical information of several reports, including Suriname, which complicated their task of assessing the extent to which the PR is realized in the countries concerned. They drew the attention of governments to the possibility of requesting technical assistance from the Office to facilitate fuller and more comprehensive reporting (cf. paragraph 52 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2004-2015)** <sup>88</sup>: **TIMOR-LESTE**

*THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)*

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, under the 2006 Annual Review (AR). Timor-Leste joined the ILO in 2003.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of Chamber of Commerce and Industry of Timor-Leste (CCI-TL), Timor-Leste Trade Unions Confederation (TLTUC) (Konfederasaun Sindikatu Timor-Leste (KSTL)), the Fórum dos Empresários/Câmara do Comércio de Timor-Leste (FECCTL) and the Trade Union of Timor-Leste (TUTL) by means of consultation and communication of a copy of the Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations made by the CCI-TL. <b>2013 AR:</b> Observations made by the CCI-TL.	
	<b>Workers' organizations</b>	<b>2014 AR:</b> Observations by the TLTUC. <b>2013 AR:</b> Observations by the TUTL.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Timor-Leste ratified The Worst Forms of Child Labour Convention (C.182) in 2009. However, it has not yet ratified the Minimum Age Convention, 1973 (C.138). <i>Timor-Leste ratified the United Nations Convention on the Right of the Child (CRC).</i></b>
		<b>Ratification intention</b>	<b>YES, in process since 2008 for C.138.</b> <b>2014–2015 ARs:</b> According to the Government: No legal obstacles remain in the ratification process of C.138. Discussions concerning the ratification are ongoing with the social partners, and once all technical components of C.138 enjoy tripartite support it will be submitted to the Secretary of State for Vocational Training and Employment Policy (SEPFPOE) for approval. Following the Secretary of State's approval, it will be submitted to the Council of Ministers. CCI-TL reiterated its support for the ratification of C.138 and stated that the convention is already embedded in the Constitution and could possibly be ratified in 2014. TLTUC strongly supports the ratification of C.138 and is continually pushing for it.

<sup>88</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

			<p><b>2013 AR:</b> According to the Government: A draft labour law is being prepared by the Ministry of Labour but is still waiting for formal adoption by Parliament.</p> <p>The CCI-TL expressed its support for the ratification of C.138 and indicated that a draft ratification proposal had been jointly submitted by the social partners to the Government, and was expected to be further submitted to Parliament after the elections in 2013.</p> <p>According to the TUTL: TUTL fully supports and prioritizes ratification of C.138. It expects the Government to ratify this instrument in the near future, but underlines that there are no existing national legislation on the principle and right (PR). The TUTL mentioned that the established national commission on child labour will study the implementation and realization of the PR in the country.</p> <p><b>2012 AR:</b> According to the Government: Ratification for C.138 will be completed upon promulgation of the New Labour Code.</p> <p><b>2011 AR:</b> According to the Government: C.138 has been considered for ratification, but for the year 2011.</p> <p><b>2009 AR:</b> According to the Government: Timor-Leste has received the appropriate technical support from the ILO and after having been discussed at tripartite level and submitted to and approved by the Council of Ministers, ratification of C.182 has been submitted to Parliament for approval. A plan for ratification of all the eight ILO fundamental Conventions, including C.138, within the next 5 years (i.e., through 2013) has been developed under the DWCP.</p> <p><b>2008 AR:</b> According to the Government: ILO technical assistance is necessary in order to better understand international labour standards (ILS) and the Declaration, and also for a labour law review which is needed before the process of ratification of C.138 and C.182 can be initiated in Timor-Leste.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>According to the Government: The Timorese Constitution (Article18) provides that “<i>Children shall be entitled to special protection by the family, the community and the State, particularly against all forms of abandonment, discrimination, violence, oppression, sexual abuse and exploitation.</i>” The national Constitution (amended in 2012), Part II, includes provisions on child labour in article 2, section 19 (Youth) and section 59 (Education and Culture).</p> <p><b>2014 AR:</b> TLTUC affirmed that the Constitution protects fundamental rights of work.</p>

		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b> <p><b>2015 AR:</b> According to the Government: The Government had established a National Commission against Child Labour (NCCL) composed of tripartite bodies, including members of the Government, representatives from employers’ and workers’ organizations (CCI-TL &amp; KSTL) and representatives from the civil society (Fórum Tau Matan – FTM) with the purpose to implement and monitor C.182 in Timor-Leste.</p> <p><b>2012 AR:</b> According to the Government: A national Commission on the Right of the Child was established in 2010 to advise the Government on policies and programmes for the protection and promotion of the rights of the child, including the right not to be subjected to child labour.</p> <p><b>2006 AR:</b> The Government intended to adopt a policy on the PR by 2010.</p> </li> <li>• <b>Legislation:</b> <p><b>2014 AR:</b> The Government reported that the Labour Code (Law No. 4/2012) had been adopted. Chapter II on Fundamental Principles includes provisions on child labour in section 68 (Minimum age for admission to work) and section 69 (Light work).</p> <p>CCI-TL expressed that the existing legal framework already covers the issues of the convention and that there were no changes in laws since last year’s report.</p> <p>TLTUC reported that the labour law was reformed last year and the reform was based on ILO conventions.</p> <p>CCI-TL and TLTUC stated that agreement has been reached to establish a commission for combatting child labour, which will be composed of the tripartite bodies, NGOs and other relevant ministries and entities; but official decision is being awaited to move forward.</p> <p><b>2013 AR:</b> The Government reiterated the statement it made under the AR 2012, and indicated that the final approval of the draft Labour Code was delayed due to political changes in the country.</p> <p>According to the CCI-TL: Two legal revisions had taken place in 2012; a revised Minimum Wage Law and a revised Social Protection law.</p> <p><b>2012 AR:</b> According to the Government: The draft Labour Code approved by the Government in 2010, is currently before Parliament for final approval expected in 2012, together with promulgation. Moreover, a draft Children Code is being debated at the Parliament and is expected to be promulgated in 2012. The new Penal Code has been promulgated in 2010.</p> <p>The Labour Code (Regulation No.2002/5), section 11.2, prohibits employment or work by a child under the age of 15.</p> <p>The Government also indicated that it had presented to the ILO its new draft of the Labour Code for comments and the document is expected to be submitted to the Council of Minister in the first half of 2009 and to be approved by the Parliament by the end of the year.</p> </li> </ul>
		<p><b>Basic legal provisions</b></p>	<p>(i) The Labour Code (Law No. 4/2012, sections 68 and 69); (ii) The “Basic Law” for the Educational System (Law No. 14/2008); and (iii) The Criminal Code (Decree-Law No. 19/2009).</p>



<p><b>Exercise of the principle and right</b></p>		<p><b>Judicial decisions</b></p>	<p><b>NIL.</b></p>
		<p><b>Compulsory education</b></p>	<p><b>YES, since 2008.</b>  <b>2009 AR:</b> The National Parliament has approved the “Basic Law” for the Educational System (Law No. 14/2008) where compulsory schooling shall apply to children under 17 years old.  <b>2006 AR:</b> According to the Government: free compulsory schooling is among the measures that are envisaged by the Government.</p>
		<p><b>Minimum age</b></p>	<p><b>2006 AR: General minimum age for admission to employment or work: 15 years for both boys and girls, which also covers light work and hazardous work.</b>  <b>Hazardous work is defined</b> in the legislation as “work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of such a person”. Hazardous work can be performed by those aged 18 years at least. This corresponds to the age for admission in armed forces in Timor-Leste</p>
		<p><b>Worst forms of child labour</b></p>	<p><b>C.182 is ratified.</b>  <b>2015 AR:</b> According to the Government: The NCCL is reviewing the hazardous list of works drafted for Timor-Leste in order to approve and submit it to SEPFOPE’s appreciation. Then, NCCL, with the technical assistance of ILO, will prepare the legal document for the Council of Ministers’ approval.  <b>2012 AR:</b> According to the Government: the new Penal Code, adopted in 2010, and the draft Labour Code contain provisions to fight against the worst forms of child labour, such as child slavery and servitude.  <b>2009 AR:</b> The Government has submitted to Parliament the draft of the Criminal Code aiming to implement actions against worst forms of child labour.  <b>2006 AR:</b> According to the Government: There are laws or regulations with the aim at eliminating any of the worst forms of child labour. But no steps are being taken to modify existing legislation or introduce a new one to address the elimination of the worst forms of child labour.  According to Government: Worst forms of child labour such as sale and/or trafficking; debt bondage, serfdom, forced recruitment for armed conflict and illicit activities do not exist. However, it is not known whether prostitution, pornography and other worst forms of child labour exist.</p>
		<p><b>Special attention to particular situations</b></p>	<p><b>2014 AR:</b> According to the Government: The agricultural sector, construction sector and domestic work have been identified as particularly challenging, and are therefore being targeted for the elimination of child labour.  <b>2013 AR:</b> According to the CCI-TL: A list of hazardous work had been prepared jointly by the employers’ organizations, trade unions and the Government.</p>



		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> According to the Government: The Labour Market Department of SEPFOPE, with the technical assistance of ILO-TESP, has been preparing a database that includes information on child labour.</p> <p><b>2014 AR:</b> According to the CCI-TL: CCI-TL assists organizations that are formally constituted; most members are national companies. So far, 113 companies are registered with CCI-TL as members out of a total of about 2000 potential companies. CCI-TL mentioned that it also assists entities involved in the informal sector.</p> <p><b>2013 AR:</b> The Government provided statistical information concerning the total labour force and the number of employed and unemployed workers for the years 2010, 2011 and 2012.</p> <p><b>2006 AR:</b> According to the Government: The last population census was held in 2004, and the lowest age of persons for whom questions were asked about economic activity was 15 years.</p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>		<p><b>2015 AR:</b> According to the Government: From 28 April to 9 May 2014, ILO-IPEC delivered a law enforcement training for law enforcement agents and other key partners, including labour inspectors, police officers (community and immigration police), local administration representatives and NGO's to give the necessary tools to identify and investigate cases of child and forced labour in Timor-Leste. Also, the Government created the NCCL through the approval of the Government Resolution 1/2014, of 15 January.</p> <p><b>2014 AR:</b> According to the Government: A legal study will be conducted with a view to develop a guide for law enforcement and training of labour inspectors with a special focus on the elimination of child labour.</p> <p><b>2013 AR:</b> The Government indicated that the Statute of the General Labour Inspection had been established through the Labour Law No.5/2012.</p> <p><b>2011 AR:</b> According to the Government: Decree-Law 19/2010 has established the General Labour Inspectorate that has the mandate to monitor and enforce the application of the Labour Law.</p> <p><b>2009 AR:</b> According to the Government: A chapter on occupational safety and health will be included in the legislation and appropriate training for labour inspectors, through a cooperation with the Government of Portugal, will be carried out. Moreover, adequate Labour Inspection statutes will be developed in accordance with the new Labour Code.</p> <p><b>2006 AR:</b> According to the Government: Legal reform and inspection/monitoring mechanisms are measures which have been implemented to eliminate the worst forms of child labour and awareness raising/advocacy and international cooperation programmes or projects are being envisaged for the same purpose, together with civil or administrative sanctions, special institutional machinery, free compulsory education, employment creation/income generation, awareness raising/advocacy.</p>

	<p><b>Involvement of the social partners</b></p>	<p><b>2015 AR:</b> According to the Government: Employers’ and workers’ organizations and NGOs are fully involved in NCCL’s regular meetings and activities.</p> <p><b>2014 AR:</b> According to the Government: Social dialogue is regularly exercised and tripartite discussions concerning the ratification of C.105 are ongoing through the GAP-Programme, with the support of ILO-IPEC. Social dialogue will also be strengthened through the establishment of a tripartite National Commission on Child Labour.</p> <p>CCI-TL underscored that the government had always involved Employers’ and Workers’ Organizations to solve issues and concerns that require tripartite consultations as well as to create awareness.</p> <p><b>2013 AR:</b> According to the Government and TUTL: Tripartite meetings were held on the Decent Work Country Programme (DWCP), including the realization of the FPRW. Furthermore, the implementation of Labour Law No.5/2012 is being carried out through social dialogue in cooperation with ILO.</p> <p>According to the CCI-TL: Tripartite meetings are held each three months dealing, amongst other things, with the ratification of C.138. In April 2011, a tripartite committee (CONETI- Comissão Nacional da eliminação do trabalho infantil) has been established to review and draft the list of hazardous work.</p> <p>According to the TUTL: Tripartite dialogues for the protection and promotion of the rights of the child, in particular concerning the reform of the Labour Code.</p> <p><b>2012 AR:</b> According to the Government: Tripartite discussions are still going on as concerns ratification of C.138.</p> <p><b>2009 AR:</b> According to the Government: Tripartite discussions have been carried out concerning ratification of C.138 and C.182. A first national seminar on international labour standards and the 1998 ILO Declaration was organized in October 2008, with a massive tripartite participation of government officials and employers’ and workers’ representatives. The employers’ and workers’ organizations were also involved in the preparation and the formulation of the Decent Work Country Programme (DWCP) and the “Rapid assessment on child labour in Timor-Leste”.</p> <p><b>2006 AR:</b> According to the Government: There is a tripartite examination of issues. Employers’ and workers’ organizations have been involved in the development and implementation of government measures through their participation in the National Labour Board, which is the responsible Government institution for <i>inter alia</i>, policy advice and dispute settlement.</p>
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	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to the Government: NCCL coordinates with ILO-IPEC the implementation of some sensitization activities with the local communities to introduce the population to child and forced labour issues. NCCL had requested to a local communication’s operator (Timor Telecom) to promote the red-car campaign, through their support and participation in sports’ activities.</p> <p><b>2014 AR:</b> According to the Government: A systematic approach to the elimination of child labour is in the process of being developed in collaboration with ILO-IPEC. Promotional activities, including activities targeting child labour in the agricultural sector, construction sector, and domestic work, are also set out to take place in the framework of the National Action Programme for the elimination of forced labour and child labour, to be established in a near future.</p> <p>TLTUC contributed to promoting the principles and rights at work through advocating the importance of the conventions at various events and meetings especially at the national labour board meetings. TLTUC further indicated that ILO supports the organization of workshops to facilitate understanding and awareness creation.</p> <p><b>2013 AR:</b> According to the Government: Timor-Leste has received indispensable technical assistance from the ILO in coordination with the Brazilian Government under the Decent Work Country Programme (DWCP).</p> <p>According to the CCI-TL: Promotional activities had been carried out with the support from ABC Brazil. Eight or nine tripartite workshops had been held on promoting social security and advocating for the FPRW.</p> <p><b>2012 AR:</b> According to the Government: A national Commission on the Right of the Child was established in 2010 to advise the Government on policies and programmes for the protection and promotion of the rights of the child, including the right not to be subjected to child labour.</p> <p><b>2011 AR:</b> The Government, together with the ILO in Dili, promoted in 2010 two national consultations and seminars to raise awareness among social partners and relevant stakeholders on Child Labour issues and to officially launch the Trilateral Project sponsored by the Brazilian Government and the ILO-IPEC.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: The NCCL planned for the near future a national assessment on child and forced labour in 3 or 5 districts with the technical and financial support of ILO-IPEC. The data that will be collected will compose the database for the outline of a National Action Plan.</p> <p><b>2014 AR:</b> According to the Government: A National Action Programme for the elimination of forced labour and child labour will be established in a near future. Furthermore, a National Commission on Child Labour will be established during 2013. The Commission will be a tripartite body and involve all relevant ministries and civil society.</p> <p><b>2013 AR:</b> According to the CCI-TL: A list of hazardous work had been drafted jointly by the employers’ organizations, trade unions and the Government. This list is to be completed through the tripartite committee CONETI (Comissão Nacional da eliminação do trabalho infantil), established in April 2011. Once completed, the list will be submitted to the Government, the Council of Ministers and finally to the Parliament to await approval in order to obtain legal status and start to be implemented.</p> <p><b>2012 AR:</b> According to the Government. The <i>Bolsa da Mae</i> Government Programme provides social incentives to low income families on the condition that they send their children to school. As a result of this multisectoral approach programme between the Ministry of Education, the Ministry of Social Affairs and the State Secretariat of Labour, the dropout rate from primary school has decreased.</p> <p><b>2011 AR:</b> According to the Governmental: Through the Child Labour Project sponsored by the Government of <b>Brazil</b> and the ILO International Programme on the Elimination of Child Labour (IPEC), the Government has started the process for the establishment of a Tripartite Child Labour Commission, and has also submitted to the National Parliament the approved draft Labour Code for further approval in 2011. Moreover, in October 2010, the tripartite Child Labour Commission participated in a meeting sponsored by ILO-IPEC in <b>Mozambique</b> to discuss further support and actions regarding the implementation of Convention No. 182 and technical support for the ratification of Convention No. 138.</p> <p><b>2009 AR:</b> According to the Government: The Government presented to the ILO its new draft of the Labour Code for comments and the document is expected to be submitted to the Council of Ministers in the first half of 2009 and to be approved by Parliament by the end of the year. A Decent Work Country Programme (DWCP) has been developed in 2008. A “Rapid assessment on child labour in Timor-Leste” was also completed and presented to the employers’ and workers’ organizations and the civil society.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2014 AR:</b> According to CCI-TL: There is no problem in terms of the ratification of C138. However, CCI-TL has not been receiving any formal document regarding the Government’s reports to ILO, and emphasized that lack of such communication creates challenges in terms of following up what has been happening and implementation issues.</p> <p><b>2013 AR:</b> The CCI-TL indicated that child labour was mainly a problem in rural areas, specifically within family business.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2014 AR:</b> TLTUC emphasized that there is lack of comprehensive good will for ratification on the part of the Government, and this is partly driven by the fear that implementation might be a problem.</p> <p><b>2013 AR:</b> The TUTL indicated the following challenges: (i) legal provisions; (ii) lack of public awareness; (iii) capacity building; (iv) weak labour inspection; and (v) informal economy.</p>

	<p><b>According to the Government</b></p>	<p><b>2014 AR:</b> According to the Government: Child labour mainly occurs in the informal economy, which is difficult to monitor and where there is no law enforcement. There is a lack of labour inspection to identify child labour and ensure the elimination of it, and a lack of information and data. Furthermore, the capacity of the workers' organizations needs to be strengthened.</p> <p><b>2011 AR:</b> Technical support and human resources development and facilities have been the biggest challenge faced in order to implement action against Child Labour in Timor-Leste.</p> <p><b>2010 AR:</b> The Government is working on a new labour code and will call a Tripartite Meeting to finalize the new draft for submission to the Council of Ministers. The Government has received in March 2009 the comments offered by DIALOGUE on the draft labour code.</p> <p><b>2008 AR:</b> The Government referred to the following challenges: (i) legal provisions; (ii) lack of public awareness; (iii) capacity building; and (iv) weak labour inspection.</p> <p><b>2007 AR:</b> According to the Government: the military crisis of 2006 has delayed many activities, including the finalization of the draft labour code.</p> <p><b>2006 AR:</b> According to the Government: The main obstacle that has been encountered in Timor-Leste in realizing the PR are as follows: (i) economic and social situation of Timor-Leste; (ii) lack of capacity of responsible government institutions; (iii) lack of capacity of workers' and employers' organizations; and (iv) lack of national law and policy.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2014–2015 ARs:</b> According to the Government: ILO technical cooperation is ongoing through collaboration with ILO-IPEC. The technical cooperation should specifically target (i) training for labour inspectors, (ii) strengthen the system for data collection, and (iii) build the capacity of the workers' organizations. The SEPFOPE prioritizes the need to proceed with a national assessment on child and forced labour.</p> <p>According to CCI-TL: CCI-TL requests support for promoting labour relations and child labour. It presently obtains assistance on child labour and legislation from Global Action Plan, which is an NGO; and it also discusses with IPEC on technical assistance needs on child labour.</p> <p>TLTUC identified the need for providing knowledge to the tripartite bodies about the Conventions they want to ratify, and specific training to Government officials, in particular to those in the labour relations and inspection since they are the ones who have the primary duty to understand about the Conventions.</p>

		<p><b>2013 AR:</b> The Government requested ILO technical support for the capacity building of labour inspection.</p> <p>According The CCI-TL: Activities related to the elimination of child labour are ongoing in collaboration with the ILO. There is however a need for ILO technical cooperation to specifically conduct target sensitization for legislators and address the lack of knowledge among members and representatives of the CCI-TL.</p> <p>According to the TUTL: There is a need for ILO technical support to facilitate the realization of the PR in Timor-Leste in the following areas: (i) Capacity building of responsible government institutions; (ii) Training of tripartite partners; (iii) Strengthening capacity of employers' and workers' organizations; (iv) Legal reform; (v) Awareness raising campaign and (vi) combat CL in informal economy.</p> <p><b>2011-2012 ARs:</b> The Government indicated that training for human resources development for relevant Government Departments and stakeholders has been the most needed technical support. The continuation of the Trilateral Project sponsored by the Brazilian Government and the ILO-IPEC is crucial for effective planning and actions against child labour in Timor-Leste.</p> <p><b>2010 AR:</b> The Government has requested Technical Cooperation from the ILO for the development of an Action Plan for the implementation of ratified conventions through Tripartite Seminars and Workshops and to finalize the draft of the labour code containing the FPRW in its text. The Government has also requested technical cooperation from the ILO, which is highly needed, to support the process of ratification of other ILO Fundamental Conventions.</p> <p><b>2008 AR:</b> The Government requested ILO assistance to carry out a country assessment to be validated by a national tripartite workshop on the FPRW.</p> <p><b>2007 AR:</b> According to the Government: There is a need for training and capacity building of officials and staff, especially on labour issues.</p> <p><b>2006 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Timor-Leste, in particular in the following areas, in order of priority: (1) Capacity building of responsible government institutions; (2) Training of other officials (police, judiciary, social workers, teachers); (3) Strengthening capacity of employers' and workers' organizations); (4) Employment creation, skills training and income generation; (5) Legal reform; (6) Data collection and analysis; (7) Awareness raising, legal literacy and advocacy; (8) Special programme for the elimination of the worst forms of child labour; (9) Inter-institutional coordination; (10) Cross-border cooperation mechanisms; (11) Policy advice; (12) Social protection systems; (13) Sharing of experiences across countries/regions.</p>
	<p><b>Offer</b></p>	<ol style="list-style-type: none"> <li>1. ILO (including a Decent Work Country Programme (DWCP); a Seminar on International Labour Standards and the 1998 ILO Declaration; a training in the ILO/Turin Centre(ILS/1998 ILO Declaration); labour law reform and assistance in reporting). The DWCP focuses on 3 major areas: (i) Youth Employment Promotion; (ii) Rural Economic Development; and (iii) Labour Market Governance, with the objective to help Timor-Leste with the ratification of the Core ILO Conventions, development of reporting capacity, and incorporation of International Labour Standards' principles into national legislative framework and to increase capacity of employers' and workers' organizations to participate effectively in the development of social and labour policy. Moreover, the Trilateral Project sponsored by the Brazilian Government and the ILO-IPEC is being carried out to fight against child labour in Timor-Leste;</li> <li>2. UNICEF; and</li> <li>3. AusAID.</li> </ol>



<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) considered that universal ratification of the child labour Conventions was not a distant dream but an achievable goal, in view of the number of States, including Timor-Leste, having expressed their intention to ratify C.138 and/or C.182 (cf. paragraph 56 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs noted the paucity of practical information of several reports, including the one of Timor-Leste, which complicated their task of assessing the extent to which the PR is realized in the countries concerned. They drew the attention of governments to the possibility of requesting technical assistance from the Office to facilitate fuller and more comprehensive reporting. They also urged Timor-Leste to express (and another country) to express its intention concerning ratification of C.138 and C.182 (cf. paragraphs 52 and 53 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p><b>2006 AR:</b> The ILO Declaration Expert-Advisers noted that the close relationship between free, available and adequate schooling and decreasing child labour was also evident from the reports and from other information available. In this connection, they expressed concern that in Timor-Leste and two other reporting countries there was no compulsory schooling (paragraph 58 of the 2006 Annual Review Introduction – ILO: GB.295/5).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2009-2015)<sup>89</sup>: TUVALU**

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , for the first time under the 2012 Annual Review (AR), but not under the previous reviews (i.e. ARs 2009-11).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (the Tuvalu National Private Sector Organization, TNPSO) and workers' organizations (the Tuvalu Overseas Seafarers' Union, TOSU) by means of consultation and communication of a copy of the government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> Observations by the TNPSO.	
	<b>Workers' organizations</b>	<b>2012 AR:</b> Observations by the TOSU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Tuvalu has ratified neither the Minimum Age Convention, 1973 (No. 138) (C.138) nor the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182).</b> However, Tuvalu ratified the United Nations Convention on the Right on the Child (CRC) in 1995.

<sup>89</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.



		<b>Ratification intention</b>	<p><b>YES, since 2011, for both C.138 and C.182.</b></p> <p><b>2015 AR:</b> According to the Government: The ratification of C.138 and C.182 would be considered in the near future after the revision of related national laws in line with the requirements of the ILO Conventions.</p> <p><b>2013–14 ARs:</b> The Government reiterated its intention to ratify all eight core Conventions, including C.138 and C.182, under the currently implemented Decent Work Country Programme (DWCP).</p> <p><b>2012 AR:</b> According to the Government: Following consultations with TNPSO and TOSU, the Government has expressed its intention to ratify soon C.138 and C.182 and all other fundamental Conventions under the Decent Work Country Programme (DWCP) 2010-2012 being currently implemented. This intention was subsequently confirmed during the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010, and during the First National Tripartite Workshop on Tuvalu and ILO held in Funafuti, and where a tripartite call was also made for a prompt ratification of these 8 instruments by Tuvalu.</p> <p>The TNPSO expressed its full support for the ratification of all ILO fundamental Conventions by Tuvalu, including C.138 and C.182, taking especially into consideration the maritime and fishing industry which is so globalized and so important in Tuvalu.</p>
			<p>The TOSU supported the ratification of all the 8 ILO fundamental Conventions by Tuvalu, including C.138 and C.182 for the same reasons expressed by TNPSO. It further recalled that the Government had expressed its wish to ratify these fundamental Conventions on three occasions, at least: (i) in the current DWCP; (ii) during the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010; and (iii) during the First National Tripartite Workshop on Tuvalu and ILO held in Funafuti, and where a tripartite call was also made for a prompt ratification of these 8 instruments by Tuvalu.</p>
	<b>Recognition of the principle</b>	<b>Constitution</b>	<b>NO.</b>

	<b>and right (prospect(s), means of action, basic legal provisions)</b>	<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation:</b> <ul style="list-style-type: none"> <li>(i) The Employment Act;</li> <li>(ii) The Education Act;</li> <li>(iii) The Penal Code.</li> </ul> </li> </ul> <p><b>2015 AR:</b> According to the Government: The Department of Labour has been reviewing existing labour laws, including the Employment Act of Tuvalu, the Trades Unions Act and the Industrial Relations Code.</p> <ul style="list-style-type: none"> <li>• <b>Regulations:</b> <ul style="list-style-type: none"> <li>(i) The Employment Orders;</li> <li>(ii) The Education Orders.</li> </ul> </li> </ul>
		<b>Basic legal provisions</b>	(i) The Employment Act; (ii) The Education Act; (iii) The Penal Code.
		<b>Judicial decisions</b>	NIL.
<b>Exercise of the principle and right</b>	<b>Compulsory education</b>	YES, free and compulsory education up to age 15.	
	<b>Minimum age</b>	<ul style="list-style-type: none"> <li>• <b>General Minimum Age: 15 years for admission to employment or work (exception: 14).</b></li> <li>• <b>Hazardous Work: 18 years (exception: 16).</b></li> </ul>	
	<b>Worst forms of child labour</b>	18 years.	
<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	NIL.	
	<b>Information/ Data collection and dissemination</b>	NIL.	
<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2012 AR:</b> According to the Government: (i) The Labour Department; (ii) the Ministry of Education; and (iii) The courts. Moreover, under the Education Act and regulations sanctions are provided for against parents who do not ensure that their children go to school.		
<b>Involvement of the social partners</b>	<b>2012 AR:</b> The Government indicated that TNPSO and TOSU had been involved in the adoption process of Tuvalu Decent Work Country Programme where issues concerning the fundamental principles and rights at work were dealt with among others.		

	<p><b>Promotional activities</b></p>	<p><b>2012 AR:</b> According to the Government: The Government, the TNPSO and the TOSU participated in the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010 where the fundamental principles and rights have been promoted addressed. Moreover, The Officer of the Labour Department of the Ministry of Foreign Affairs, Trade, Tourism, Environment and Labour was trained, among others, on the fundamental principles and rights at work and International Labour Standards during ILO’s assistance in reporting issues carried out in September 2011. On the same occasion, a first national tripartite workshop on Tuvalu and the ILO was organized where the fundamental principles and rights at work and the Decent Work Country Programme were addressed.</p> <p>The TNSPO and the TOSU confirmed their participation in such activities and indicated that they had been sensitized on the same issues during this September 2011 ILO Mission.</p>	
	<p><b>Special initiatives/Progress</b></p>	<p><b>2012 AR:</b> According to the Government, the TNPSO and TOSU: The reporting exercise and the workshop on Tuvalu and the ILO, supported by the Office were a first successful experience of tripartite activity in Tuvalu. This interesting exercise should continue in the country.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2012 AR:</b> According to the NCCI: No child labour problems are being encountered in the country. Literacy is very high and compulsory, and in practice workers are engaged when they are 18 and above. Only few cases of child work may be found in the informal economy.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2012 AR:</b> According to the TOSU: Poverty is a challenge as there are many children that do not attend school because their parent cannot afford paying their food during break hours in school.</p>
	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> The challenges towards ratification are the following: i) the need for undertaking a proper survey to establish concrete evidence towards the practice of child labour in Tuvalu; ii) there is shortage of staff in the Department of Labour to be directly responsible; iii) lack of sufficient financial resources, iv) since Independence of Tuvalu, there has not been any review of the Labour Law, and the existing labour law specifies a minimum working age of 15 years which still needs to be reviewed.</p> <p><b>2012 AR:</b> According to the Government: In response to the TOSU’s comments, it is important to mention that despite legal sanctions imposed to parents under the Education Act and regulations, this situation goes on. There is free and compulsory education up to the age of 15 years. However, for the time being, due to economic constraints, the Government could not afford free food for all children during school hours. It calls for ILO support to launch income generation activities for poor parents under the International Programme for the Elimination of Child Labour (IPEC), so that they can afford at least paying food during school break. The Government further mentions the following challenges concerning the realization of the PR in Tuvalu: (i) Lack of public awareness and/or support; (ii) legal provisions; (iii) lack of capacity of responsible government institutions; (iv) lack of capacity of employers’ and workers’ organizations; and (v) lack of social dialogue on the PR.</p>	



<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> According to the Government: Technical assistance is required to: i) provide capacity building training for government officials, including for the staff of the Labour Department on the various aspects of the ILO Conventions; ii) review the Labour Law minimum working age, and iii) deliver public awareness programs aimed at building the knowledge of the public on individuals' rights.</p> <p><b>2013-14 ARs:</b> The Government reiterated the request for ILO technical support it made under the 2012 AR.</p> <p><b>2012 AR:</b> According to the Government, TNPSO and TOSU: There is a need for ILO technical cooperation to facilitate the realization of this PR in Tuvalu, in particular in the following areas, in order of priority: (1) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; legal reform (labour law and other relevant legislation); (2) strengthening data collection and capacity for statistical analysis;); developing labour market policies that promote equality of opportunity; developing policies regarding equal remuneration; and (3) sharing of experiences (best-practices) across countries/regions; training of other officials (e.g. police, judiciary, social workers, teachers).</p> <p>The Government, the TNPSO and The TOSU would appreciate that income generation programmes for poor parents in Tuvalu be supported by the ILO, under the DWCP or IPEC. In addition, tripartite partners expressed their appreciation regarding the organization of the First National Tripartite Workshop on Tuvalu and ILO, in September 2011, in cooperation with ILO, but also their hope that this first very interesting and fruitful experience of tripartism and social dialogue in Tuvalu would continue, with ILO support.</p>
	<b>Offer</b>	<p>ILO (Decent Work Country Programme, assistance in reporting under the AR, First National Tripartite on Tuvalu and the ILO).</p>
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>NIL.</b>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>90</sup>: UNITED STATES**

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , but no change reports for the 2002 and 2008 Annual Reviews (ARs).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the US Council for International Business (USCIB) as well as the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) through communication of government's reports. In addition, the draft report was reviewed by members of the Tripartite Advisory Panel on International Labor Standards, a subgroup of the President's Committee on the ILO, which includes representatives from the USCIB and the AFL-CIO.  The updated report under the 2007 AR had been communicated to the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the Change to Win Federation, and the U.S. Council for International Business. In addition, in keeping with longstanding practice, as well as U.S. obligations under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), the draft report was reviewed by members of the Tripartite Advisory Panel on International Labor Standards, a subgroup of the President's Committee on the ILO.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>NIL. U.S.</b>
	<b>Workers' organizations</b>	<b>2004 AR:</b> Observations by the AFL-CIO <b>2003 AR:</b> Observations by the AFL-CIO <b>2002 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU)

tos siguientes en la medida en que estén disponibles: memorias de Gobierno, observaciones de Organizaciones de Empleadores y Trabajadores, estudios específicos con profundidad preparados bajo el auspicio del país y de la OIT, y observaciones/recomendaciones de los Expertos Consejeros en la Declaración de la OIT y el del Consejo de Administración. Para obtener más información de este principio y derecho en un país determinado, en relación con un convenio ratificado, se ruega ver: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>The United States ratified in 1999 the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). However, it has not ratified the Minimum Age Convention, 1973 (No. 138) (C.138).</b>
		<b>Ratification intention</b>	<b>There are no current plans to ratify C.138 (since 2006).</b> <b>2015 AR:</b> According to the Government: The Tripartite Advisory Panel on International Labor Standards of the President's Committee on the International Labor Organization has been called on to intensify its work of reviewing the legal feasibility of U.S. ratification of selected ILO Conventions, including C.138. <b>2012-2014 ARs:</b> According to the Government: There are no current plans to pursue ratification of C.138. <b>2011 AR:</b> According to the Government: There are no current plans to ratify C.138. <b>2010 AR:</b> The Government indicated there were no efforts underway at this time to ratify C.138. <b>2007-2009 ARs:</b> According to the Government: there are no efforts under way at this time to ratify C.138.
	<b>Recognition of the principle</b>	<b>Constitution</b>	<b>NIL.</b>



	<p><b>and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b>  <b>2003 AR:</b> The Government indicated that the “elimination of illegal and exploitative child labor was both a domestic and international priority”.</li> <li>• <b>Legislation:</b>  <b>2015 AR:</b> According to the Government: There have been no changes in federal law bearing upon the employment of children since the last baseline update. In March 2014, the Environmental Protection Agency (EPA) proposed new regulations for the use of pesticides. If the regulations are adopted, employers will be prohibited, as a general rule, from allowing individuals under the age of 16 to handle pesticides or to enter pesticide-treated areas before restricted-entry intervals have expired. 79 FR 15444 (March 19, 2014). See also regulations.gov (EPA Docket No. EPA-HQ-OPP-2011-0184); <a href="http://www.epa.gov/oppfead1/safety/workers/proposed/">http://www.epa.gov/oppfead1/safety/workers/proposed/</a>. The comment period on the proposed rule ended on August 18, 2014.  <b>2010 AR:</b> According to the Government: In December 2008, the Trafficking Victims Protection Reauthorization Act of 2008 was enacted, Pub. L. 110-457, 122 Stat. 5044 (2008), which reauthorized the Trafficking Victims’ Protection Act of 2000, Pub. L. 106-386, 114 Stat. 1464 (2000), for four years and authorized new measures to combat human trafficking, including efforts to increase effectiveness of anti-trafficking-in-persons programs, providing interim assistance for potential child victims of trafficking, and enhancing the ability to criminally punish traffickers. This legislation may be found at <a href="http://www.usdoj.gov/olp/materials-ww-tvpra.htm">http://www.usdoj.gov/olp/materials-ww-tvpra.htm</a>.  <b>2009 AR:</b> According to the Government: On 21 May 2008, President Bush signed legislation that amended the Fair Labor Standards Act by increasing the civil money penalties that may be imposed for child labor violations resulting in death or serious injury. The legislation raised the maximum penalty to \$50,000 for each violation resulting in death or serious injury to working youth. In cases where the employer’s violation is repeated or willful, the maximum penalty was raised to \$100,000. <i>See</i> 29 U.S.C. 216(e).  <b>2004 AR:</b> According to the Government: The President's fiscal year 2004 budget includes a legislative proposal to increase civil penalties for child labour violations that cause the death or serious injury of a young worker: <ul style="list-style-type: none"> <li>– With respect to the discussion of the study conducted by the National Institute for Occupational Safety and Health (NIOSH), the Wage and Hour Division has given effect to some of the recommendations regarding changes to the hazardous orders.</li> </ul> </li> </ul>
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			<p>A news release relating to this case is available from: <a href="http://www.dol.gov/opa/media/press/whd/WH20111559.htm">http://www.dol.gov/opa/media/press/whd/WH20111559.htm</a>.</p> <p><b>2012 AR:</b> According to the Government: During the reporting period, the Department of Labor (DOL) continued the multi-year review of its child labor regulations that has been described in previous reports. On September 2, 2011, DOL issued a notice of proposed rulemaking and request for comments (NPRM), 76 Fed. Reg. 54,836 (Sept. 2, 2011), to revise the child labor agricultural hazardous occupation orders (Ag H.O.s). The proposal would adopt the remaining specific recommendations of the National Institute for Occupational Safety and Health (NIOSH) on existing Ag H.O.s, increase parity between agricultural and nonagricultural child labor prohibitions by proposing to prohibit certain types of work for children in agriculture under 16 years of age, such as the use of power-driven equipment, that have been long been prohibited for their counterparts in nonagricultural employment, and propose new Ag hazardous occupation orders (H.O.s). In addition to the 2002 NIOSH recommendations, the NPRM is also based on DOL’s own enforcement actions and consultations with stakeholders. The NPRM also contains proposed revisions to the nonagricultural hazardous occupation orders (H.O.s). Members of the public may submit written comments on the proposed rule by December 1, 2011. A public hearing was held during the comment period. The NPRM may be found at: <a href="http://www.dol.gov/whd/CL/AG_NPRM.htm">http://www.dol.gov/whd/CL/AG_NPRM.htm</a>. The notice of proposed rulemaking and request for comments (NPRM) proposes to significantly strengthen current child labor regulations prohibiting hazardous work in agriculture. The major revisions proposed would: prohibit all hired farm workers under 16 years of age from operating almost all power-driven equipment; require stringent academic training relating to the operation of any tractor by 14- and 15-year-old student learners; require that those tractors operated by student learners be equipped with approved rollover protective structures and seat belts; prohibit the use of most electronic devices, including communication devices, while operating power-driven machinery, including tractors; revise and expand the current prohibitions against working with animals; prohibit all tasks that fall within the job of a pesticide “handler” as determined by the Environmental Protection Agency’s Worker Protection Standard; and prohibit hired farm workers under 16 years of age from participating in the cultivation, harvesting, and curing of tobacco. The NPRM also proposes to amend the regulations at 29 C.F.R. Part 579 to incorporate the major provisions of Field Assistance Bulletin 2010-1, <i>Assessment of Child Labor Civil Money Penalties</i>, issued by DOL’s Wage and Hour Division (WHD) on January 20, 2010, to bring clarity and transparency to the child labor civil money penalty assessment process by detailing the enforcement policies WHD follows when making such assessments.</p>
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			<p><b>2011 AR:</b> According to the Government: On May 20, 2010, the Department of Labor’s (DOL) Wage and Hour Division (WHD) published a Final Rule, 29 C.F.R. Parts 570 and 579 (75 Fed. Reg. 28,404), for non-agricultural work designed to protect working children from hazards in the workplace, while also recognizing the value of safe work to children and their families. The Final Rule implements changes to seven non-agricultural hazardous occupation orders (HOs) and revisions to the rules for 14 and 15 year olds. The Final Rule also strengthens child labor laws to protect against workplace hazards by prohibiting youth from performing certain types of work, including: working in poultry slaughtering and processing plants; working in forest fire fighting, forestry services, and timber tract management; operating power-driven hoists and work assist vehicles; operating balers and compactors designed for non-paper products; and operating power-driven chain saws, wood chippers, reciprocating saws and abrasive cutting discs. These changes to the HOs stem in large part from the 2002 National Institute for Occupational Safety and Health (NIOSH) review of the child labor HOs. NIOSH recommended 35 modifications to the existing non-agricultural child labor HOs. DOL issued a Final Rule in December 2004 implementing six of the NIOSH recommendations. The 2010 Final Rule is another step in DOL’s ongoing review of the federal child labor provisions and addresses 25 of the remaining NIOSH non-agricultural HOs recommendations. The provisions of the Final Rule became effective on July 19, 2010, and may be found at: <a href="http://www.dol.gov/whd/Hightlights/archived.htm">http://www.dol.gov/whd/Hightlights/archived.htm</a>. Additional information, including a fact sheet on the Final Rule, a chart comparing the hazardous occupations under the Final Rule to those included under the previous rule, and another chart comparing the new provisions of Child Labor Reg. 3, relating to the employment of minors between 14 and 16 years of age, 29 C.F.R. Part 570, Subpart C, with the old, may also be found there.</p> <p><b>2009 AR:</b> According to the Government: The Department of Labor published a Notice of Proposed Rulemaking (NPRM) in April 2007, which proposed changes with respect to seven non-agricultural hazardous occupation orders. The Department is reviewing the comments that were received from the public and moving forward in its efforts to issue a final rule.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Judicial decisions</b></p>	<p><b>2013 AR:</b> According to the Government: WHD has imposed these higher penalties. In the first hearing in which an employer contested the maximum civil monetary penalties assessed under the CLEPP, the Administrative Law Judge upheld penalties of \$100,000 against Progressive Protein LLC of Nebraska where a 17-year-old worker was killed in 2009 while operating a forklift and working in a meat-rendering plant in violation of the FLSA’s child labor provisions.</p> <p><b>2006 AR:</b> In fiscal year 2004, the number of cases was 1,616.</p> <p><b>2005 AR:</b> Number of concluded cases in which child labour violations were found in fiscal year 2003 was 1,648.</p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>Compulsory Education</b></p>	<p><b>YES,</b> compulsory education is subject to state law and regulation. With regard to the age of a child at the end of compulsory schooling, it is 16 years for 25 states, 17 years for 9 states and the District of Columbia and 18 years for 16 states.</p>



		<p><b>Minimum age</b></p>	<p><b>2000 AR: General minimum age for admission to employment or work: 16 years for both boys and girls.</b></p> <p><b>Light work: Minimum age of 14 years for both boys and girls</b> Light work is work that is neither harmful to the health or development of young persons nor prejudicial to school attendance or participation in approved vocational programs.</p> <p><b>Hazardous work: Minimum age of 18 years for both boys and girls</b> Under the FLSA, 18 is the minimum age for employment in non-agricultural occupations that the Secretary of Labor finds and declares to be "particularly hazardous ... or detrimental to the health or well-being" of young persons. In agriculture, 16 is the minimum age under the FLSA for employment in occupations (outside of family farms) that the Secretary of Labor finds and declares to be "particularly hazardous for the employment of children".</p>
		<p><b>Worst Forms of Child Labour</b></p>	<p><b>C.182 is ratified.</b></p>
		<p><b>Special attention to particular situations</b></p>	<p><b>2014-2015 ARs:</b> The Government reported that the United States continues to focus its efforts on vulnerable child workers in low-wage and high-risk sectors and industries, including a continued emphasis on child labor enforcement in agriculture.</p> <p><b>2012 AR:</b> According to the Government: DOL proposes to create two new hazardous occupation orders (H.O.s). The first would prevent children under 18 years of age from being employed in the storing, marketing, and transporting of farm product raw materials. Prohibited places of employment would include country grain elevators, grain bins, silos, feed lots, stockyards, livestock exchanges, and livestock auctions. The second would prohibit children under 18 years of age from using electronic devices, including communication devices, while operating power-driven equipment, including motor vehicles.</p> <p><b>2011 AR:</b> According to the Government: The WHD is emphasizing child labor enforcement in agriculture as a priority.</p>



		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> According to the Government: In FY 2013, child labor violations were found in 704 concluded cases, and child labor civil monetary penalties totaling more than \$1.97 million were assessed. In those cases, 1393 minors were working in violation of the FLSA. The most common violations involved the failure to comply with the hours standards for 14 and 15 year-olds in non-agricultural industries (about 38 percent of the cases), and the failure to comply with Hazardous Orders in non-agricultural industries for 16 and 17 year-olds (about 34 percent of the cases). As of mid-year FY 2014, child labor violations were found in 308 concluded cases, and child labor civil monetary penalties totaling more than \$800,000 were assessed. In those cases, 672 minors were working in violation of the FLSA. The most common violations involved the failure to comply with the hours standards for 14 and 15 year-olds in non-agricultural industries (about 42percent of the cases), and the failure to comply with Hazardous Orders in non-agricultural industries for 16 and 17 year-olds (about 35percent of the cases).</p> <p><b>2014 AR:</b> The Government reported that in FY 2012, there were 749 concluded cases in which child labor violations were found, and child labor civil monetary penalties of more than \$2 million were assessed. The number of minors found working in violation of the FLSA in those cases was 1,614. The two most common violations were failure to comply with the hours standards for 14 and 15 year-olds in non-agricultural industries, constituting approximately 42% of the child labor violation cases, and failure to comply with Hazardous Orders in non-agricultural industries for 16 and 17 year-olds, constituting approximately 40% of the child labor violation cases.</p> <p><b>2013 AR:</b> According to the Government: In Fiscal Year (FY) 2011, the number of concluded investigations in which child labor violations were found was 729, and child labor civil monetary penalties of \$2,159,699 were assessed. The number of minors found working in violation of the Fair Labor Standards Act of 1938 (FLSA) in those investigations was 1,873. Twenty-four of those investigations were in the agricultural industry, involving 29 minors employed in violation of the FLSA. WHD cited 949 Hazardous Order violations in 366 investigations, including two violations of the Agricultural Hazardous Occupation Orders in two separate investigations.</p> <p><b>2012 AR:</b> According to the Government: In Fiscal Year (FY) 2010, the number of concluded cases in which child labor violations were found was 684, and child labor civil monetary penalties of \$2,120,472 were assessed. The number of minors found working in violation of the FLSA, 29 U.S.C. 201 <i>et seq.</i>, in those cases was 3,333. Thirty-one of those cases were in the agricultural industry, involving 49 minors employed in violation of the FLSA. WHD cited 1,064 H.O. violations in 308 cases, including three violations of the Ag H.O.s in two cases.</p> <p><b>2011 AR:</b> According to the Government: In Fiscal Year (FY) 2009, the number of concluded cases in which child labor violations were found was 887 and child labor civil monetary penalties of \$4,031,564 were assessed. The number of minors found working in violation of the Fair Labor Standards Act (FLSA), 29 U.S.C. 201, <i>et seq.</i>, was 3,448. In FY 2010, the number of concluded cases in which child labor violations were found was 684 and child labor civil monetary penalties of \$2,120,471 were assessed. The number of minors found working in violation of the FLSA was 3,333.</p>
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			<p><b>2010 AR:</b> According to the Government: In fiscal year 2008, the number of concluded cases in which child labor violations were found was 1,129. For fiscal year 2008, nearly 4,218,088 in child labor civil monetary penalties were assessed. The number of minors found employed in violation of the FLSA was 4,737. These statistics may be found at: <a href="http://www.dol.gov/esa/whd/statistics/208FiscalYear.pdf">http://www.dol.gov/esa/whd/statistics/208FiscalYear.pdf</a>.</p> <p><b>2009 AR:</b> According to the Government: In fiscal year 2007, the number of concluded cases in which child labor violations were found was 1,249. For fiscal year 2007, nearly \$4.4 million in child labor civil monetary penalties were assessed. The number of minors found employed in violation of the FLSA was 4,672. This data may be found on the web site at <a href="http://dol.gov/esa/whd/statistics/200712.htm">http://dol.gov/esa/whd/statistics/200712.htm</a>.</p> <p><b>2007 AR:</b> According to the Government: In fiscal year 2005, the Number of Concluded Cases in Which Child Labor Violations Were Found was 1,129. For Fiscal Year 2005, \$3,744,364 in Child Labor Civil Monetary Penalties were assessed. The number of minors found employed in violation of the FLSA was 3,703. This data may be found on the Web site at: <a href="http://www.dol.gov/esa/whd/statistics/200531.htm">http://www.dol.gov/esa/whd/statistics/200531.htm</a>.</p> <p><b>2003 AR:</b> According to the Government: It records information on sanctions applied to users of child labour. The Government also undertakes surveys, occasionally, that provide statistical information on the extent and/or nature of child work.</p> <p><b>2000 AR:</b> According to the Government: Relevant indicators and statistics include the following: (i) workforce demographics (Department of Commerce Census Bureau and Department of Labor Bureau of Labor Statistics): information about youth employment by occupation and industry, by hours worked; (ii) Enforcement data and compliance surveys (Department of Labor Wage and Hour Division); (iii) Statistics on deaths and injuries (Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health): data used in determining what kinds of labour are unsuitable for minors; (iv) School enrolment and attendance data (by the individual state authorities).</p> <ul style="list-style-type: none"> <li>- The National Research Council of the National Academy of Sciences (a congressionally chartered private organization which advises the federal government on scientific and technical matters), with underwriting largely from government agencies such as the National Institute for Occupational Safety and Health and the Wage and Hour Division, published a document in 1998 entitled <i>Protecting Youth at Work</i>.</li> </ul>
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**Monitoring, enforcement and sanctions mechanisms**

**2015 AR:** According to the Government: In FY 2013, child labor violations were found in 704 concluded cases, and child labor civil monetary penalties totaling more than \$1.97 million were assessed. In those cases, 1393 minors were working in violation of the FLSA. The most common violations involved the failure to comply with the hours standards for 14 and 15 year-olds in non-agricultural industries (about 38 percent of the cases), and the failure to comply with Hazardous Orders in non-agricultural industries for 16 and 17 year-olds (about 34percentof the cases). As of mid-year FY 2014, child labor violations were found in 308 concluded cases, and child labor civil monetary penalties totaling more than \$800,000 were assessed. In those cases, 672 minors were working in violation of the FLSA. The most common violations involved the failure to comply with the hours standards for 14 and 15 year-olds in non-agricultural industries (about 42percentof the cases), and the failure to comply with Hazardous Orders in non-agricultural industries for 16 and 17 year-olds (about 35 percent of the cases).

**2014 AR:** According to the Government: In 2012, the Occupational Safety and Health Administration (OSHA) created the Office of Maritime and Agriculture (OMA) within OSHA's Directorate of Standards and Guidance. This office is responsible for the planning, development and publication of safety and health standards covering workers in the agriculture industry. In addition, OMA will develop, publish, and disseminate guidance documents on topics such as tractor safety, pesticides, grain handling, fall protection, and ladder safety in orchards. Currently, OMA is finalizing guidance documents on Working Safely on Ladders in Orchards, Agricultural Tractor Hazards, Rollover Protection Structures, Backovers in Agriculture, and Working Safely in Mushroom Facilities. In addition, OMA is responsible for maintaining the Agricultural Operations Safety and Health Topics Page, which includes information on young workers under 24 years of age in agriculture, available at: <http://www.osha.gov/dsg/topics/agriculturaloperations/youngworkers.html>. In 2013, OSHA reconvened the Agriculture Taskforce to further focus attention on the agriculture industry. This taskforce includes representatives from OSHA, other Department of Labor agencies such as the Wage and Hour Division (WHD), the Employment and Training Administration (ETA), and the Office of the Solicitor, and the State Monitor Advocates. The taskforce provides information on safety and health hazards in the agriculture industry, as well as compliance information and industry information to educate OSHA staff. One potential future topic is typical hazards categorized by crop season (planting, harvesting, tilling, etc.). On June 16, 2010, DOL announced that it has increased the standard civil money penalty that it will assess when youth are employed under the age of legal employment. Under the revised penalty structure, employers that illegally employ individuals ages 12 or 13 will face a penalty of up to \$6,000 per violation. If a worker is under 12 years of age and illegally employed, the penalty may be up to \$8,000. Penalties for illegally hiring workers under age 14 could be raised to \$11,000 under certain conditions. The press release for this administrative action may be found at: <http://www.dol.gov/whd/media/press/whdpressVB3.asp?pressdoc=national/20100616.xml>. DOL continues to utilize its expanded statutory authority to assess up to \$50,000 in civil monetary penalties for a child labor violation that results in the death or serious injury of an employee under 18, which may be doubled, up to \$100,000, if the violation is serious or willful. DOL's WHD is now turning its attention to reviewing the regulations governing child labor in agriculture in light of the remaining agricultural recommendations made in the 2002 NIOSH review, and is working on a notice of proposed rulemaking on this subject.

**2003 AR:** According to the Government: In view of bringing about the effective abolition of child labour, the following are among the measures implemented to enforce minimum age(s) for employment and to eliminate the worst forms of child labour: (i) legal reform; (ii) inspection/monitoring mechanisms; (iii) penal sanctions; (iv) civil or administrative sanctions; (v) special institutional machinery.



		<ul style="list-style-type: none"> <li>- The Wage and Hour Division contracted with the NIOSH, for that federal agency to conduct a study of the current hazardous orders and to make recommendations for any changes. NIOSH completed that study, <i>National Institute for Occupational Safety and Health (NIOSH) Recommendations to the U.S. Department of Labor for Changes to Hazardous Orders</i>, in May 2002.</li> </ul> <p><b>2000 AR:</b> According to the Government: the FLSA contains provisions designed to control or regulate the employment of children as well as to abolish, or to prevent outright, the employment of oppressive child labour.</p> <ul style="list-style-type: none"> <li>- The Secretary of Labor promulgates regulations which detail occupations found to be hazardous (there are 17 hazardous orders addressing various non-agricultural industries and occupations where the Secretary has found it to be particularly dangerous for youth workers).</li> <li>- The child labour provisions of the FLSA are administered and enforced by the United States Department of Labor acting through the Administrator of its Wage and Hour Division.</li> <li>- The Wage and Hour Division employs a number of enforcement tools to ensure effective implementation of federal child labor laws.</li> <li>- Civil money penalties: assessed in proportion to the severity of violations, ranging from fines to imprisonment, are employed to encourage future compliance by employers.</li> </ul>
	<p><b>Involvement of the social partners</b></p>	<p><b>2003-2004 ARs:</b> According to the Government: The Wage and Hour Division have held stakeholder meetings where it sought comments from employers, unions and child advocacy groups regarding the NIOSH recommendations.</p> <ul style="list-style-type: none"> <li>- Stakeholders can and do provide the Department and other concerned agencies with information about the existence of illegal child labor, as well as receiving relevant information from the Government.</li> <li>- Child labour regulations are issued through notice-and-comment rulemaking, subject to the requirements of the Administrative Procedure Act, 1947 (APA), in which employers' and workers' organizations are entitled to, and do, participate.</li> </ul>





**Promotional activities**

**2015 AR:** According to the Government: Federal agencies continue to provide guidance and training to employers, workers, children, and various interested groups, including labor organizations and employer associations, concerning the federal laws relating to the employment of children and workplace practices to ensure the health and safety of children.

**2014 AR:** The Government reported that it undertakes the following awareness-raising activities and training as part of promotional activities:

Awareness-Raising: Every WHD region conducts outreach activities, including presentations in schools and colleges, distribution of informational literature, and public service announcements in local media, both in Spanish and English. WHD conducted more than 1,920 outreach presentations on the Fair Labor Standards Act (FLSA), including information on the FLSA's child labor provisions, in Fiscal Year (FY) 2012 and more than 950 in the first half of FY 2013. OSHA conducts similar outreach activities. For example, the Agency participates in local activities and events throughout the United States, such as career expos and fairs, training seminars, and youth programs for children under 18 years of age, to keep teens safe and healthy on the job and to make them aware of their rights under the Occupational Safety and Health Act (OSH Act). In addition, OSHA staff give presentations and hand out OSHA resources at high schools around the country. OSHA's Regional and Area Offices participated in 895 outreach activities for youth in FY 2012 and 379 in the first half of FY 2013. States that have developed and operate their own job safety and health programs also conduct a variety of outreach activities. During the reporting period, OSHA and WHD also collaborated in making presentations on the subject of young worker safety. Presentations were given at the National Safety Council Congress, the American Industrial Hygiene Association's Annual Conference, SkillsUSA, the Voluntary Protection Program Participants Association Conference, and a training meeting of YouthBuild grantees. In 2012, OSHA took a new approach to reach young workers, utilizing the Challenge.gov website. Challenge.gov is an online platform administered by the U.S. General Services Administration in partnership with ChallengePost that empowers the U.S. Government and the public to bring the best ideas and top talent to bear on our nation's most pressing challenges. OSHA used the platform to challenge the public to develop an application with tools that demonstrate the importance of safety and health and workers' rights in the workplace, focusing on younger workers. Winners were chosen for the Safety in the Workplace Innovator Award, Safety and Health Data Award, Workers' Rights Award, and People's Choice Award. The challenge can be viewed at: <http://workersafetyhealth.challenge.gov/>. OSHA has also developed a mobile phone application, the Heat Safety Tool, which allows workers and supervisors to obtain the heat index for their worksite, along with the corresponding risk level for outdoor workers and reminders of the protective measures that should be taken. The mobile application may be downloaded at: [http://www.osha.gov/SLTC/heatillness/heat\\_index/heat\\_app.html](http://www.osha.gov/SLTC/heatillness/heat_index/heat_app.html).

Through its Alliance Program, OSHA works with groups committed to worker safety and health to prevent workplace fatalities, injuries, and illnesses. These groups include unions, foreign consulates, trade or professional organizations, businesses, faith- and community-based organizations, and educational institutions. OSHA works with these groups to develop compliance assistance tools and resources, share information with workers and employers, and educate. Five of OSHA's national alliances have youth as an area of emphasis. Through these alliances, as well as other national and local alliances, OSHA works with Alliance Program participants to develop and disseminate information and training aimed at making young workers aware of their rights under the OSH Act and keeping them safe on the job.



		<p>Representatives of OSHA and WHD chair the Federal Network for Young Worker Safety and Health, an inter-agency group composed of representatives of OSHA, WHD, the Labor Department’s Office of the Solicitor, Job Corps, and agencies outside the Labor Department, such as NIOSH and the Environmental Protection Agency, which, among other things, regulates worker exposure to pesticides. The members meet four times a year and exchange information about the efforts of their agencies to protect young workers from occupational hazards. The group has also prepared booklets in English and Spanish informing young workers of their rights and protections under the OSH Act, the FLSA, and other laws, and giving them occupational safety tips. The National Institute for Occupational Safety and Health (NIOSH), part of the U.S. Centers for Disease Control and Prevention, in collaboration with the National Hearing Conservation Association and Dangerous Decibels, participates in an educational outreach campaign targeting agricultural and other youth with information about noise and hearing loss prevention. This outreach includes distribution of informative brochures and fact sheets, and demonstrations using a special mannequin that enables youth to test the volume output of their personal listening devices. See: <a href="http://www.dangerousdecibels.org/jolene/">http://www.dangerousdecibels.org/jolene/</a>. NIOSH funding supports ten regional agricultural centers that conduct youth injury prevention activities and one national children’s center that focuses specifically on youth living in rural areas and working in agricultural environments. See: <a href="http://www3.marshfieldclinic.org/nccrahs/">http://www3.marshfieldclinic.org/nccrahs/</a>.</p> <p><i>Training:</i> In 2013, NIOSH launched the Safe•Skilled•Ready Workforce Initiative aimed at providing the basic skills needed to stay safe on the job and to contribute to a safe, healthy, and productive workplace. The initiative targets the delivery of eight, work-readiness competencies to young and new workers before they enter the workforce or start a new job. These basic skills complement those already being taught through apprenticeship and other vocational and career technical training programs.</p> <p><b>2013 AR:</b> According to the Government: The WHD recently redesigned its YouthRules web site, which continues to provide a gateway to child labor compliance information for children, parents, employers, and educators (<a href="http://www.youthrules.dol.gov/index.htm">http://www.youthrules.dol.gov/index.htm</a>). The new site is more interactive with improved graphics to appeal to a younger audience. DOL’s Occupational Safety and Health Administration (OSHA) also continues to maintain a web site, Young Workers: You Have Rights!, directed specifically to teen workers (<a href="http://www.osha.gov/SLTC/teenworkers">http://www.osha.gov/SLTC/teenworkers</a>), which has been redesigned to be more young-worker-friendly. OSHA also has a Youth in Agriculture eTool and is developing a Youth in Construction web page. In addition, both agencies engage in extensive outreach efforts to reach young workers, their parents, employers and educators. Every WHD region conducts outreach activities, including presentations in schools and colleges, distribution of informational literature, and public service announcements in local media, both in Spanish and English. OSHA conducts similar outreach activities and events throughout the United States. During the past year, OSHA and WHD collaborated in making presentations on the subject of young worker fatalities, focusing on cases in which both agencies had found violations. The presentations were given at the American Industrial Hygiene Association’s Annual Conference, SkillsUSA (a skills competition for technical schools and colleges), and the Voluntary Protection Program Participants Association Conference. The two agencies also worked together to produce a poster, I Have Rights, for young workers which can be printed from the Young Workers: You Have Rights web page.</p>
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		<p>The poster, when accessed through the internet, has a Quick Reference linking to DOL’s Youth Employment web page, which contains links to subject matter from both WHD’s and OSHA’s youth-oriented web pages. During 2011, DOL sponsored a contest for third-party software developers to showcase innovative uses of its data in mobile phone applications and featured the winners, including, “Eat Shop Sleep,” on its web page: <a href="http://www.dol.gov/dol/apps/winners.htm">http://www.dol.gov/dol/apps/winners.htm</a>. This application provides information on establishments investigated by WHD, including employers’ compliance records that employees and the public may use to learn if FLSA violations have been found at a particular establishment. WHD has also developed compliance tools to help employers check their knowledge of, and compliance with, the FLSA’s child labor provisions. On the YouthRules! web site, employers can find self-assessment tools for youth employment in the non-agricultural industry context as well as specifically addressing the grocery and restaurant industries. These are available at: <a href="http://www.youthrules.dol.gov/for-employers/compliance/non-agricultural/index.htm">http://www.youthrules.dol.gov/for-employers/compliance/non-agricultural/index.htm</a>. Furthermore, under, DOL’s Migrant Worker Partnership Program, WHD and the Occupational Safety and Health Administration (OSHA) have increasingly collaborated with foreign embassies and their consulates to provide information on U.S. labor laws to foreign workers and those who employ them. Some of these activities encompass protections for children. Since 2004, DOL has partnered with the Mexican Embassy through a Joint Declaration and with its 50 consulates under Letters of Arrangement with OSHA and WHD, to educate workers and employers in the agricultural, construction, hospitality and landscaping industries. Due to the success of the program with Mexico, DOL expanded its outreach in 2011 and 2012, establishing similar partnerships with Costa Rica, the Dominican Republic, El Salvador, Honduras, Nicaragua, Guatemala, Peru, Ecuador, and the Philippines. Further information on the Joint Declarations and Letters of Arrangement is available at: <a href="http://www.dol.gov/ilab/highlights/if-20120611.htm">http://www.dol.gov/ilab/highlights/if-20120611.htm</a></p> <p><b>2012 AR:</b> According to the Government: As discussed in earlier reports, WHD maintains a web site called YouthRules!, which continues to provide a gateway to child labor compliance information for children, parents, employers, and educators (<a href="http://www.youthrules.dol.gov/index.htm">http://www.youthrules.dol.gov/index.htm</a>). In addition, every WHD region conducts outreach activities, including presentations in schools and colleges, distribution of informational literature, and public service announcements in local media, both in Spanish and English. To facilitate outreach to stakeholders, WHD is creating a new position in its regional offices: community outreach resources planner. This will be a special position dedicated for all program areas to reach out to stakeholders and gather evidence to better integrate targeting and planning enforcement initiatives. Twenty positions have been funded initially, which will be strategically located in 20 of WHD’s 50 district offices. As part of its Grain Handling Initiative, discussed below, DOL’s Occupational Health and Safety Administration (OSHA) has updated training and outreach tools designed for both employers and workers. In August 2010, OSHA developed and released a factsheet that addresses grain bin entry and necessary safety precautions. In August 2011, it issued a Hazard Alert and an illustrated hazard wallet card for workers that clarify worker age restrictions for this industry and provide safety rules that must be followed if a worker will enter a grain bin or silo. OSHA has also modified and updated its public Safety and Health Topics Page on grain handling to better highlight and explain the hazards associated with this industry.</p>
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		<p>Additionally, the agency is exploring the use of public service announcements and outreach through articles and compliance assistance specialists/training to reach a broader audience. OSHA participated in local activities and events throughout the United States such as career expos and fairs, training seminars, and youth programs for children under 18 years of age, to keep teens safe and healthy on the job and to make them aware of their rights under the Occupational Health and Safety Act of 1970, 29 U.S.C. 553, 651 to 678. During the first half of FY 2011, OSHA Regional and Area Offices participated in more than 300 outreach events in which youth under 18 years of age were a focus. Examples include the Construction Education Foundation of Georgia Career Expo, the Youth Safety in Construction Day in Philadelphia and the SkillsUSA competition in Kansas City. Also, OSHA staff, in cooperation with WHD, gave presentations on child safety to the National Safety Council Congress, the Annual Meeting of the American Public Health Association and a training meeting of Youth Build grantees. Similarly, an OSHA staff member participated in a webinar for YouthBuild on construction safety and provided information on three youth-oriented curricula for program grantees and other staff. OSHA's web site directed specifically to teen workers (<a href="http://www.osha.gov/SLTC/teenworkers">http://www.osha.gov/SLTC/teenworkers</a>) was updated in April 2010 and is currently undergoing more revisions and updates.</p> <p><b>2011 AR:</b> According to the Government: As part of its agricultural enforcement initiative, the WHD has increased its public outreach. For example, the WHD engaged with employers growing blueberries in North Carolina to work to educate them on the legal requirements governing the employment of youth, which contributed to a much lower incidence of violations in that sector. As part of this effort, signs were placed in fields stating the legal requirements for youth in the agricultural setting. In addition, the WHD's YouthRules! Web site continues to provide a gateway to child labor compliance information to young workers, parents, employers, and educators (<a href="http://www.youthrules.dol.gov/index.htm">http://www.youthrules.dol.gov/index.htm</a>). The Occupational Safety and Health and Administration (OSHA) continues to provide outreach to young workers, their parents, employers and educators. In FY 2010, OSHA implemented major revisions to its Young Worker Web site (<a href="https://www.osha.gov/SLTC/teenworkers/index.html">https://www.osha.gov/SLTC/teenworkers/index.html</a>). The goal of the revisions was to make the site more appealing to target audiences and to update the information provided there. Included in the improvements were the additions of links to the WHD's revised child labor regulations so that users could easily access these new regulations. There remains an active referral process between the two agencies regarding young workers. OSHA enforcement staff worked collaboratively with the WHD during 2010 on a number of investigations where violations of both agencies' regulations were identified. In April 2010, OSHA hosted the <i>National Action Summit for Latino Worker Health and Safety</i>. This event was well attended by OSHA staff, labor representatives and young worker advocates, and featured speakers on young worker safety and health. Numerous bi-lingual training materials were distributed at the Summit along with special materials for illiterate users. These materials were suitable for young workers as well as adults. The Federal Interagency Network of Young Worker Safety and Health (FedNet), hosted by OSHA, continues to meet quarterly and has added new participants from federal agencies over the past year. This group is designed to share resources, reduce redundancy and provide a network for information dissemination related to young worker safety and health.</p>
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		<p><b>2010 AR:</b> According to the Government: The Occupational Health and Safety Administration (OSHA) continues to carry out education and outreach programs to improve workplace safety for working youth and continued to focus on safety related to construction jobs for FY09. It also has a website specifically for teen workers (<a href="http://www.osha.gov/SLTC/teenworkers/index.html">http://www.osha.gov/SLTC/teenworkers/index.html</a>) that was updated in FY 09. OSHA is reworking its 10-hour course to focus on teens and a pilot for this course is being tested in the state of Washington. A related course has been developed by NIOSH called Talking Safety which is being implemented by a number of states in the public education curricula. In addition, the Federal Network for Young Worker Safety (FedNet), an interagency task force in which federal agencies coordinate and work together to build on existing activities and broadly disseminate available tools and resources, has also continued its activities. Recent examples of such activities include working to establish a website that will communicate information regarding FedNet, continuing to distribute information designed to inform young landscape workers of their rights and resources available to them in English and Spanish, presenting information at conferences of national organizations whose members include or serve the youth population, and revising a NIOSH publication to create a useful guide to numerous federal agencies that focus on young workers.</p> <p><b>2009 AR:</b> According to the Government: On 21 April 2008, the Secretary of the Department of Labor kicked off the Occupational Health and Safety Administration's (OSHA) National 2008 Teen Summer Job Safety Campaign on national television in New York City, stating, "The Teen Summer Job Safety Campaign educates teenagers on the importance of workplace safety and health habits that will help protect them and their coworkers at work". The viewership for this particular program (the TODAY Show) during the week of the Secretary's appearance averaged over 5 million viewers. The event was also picked up by national public radio, several trade magazines, and many local media across the nation. In addition, OSHA hosted and participated in local events and activities around the country, such as career fairs, youth programs, expos, and training seminars, to help keep teenagers safe and healthy on the job. Through working with many strong national and regional partners and other cooperative programs, OSHA reached thousands of teens, parents, employers and educators. Several other DOL agencies (JobCorps, YouthBuild, the Employments Standards Administration's Wage and Hour Division (WHD)) collaborated with OSHA in these events and provided resources and support for the Campaign. OSHA also developed a unique web site to promote teen summer job safety. The web site address was disseminated widely and resulted in over 28,000 hits between the kick-off (21 April) and the end of June 2008; a record that significantly exceeded the 2007 level. The WHD too has continued to carry out its Youth Rules! Rallies, education, and outreach, which have been described in earlier reports.</p>
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		<p><b>2007 AR:</b> According to the Government: The Department of Labor continues its efforts to abolish illegal child labor and ensure the safety and well-being of young people at work. In Fiscal Year 2005, the Department initiated a five-year summer job safety campaign. In the summer of 2006, the campaign focused on the land care industry and performed education and outreach, achieving wide dissemination of its education materials through the media and contacts with youth-oriented non-profit organizations. Through its ongoing Youth Rules! Public Awareness Campaign, it also directed its efforts to youth working in the construction industry in response to an increase in youth working in the construction industry during the summer. It launched a new electronic seminar, "Youth Working in Construction" on CD-ROM and available on the Youth Rules! Web site (<a href="http://www.youthrules.dol.gov">www.youthrules.dol.gov</a>), which focuses on the Secretary's Hazardous Orders. In addition, there are two region-wide initiatives to educate employers and others regarding the rules for this industry. There are also several local initiatives relating to the roofing industry involving both outreach and enforcement activities.</p> <p><b>2003 AR:</b> According to the Government: With a view to bringing about the effective abolition of child labour, the following measures had been implemented to enforce minimum age(s) for employment and to eliminate the worst forms of child labor: (i) employment creation/income generation; (ii) social assistance (e.g. stipends, subsidies, vouchers); (iii) child rehabilitation following removal from work; (iv) vocational and skills training for young workers; (v) awareness raising/advocacy; (vi) free compulsory education; and (vii) international cooperation programs/projects.</p> <p><b>2000 AR:</b> According to the Government: The Wage and Hour Division undertakes "compliance education" which serves to promote voluntary compliance with child labor laws by informing employers, educators, young workers, and their parents about the child labour laws and the Wage and Hour Division also partners with consumers and corporations to raise public awareness of child labor issues and promote child labor compliance practices. The Department of Labor in particular had developed a broad array of Programs to abolish illegal child labor and to ensure the safety and well-being of young people at work (e.g. the Department's Low-Wage Initiative, the Safe Work/Safe Kids Initiative).</p>
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**Special initiatives/Progress**

**2015 AR:** According to the Government: The WHD has conducted several statewide or regional initiatives focused on particular industries, such as groceries and restaurants, in which child labor violations were found. For example, investigations of grocery stores revealed that in some instances children were working in hazardous activities, such as loading and/or operating power-driven paper balers, meat slicers, bakery machines, and operating a motor vehicle. In a statewide initiative focused on restaurants, child labor violations included the operation of hazardous equipment, including meat slicers and dough mixers. The initiatives were designed not only to find violations, but to engage key employers to help provide compliance assistance and to secure industrywide compliance. As part of the initiative, WHD conducted outreach to workers, employers, and community groups; it also encouraged vulnerable workers to recognize potential violations.

WHD also undertook investigations of particular employers where violations of child labor or other violations of the Fair Labor Standards Act (FLSA) are suspected. Such investigations have disclosed various child labor violations, such as the operation of forklifts, operating, loading or unloading balers and compactors, driving a box truck that exceeded 6,000 pounds on public roads, operating a chain saw, and working in a saw mill, all in violation of the FLSA's hazardous orders. Moreover, OSHA continues to develop two initiatives designed to improve the safety and health of workers, including those under 18 years of age. The Dairy Farm Initiative will address workplace hazards to which workers at dairy farms may be exposed, and the Poultry Initiative, which will address the particular hazards of the poultry processing industry.

In May 2014, OSHA launched its fourth annual Campaign to Prevent Heat Illness in Outdoor Workers. The campaign targets youth because many seek summer employment, often in hot outdoor environments.

In June 2014, the Occupational Safety and Health Administration (OSHA) finalized its guidance on Working Safely on Ladders in Orchards. See <https://www.osha.gov/pls/publications/publication.html>. The Agency is working on guidance relating to tractor safety and vehicle rollover and backover protection.

The National Institute for Occupation Safety and Health (NIOSH) continued to maintain a Web site for Young Worker Safety and Health, which provides numerous links to "spotlights" on young workers, including adolescents, and other resources about programs undertaken by the agency. <http://www.cdc.gov/niosh/topics/youth/>. These initiatives include its "Safe-Skilled-Ready Workforce Initiative, which promotes the work-readiness skills to complement an employer's responsibilities for the workplace safety and health of its employees. <http://www.cdc.gov/niosh/safe-skilled-ready/>. Its resources include a Work Safe Work Smart curriculum for use by high schools with the goal of reducing injury rates of young workers. See <http://www.cdc.gov/niosh/talkingsafety/>. NIOSH plans to customize the curriculum for each state and the District of Columbia to reflect state-specific child labor laws and resources.

As noted last year, NIOSH funding supports several regional agricultural centers that conduct youth injury prevention activities and one national children's center (operated by the Marshfield Clinic) that focuses specifically on youth living in rural areas and working in agricultural environments. See <http://www3.marshfieldclinic.org/nccrahs/>. In June 2014, the Marshfield Clinic published a Model Policy: Youth Employment in Agriculture. [http://www3.marshfieldclinic.org/nccrahs/?page=nccrahs\\_projects-products-model-policy](http://www3.marshfieldclinic.org/nccrahs/?page=nccrahs_projects-products-model-policy). Guidelines and other resources relating to agricultural work by children are available at <http://www3.marshfieldclinic.org/nccrahs/>.





		<p>On July 1, 2014, NIOSH published a report (summarizing fifteen years of childhood agricultural injury research, 1997-2011) that highlights the agency's extramural research in childhood agricultural injury prevention. In a statement accompanying release of the report, NIOSH's Director indicated that "[d]ramatic progress has been made in reducing the number and rate of childhood agricultural injuries." <a href="http://198.246.124.29/niosh/updates/upd-07-01-14A.html">http://198.246.124.29/niosh/updates/upd-07-01-14A.html</a>. As stated in the report, injuries to youth under 20 working, living, or visiting farms had reduced by 58 percent between 1997 and 2009; and a comparable reduction (60 percent had occurred for youths living on farms during the same timeframe. Report, at p. v. A copy of the report is available at <a href="http://www.cdc.gov/niosh/docs/2014-121/">http://www.cdc.gov/niosh/docs/2014-121/</a>.</p> <p>Both OSHA and the Wage and Hour Division (WHD) continued to conduct outreach activities. OSHA worked with groups committed to worker safety and health through its Alliance Program to prevent workplace fatalities, injuries, and illnesses. These groups included unions, foreign embassies and consulates, trade or professional organizations, businesses, faith- and community-based organizations, and educational institutions. As an example, during Fiscal Year (FY) 2013 and FY 2014, OSHA entered into 30 alliances with the embassies or consulates of 11 foreign countries. Through this program, OSHA worked with participants to develop and disseminate information and training aimed at making young workers aware of their rights under the OSH Act and keeping them safe on the job.</p> <p>In addition, OSHA staff visited high schools around the country, talking about workplace safety and providing handouts to students and teachers. In FY 2013 and the first half of FY 2014, OSHA staff held 1,017 educational sessions with youth. States that have developed and operate their own job safety and health programs also conducted a variety of outreach activities.</p> <p>WHD conducted extensive outreach and education to worker and employer organizations in various industries. For example, in the agriculture industry, the WHD engaged in outreach with organizations such as Farm Worker Justice, the National Center for Farm Worker Health, the Farm Labor Organizing Committee, farmers/growers, and manufacturers and others who sell agricultural products to consumers. WHD, as noted above with OSHA, also worked closely with foreign embassies and consulates whose citizens are working in the United States. In 2013 and 2014, WHD entered into 67 arrangements with foreign countries.</p> <p>WHD also made presentations in schools and colleges about the FLSA and other statutes it enforces, distributes informational literature, and provided public service announcements in local media, both in Spanish and English. In FY 2013, WHD conducted more than 2,400 outreach presentations, and more than 970 in the first half of FY 2014.</p>
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**2014 AR:** According to the Government: in 2013, the National Institute for Occupational Safety and Health (NIOSH) launched the Safe•Skilled•Ready Workforce Initiative, with the mission that every person, before joining the U.S. workforce for the first time or starting a new job, will have the basic skills needed to stay safe on the job and to contribute to a safe, healthy, and productive workplace. The effort recognizes that employers are responsible for providing a safe and healthy workplace, but that everyone should have basic skills to help protect them on the job now, and throughout their lives. Further, the effort recognizes that basic safety and health skills are the “missing life skill,” and are key to any work-readiness effort, and to every job. The initiative targets the delivery of eight, work-readiness competencies to young and new workers before they enter the workforce or start a new job. These basic skills complement those already being taught through apprenticeship and other vocational and career technical training programs. More information is available at the NIOSH Safe•Skilled•Ready Workforce Initiative website: <http://www.cdc.gov/niosh/Safe-Skilled-Ready/default.html>. Also, in recent years, WHD launched a Grocery Store Initiative to enhance compliance with the FLSA. Investigations were conducted as part of a multi-year enforcement effort focused on the grocery store industry in Alabama and Mississippi, where widespread noncompliance with the FLSA’s minimum wage, overtime, record-keeping and child labor provisions has been found. Common child labor violations include minors being required to perform prohibited hazardous tasks, such as operating power-driven scrap paper balers and paper box compactors. On January 4, 2012, WHD announced that it had found significant violations of the FLSA’s child labor and wage provisions at 14 grocery stores in the 2 states. Employers were assessed \$53,037 in civil money penalties for permitting a total of 31 minor employees at 11 of the stores to conduct prohibited hazardous jobs. Minimum wage and overtime back wages totaling \$12,547 were also required to be paid to 56 employees. A press release relating to this matter is available at: <http://www.dol.gov/whd/media/press/whdpressVB3.asp?pressdoc=Southeast/20120104.xml>.

In addition, WHD has continued to implement initiatives reported upon in earlier baseline reports, including those in the restaurant, hotel, and agricultural industries. These initiatives have targeted systemic violations, as well as helped to inform strategies for addressing industry-specific problems. These initiatives also serve to educate employers about their legal responsibilities and promote sustained compliance throughout the industry. OSHA is developing two new initiatives that are expected to improve the safety and health of workers, including those below 18 years of age. The Dairy Farm Initiative will address workplace hazards to which workers at dairy farms may be exposed, including drowning hazards in manure pits, crushing hazards from animal handling, electrical hazards that may result in electrocutions, amputation hazards from unguarded power transmission components of farm field and farmstead equipment, and other serious hazards that are normally encountered in an agricultural operation (e.g., tractor rollover). The Poultry Initiative will address the particular hazards of the poultry processing industry, including ergonomic hazards, respiratory hazards resulting from exposure to organic dusts, hazards associated with machinery and the use of knives and scissors, and hazards due to the presence of microbiological organisms and endotoxins.



		<p><b>2013 AR:</b> According to the Government: Every year, WHD offices all over the country conduct enforcement initiatives in low wage and high-risk industries that employ many vulnerable workers where the Agency has historically found high levels of non-compliance with the FLSA, including its child labor provisions. WHD's agricultural initiative, discussed in previous reports, continues to be a priority area of enforcement. In addition, WHD has recently launched initiatives focusing on: the restaurant industries in a number of cities in different regions, including Portland, Oregon, San Francisco and Los Angeles, California, as well as cities in Georgia and Florida; hotels in Tennessee, and agricultural nurseries in Colorado. These initiatives include targeted investigations aimed at identifying and remedying systemic violations, as well as other compliance activities to help inform WHD of the likely causes of the non-compliant behavior and point to strategies for addressing industry-specific problems. Likewise, OSHA has continued two initiatives as particular areas of emphasis: the Grain Handling Initiative aims to protect workers in grain handling operations by increasing enforcement and inspection activities in this industry; and the Campaign to Prevent Heat Illness in Outdoor Workers stresses the critical importance of water, rest and shade to prevent heat-related illnesses and fatalities in agriculture and construction. In addition, OSHA continues its efforts to reach more workers and to develop user-friendly and innovative educational materials for distribution. Specifically, OSHA has developed: a Grain Handling Topics Page with a Hazard Alert, a Wallet Card and other resources to protect grain handling workers; an Occupational Heat Exposure Topics Page with Fact Sheets, a Quick Card and other resources to protect outdoor workers; and a mobile phone application, the <i>Heat Safety Tool</i>, that allows workers and supervisors to obtain the heat index for their worksite, along with the corresponding risk level for outdoor workers and reminders of the protective measures that should be taken. The mobile application may be downloaded at: <a href="http://www.osha.gov/SLTC/heatillness/heat_index/heat_app.html">http://www.osha.gov/SLTC/heatillness/heat_index/heat_app.html</a>.</p> <p><b>2012 AR:</b> According to the Government: In the last update, the United States reported on WHD's agricultural initiative aimed at protecting the rights of farm workers, including children, under the FLSA and the Migrant and Seasonal Worker Protection Act, 29 U.S.C. 1801, <i>et seq.</i> This initiative is ongoing as a priority area of enforcement.</p> <p>In an effort to reduce grain entrapment incidents and fatalities, some of which may involve children under 18 years of age, OSHA has embarked on an initiative focusing on protecting workers in grain handling operations by increasing enforcement and inspection activities in this industry. OSHA initiated Regional and Local Emphasis Programs that focus on areas of the country where grain handling, grain milling, rice milling, animal feed preparation, farm-product warehousing and production of grain are concentrated. In 2010, OSHA conducted over 298 inspections of such operations. This is roughly a 60 per cent increase from the 2008 inspection level. Approximately 72 per cent of these inspections identified violations of OSHA standards. Roughly 6.5 per cent of these inspections identified willful or repeat violations of OSHA standards. Besides enforcement inspections, OSHA sent notice letters - in August 2010 and in February 2011 - to more than 13,000 grain elevator operators reminding them of their responsibility to follow proper safety precautions, including prohibiting entry in grain storage facilities while grain is being emptied out or flowing in or out of the bin, prohibiting employees from "walking down the grain" and ensuring that employees enter the bin with the proper safety equipment.</p> <p>OSHA also initiated a Campaign to Prevent Heat Illness in Outdoor Workers for the summer of 2011, to address heat-related fatalities in agriculture. The campaign stresses the critical importance of water, rest and shade to prevent heat-related illnesses and fatalities and covers agriculture and construction workers. There is a special focus on outreach to new workers, which would include many workers less than 18 years of age, who have not been acclimated to excessive heat and often suffer more</p>
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		<p>serious heat-related illnesses.</p> <p><b>2011 AR:</b> According to the Government: The WHD has embarked on an agricultural initiative aimed at protecting the rights of farm workers, including children, under the FLSA and the Migrant and Seasonal Worker Protection Act, 29 U.S.C. 1801, <i>et seq.</i> Agricultural sector inspectors and child labor inspectors are working in concert to inspect agricultural workplaces at times that children are more likely to be present, in particular, after school and on weekends. As an example, during the 2010 growing season, the WHD focused on various types of growers, particularly blueberry growers, and their farm contractors in a number of states, including New Jersey and North Carolina.</p> <p><b>2010 AR:</b> According to the Government: the Trafficking Victims Protection Reauthorization Act of 2008 was enacted in December 2008, Pub. L. 110-457, 122 Stat. 5044 (2008), which reauthorized the Trafficking Victims' Protection Act of 2000, Pub. L. 106-386, 114 Stat. 1464 (2000), for four years and authorized new measures to combat human trafficking, including efforts to increase effectiveness of anti-trafficking-in-persons programs, providing interim assistance for potential child victims of trafficking, and enhancing the ability to criminally punish traffickers. This legislation may be found at <a href="http://www.usdoj.gov/olp/materials-ww-tvpra.htm">http://www.usdoj.gov/olp/materials-ww-tvpra.htm</a>. Moreover, in February 2008, the Wage and Hour Division (WHD) of the Department of Labor (DOL) implemented an initiative to investigate establishments likely to employ minors in violation of Hazardous Order 12 relating to balers and compacters used to process waste materials. Its YouthRules! Webpage continues to provide a gateway to child labor compliance information on the internet (<a href="http://www.youthrules.dol.gov/index.htm">http://www.youthrules.dol.gov/index.htm</a>).</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>NIL.</b></p>
		<p><b>Workers' organizations</b></p>	<p><b>2003-2004 ARs:</b> The AFL-CIO strongly disagreed with the draft update to the report on child labour prepared by the Government of the United States for the year 2003.</p> <p><b>2003 AR:</b> Observations by the AFL-CIO through the government: the draft report did not provide information on current United States practice with respect to enforcing child labour laws; the draft said nothing about the U.S. practice.</p> <p><b>2002 AR:</b> ICFTU's observations: A major area of abuse is the agricultural sector, particularly as regards children of migrant workers. The school-leaving age is not set at the national level. Encourages the Government to ratify C.138.</p>



	<p><b>According to the Government</b></p>	<p><b>2014-2015 ARs:</b> The Government indicated that there is a continuing need to educate children, parents and employers about the dangers of child labor and the relevant protective provisions.</p> <p><b>2012-2013 ARs:</b> According to the Government: The current challenges have not changed since last year. Constant education is still needed to reach children as they become old enough to be hired by employers, particularly with respect to agricultural employment. The nature of this employment, e.g., its short duration, the remote locations, and the mobility of the work, poses enforcement challenges. These challenges include: reluctance of children without legal authorization to work, or whose parents are not authorized to work, to assert their rights; children accompanying their parents to the fields due to the lack of day care services; and language barriers between children and their parents and the employer. As discussed above, DOL has engaged in strategies to address these challenges.</p> <p><b>2011 AR:</b> According to the Government: Constant education is needed to reach children as they become old enough to be hired by employers, particularly with respect to agricultural employment. The nature of this employment, e.g., its short duration, the remote locations, and the mobility of the work, poses enforcement challenges. These challenges include: reluctance of children without legal authorization to work, or whose parents are not authorized to work, to assert their rights; children accompanying their parents to the fields due to the lack of day care services; and language barriers between children and their parents and the employer.</p> <p><b>2009 AR:</b> Teen workers are typically seasonal, temporary, or short-term workers. This may result in these teenagers not receiving the full complement of training that an adult full-time worker would receive.</p> <p><b>2003 AR:</b> In the informal sector of the economy, the employment of children in door-to-door sales raises concerns about their safety and welfare.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>NIL.</b></p>
	<p><b>Offer</b></p>	<p><b>NIL.</b></p>
<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS/ OBSERVATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that few governments, such as the United States (and three other governments), had indicated their current lack of effort to ratify C.138 and/or C.182 (cf. paragraph 57 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs listed the United States among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, prevention, enforcement and sanctions mechanisms and/or ratification. They also mentioned the following: “Australia, New Zealand and the United States have expressed their intention to renew their assistance to other States and international organizations to combat child labour, including in its worst forms. Their assistance ranges from financial aid to participation in international forums. It is important to maintain a continuity of social programs to combat child labour. Once programs are interrupted, it is difficult to maintain the momentum. The sustainability of such programs will be enhanced with the active support of employers’ and workers’ organizations” (cf. paragraphs 13 and 234 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS/ OBSERVATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2004-2015)**<sup>91</sup>: VANUATU

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the 2006 Annual Review (AR). Vanuatu joined the ILO in 2003.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Vanuatu Chamber of Commerce and Industry (VCCI) and the Vanuatu National Workers' Union (VNWU) by means of consultation and communication of a copy of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> Observations by the VCCI. <b>2006 AR:</b> Observations by the VCCI.
	<b>Workers' organizations</b>	<b>2012 AR:</b> Observation by the VNWU. <b>2008 AR:</b> Observations by the VNWU. <b>2007 AR:</b> Observations by the VNWU. <b>2006 AR:</b> Observations by the VNWU.

<sup>91</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<p><b>Vanuatu has ratified in 2006 the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). However, it has not yet ratified the Minimum Age Convention, 1973 (No. 138) (C.138).</b></p> <p>Vanuatu ratified the United Nations Convention on the Right on the Child (CRC) in 1992.</p>
		<b>Ratification intention</b>	<p><b>YES, in process, since 2005, for C.138 (since 2005).</b></p> <p><b>2014 AR:</b> According to the Government: Following the Tripartite Labour Advisory Council's (TLAC) deliberation, the Council of Ministers approved ratification of C.138.</p> <p><b>2013 AR:</b> According to the Government: Ratification of C.138 is currently pending before the Labour Advisory Council.</p> <p><b>2012 AR:</b> In August 2011 the ILO presented a tripartite workshop to promote ratification of C.138. At the time a draft Bill to amend the Employment Bill to apply C.138 was presented to tripartite constituents for their consideration. The government has reviewed and approved the draft amendment and now needs to make submissions to the Council of Ministers in support of C.138 ratification.</p> <p>* N.B. At the workshop VCCI and the VNWU also expressed their support for the ratification of C.138.</p> <p><b>2009 AR:</b> According to the Government: The Declaration relevant to C.138 is being prepared for communication to the ILO, and the Government would very much appreciate ILO technical assistance in this process.</p> <p><b>2008 AR:</b> According to the VNWU: There are few hurdles that Vanuatu has to deal with first before engaging in ratification of C.138.</p> <p><b>2007 AR:</b> According to the Government: Vanuatu has already ratified C.182. C.138 has also been ratified by the Parliament of the Republic of Vanuatu, and it is being processed to the ILO for final registration.</p> <p><b>2006 AR:</b> The Government intended to ratify very soon C.138 and C.182. It had also initiated a Labour Law Reform in association with the social partners and the ILO in order to ensure compliance of national laws with the provisions of these instruments. Ratification of C.29 and C.105 is supported by the VCCI and the VNWU. The Government requested ILO's support in the ratification process.</p>
	<b>Recognition of the principle</b>	<b>Constitution</b>	<b>YES.</b>

	<p><b>and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b> <b>YES.</b> <b>2015 AR:</b> According to the Government: Vanuatu had a minimal National Children’s Policy (2007 – 2011), which is now outdated and its final review awaiting the Director General to sign off. The Child Labour was seen as stand-alone issue and the outdated policy highlighted issues of children in especially difficult circumstances. Currently, the Government is in the process of reviewing a newly proposed policy which more clearly outlines child labour issues and replaces the old National Children’s Policy. <b>2014 AR:</b> According to the Government: The TLAC will be deliberating on a child labour policy in the very near future. <b>2008 AR:</b> The Government indicated that it has set up the Decent Work Program, which includes the PR. <b>2006 AR:</b> The Government intended to adopt a policy on the principle and right (PR).</li> <li>• <b>Legislation:</b> The relevant provisions regarding this principle and right are found in the Employment Act (Cap. 160), 1983; sections 39-44 provide for the minimum age for admission to employment ranging from 12 (with exceptions) to 18 depending on the type of work performed. <b>2015 AR:</b> According to the Government: Tripartite constituents in Vanuatu, through the Tripartite Labour Advisory Council, are currently in the process of adopting the Employment Relation Bill 2012, which when enacted would affect the application of the Convention. The adopted Employment Relation Bill is expected to replace the Employment Act. Section 7 of the Bill prohibits forced labour, which is defined in Section 4. Section 40 of the Bill states that the Commissioner of Labour, Labour Officers and Labour Inspectors ensure compliance with the provisions of the Bill. Section 23 (6) imposes penalties for offences against provisions of the Bill of up to VT 1,000,000 or imprisonment for up to 5 years towards any person that unlawfully exacts forced labour in contravention of Section 7 (1). Section 109 of the proposed Bill specifies provisions that Eliminate Worst Forms of Child Labour.</li> </ul>
		<p><b>Basic legal provision:</b></p>	<p>The Employment Act (Cap. 160), 1983 (sections 39-44).</p>
		<p><b>Judicial decisions</b></p>	<p><b>NIL.</b></p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>Compulsory education</b></p>	<p><b>Not specifically</b> but under the Education Act a duty is imposed on parents to ensure that their children attend school until the age of 14. Education is however, not free in Vanuatu and Principals are empowered under the Education Act to exclude from school, children whose parents have not paid their fees. <b>AR 2015:</b> According to the Government: The Whole Education system in Vanuatu is not compulsory for girls and boys.</p>



		<p><b>Minimum age</b></p>	<p><b>Various minimum ages for employment are currently provided for by the Employment Act.</b></p> <p>Sections 38 to 44 of the Employment Act prescribe certain minimum ages at which children are allowed to engage in different types of work. Children under 12 may only engage in light work in their own family’s agricultural undertaking. Children under the age of 14 may only engage in light domestic or agricultural work but may do so outside their family’s undertaking in the community. The general minimum age for employment is effectively set at 14, with the limitation that 14 year olds may not undertake industrial work or work on any ship. All children under the age of 18 are prohibited from engaging in night work without the permission of the Commissioner and are prohibited from working on a ship without certification of fitness by a medical practitioner.</p> <p><b>2015 AR:</b> According to the Government: Section 38 of Employment Act [CAP 160] provides that “No person under the age of 12 years shall be employed in any capacity, except on light work suitable to his capacity in an agricultural undertaking owned and managed by the family of which he is a member”.</p> <p>Section 39 of the Employment Act [CAP 160] provides that “a person under the age of 14 years shall not be employed except on light work of an agricultural or domestic character in which members of the employer's family are employed with him, or on agricultural light work carried on collectively by the local community.</p> <p>Section 40 of the Employment Act [CAP 160] provides that “a person under the age of 15 years shall not be employed on work –</p> <ul style="list-style-type: none"> <li>(a) in any industrial undertaking except in employment approved by the Commissioner;</li> <li>(b) on any ship.</li> </ul> <p>Section 41 of the Employment Act [ CAP 160 ] provides that “(1) a person under the age of 18 years shall not be employed during the night in any industrial undertaking, except that, if such person is over the age of 16 years, he may be so employed subject to the written consent of a labour officer. (2) In subsection (1) "night" means a period of at least 7 consecutive hours falling between 10 o'clock in the evening and 6 o'clock in the morning.</p> <p>Section 42 of the Employment Act [CAP 160 ] provides “a person under the age of 18 years shall not be employed on any kind of work on a ship unless certified by a medical practitioner to be fit for such work: provided that in urgent cases a labour officer may permit the engagement of a person under the age of 18 years without prior medical examination, and in such case the employer shall at his own expense have such a person medically examined at the first place of call at which there is a medical practitioner, and should such practitioner not attest such person as fit for the work, the employer shall at his own expense return such person as a passenger to the port or place where he was engaged, or to his home, whichever is the nearer.</p> <p><b>2014 AR:</b> According to the Government: Vanuatu’s position is that minimum age be set at 14 years of age.</p>
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			<p><b>Hazardous work: Defined.</b></p> <p><b>AR 2015:</b> According to the Government: Hazardous work is defined as follows:</p> <p>Hazardous work – The hazard is the environment in a work place that puts employee’s health and safety at risk. This may involve a task, chemical or equipment used. Ex: The office in which items are not arranged in order can be very dangerous for the employee.</p> <p>Physical Hazard – its most common substances which can cause damage in human body like explosion, fire and radioactive material.</p> <p>Chemical Hazard – This means any substances that cause harm to people where they do not wear protecting clothes. For instance, workers in the industrial work place like Fibre Glass Vanuatu who can be affected easily if they are not wearing the protective clothes.</p> <p>Health Hazards – This can be the handling of animals. Ex: Worker who may be injured by the animal; most common injuries are cuts and abrasions to hands and upper parts of body caused by knives and cutting. Workers working in a large abattoir and are of close contact to the most common animal diseases such as brucellosis, tuberculosis, anthrax...etc</p> <p>Behaviours Hazard – This results to human attitudes of not applying or following the rules of or the sign in the work place – Negligence</p>
		<p><b>Worst Forms of Child Labour</b></p>	<p><b>C.182 is ratified.</b></p>
		<p><b>Special attention to particular situations</b></p>	<p><b>NO.</b></p>
		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2014 AR:</b> According to the Government: A recent survey carried out in 2009, confirmed that the minimum age group still remains at 15 years of age on economic activities.</p> <p><b>2006 AR:</b> Vanuatu has carried out, in cooperation with the Government of Australia, several surveys on children, including child labour and its worst forms. The last population census was held in 1999, and the lowest age of persons for whom questions were asked about economic activity was 15 years.</p>

	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2014 AR:</b> According to the Government: The Department of Labour has extended its services and increased its capacity in recruiting 4 new Labour Inspectors and 4 new officers.</p> <p><b>2009-2010 ARs:</b> According to the Government: The Department of Labour has and will continue to increase its human resources in order to effectively and efficiently monitor and enforce labour laws. The Government has also allocated sufficient funds for the Department of Labour to carry out this particular activity.</p> <p><b>2008 AR:</b> According to the Government: a Tripartite Steering Committee comprised of Government's, employers' and workers' representatives, was created.</p> <p><b>2006 AR:</b> According to the Government: Specific measures/programs have been implemented in the country to bring about the effective abolition of child labour. As part of the Pacific Children's Program funded by the Government of Australia, Vanuatu has carried out several surveys on children, including child labour and its worst forms.</p> <p>With a view to bringing about the effective abolition of child labour, legal reform and inspection/monitoring mechanisms are being envisaged to enforce minimum age(s) for admission to employment/work and/or to eliminate the worst forms of child labour. However, no special attention is given to the needs of particular groups of children, including those working in the informal sector.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>AR 2015:</b> According to the Government: Both employers' and workers' organizations are aware of the adoption of the Employment Relation Bill when replacing the Employment Act.</p> <p><b>2014 AR:</b> According to the Government: The TLAC has deliberated on C.138 this year and the convention has been approved by the Council of Ministers.</p> <p><b>2012 AR:</b> According to the Government: The ratification process and the need for labour law amendment in relation with the C.138 are being considered with the social partners. Moreover, a National Tripartite Advisory Board is functioning for the first time since 1 May 2012.</p>

	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> The Government indicated that a senior officer of the Ministry of Labour had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards held in May-June 2015 where issues concerning the effective abolition of child labour the PR were presented and discussed.</p> <p><b>2014 AR:</b> According to the Government: The Department of Labour has initially commenced a radio programme in 2013 explaining all pieces of labour laws, including child labour issues, as an awareness for workers and employers and the general public at large. The programme has stopped due to limited funding.</p> <p><b>2012 AR:</b> According to the Government: national tripartite workshop to promote ratification of C.138 was organized in August 2011, in cooperation with the ILO. During this activity, a draft Bill to amend the Employment Bill in accordance with the provisions of C.138 was presented to tripartite constituents for their consideration. The ILO has offered further technical assistance to draft submissions for the Council of Ministers to promote C.138 ratification and implementation.</p> <p><b>2010 AR:</b> According to the Government: The Department of Labour has issued a number of press releases on labour laws and will continue to promote major labour legislation awareness programmes in 2010.</p> <p><b>2008 AR:</b> According to the Government: awareness raising activities on labour legislation are currently ongoing in Port Villa and will be extended to the other islands of Vanuatu in the coming year.</p> <p><b>2007 AR:</b> A tripartite delegation of Vanuatu participated in the Celebration of the 30<sup>th</sup> of the ILO Presence in the Pacific Region organized in Suva, Fiji in December 2005. During this event, the Government of the Republic of Vanuatu presented a Letter of Intent to ratify all ILO fundamental Conventions.</p> <p><b>2006 AR:</b> According to the Government: A labour law reform is being carried out in Vanuatu in consultation with the ILO.</p>	
	<p><b>Special initiatives/Progress</b></p>	<p><b>2012 AR:</b> According to the Government: On Labour Day, 1<sup>st</sup> May 2011, the Tripartite Labour Advisory Council was formally launched by the Deputy Prime Minister with the Minister responsible for Labour. This new Council is responsible for, among other things, driving the labour law reform process to better apply core and governance Conventions.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2006 AR:</b> According to the VCCI: Although this PR is adequately recognized in Vanuatu, the main obstacles that have been encountered in the country in realizing the PR are as follows: (i) School fees are high and many people cannot afford to pay them – this might encourage child labour; and (ii) lack of adequate legislation (uncertainty of the law).</p>

		<p><b>Workers' organizations</b></p>	<p><b>2008 AR:</b> According to the VNWU: (i) the appointment to the Labour Advisory Board is not nominated by the trade union movement. Therefore, all attempts to implement all ratified ILO Conventions effectively in the country are being sidestepped by the Commissioner of Labour; (ii) no attempt by the Government has been initiated to promote new tripartite activities following discussions with ILO representatives.</p> <p><b>2007 AR:</b> According to the VNWU: without proper knowledge, trade unions cannot assess the realization of the PR in Vanuatu satisfactorily. They do not have the capacity to provide information on the real situation and that is the challenge. The ILO needs to assist the union to work out the kind and amount of technical cooperation needed. Moreover, it is only when reacting to issues raised by unions that the Government can then dialogue with them. Therefore, there is an urgent need to set up immediately a Tripartite Consultative Meeting as has been requested by the trade union movement over the last 10 years.</p> <p><b>2006 AR:</b> According to the VNWU: The main obstacles that have been encountered in Vanuatu in realizing the PR are as follows: (i) lack of adequate legislation; (ii) lack of workers' education program on the PR; (iii) lack of public awareness and support on child labour issues; (iv) social and economic circumstances together with poverty bring about child labour, mostly at home; (v) lack of free and compulsory system also feeds child labour in Vanuatu; and (vi) some cases of prostitution exist among high school girls and a few high school boys in order to pay for school fees.</p>
	<p><b>According to the Government</b></p>		<p><b>2015 AR:</b> The Government indicated that there is no focal point to undertake tasks related to child labour and if there was to be one, the capacity issue needs to be the priority area to be addressed including the necessary funding.</p> <p><b>2008 AR:</b> The Government indicated that tripartite discussions on the PR are weak.</p> <p><b>2006 AR:</b> According to Government: The main obstacle that has been encountered in Vanuatu in realizing the PR is that the concept of child labour is not understood and recognized. This explains why there is no minimum age for admission to employment or work, nor compulsory schooling age.</p> <p>In response to the VCCI and VNWU observations, the Government mentioned that in the forthcoming labour law reform, wide consultations including the Ministry of Education and VCCI would be organized in view of tackling the issue of child labour and ensuring that this PR is fully realized in Vanuatu.</p>

<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: ILO technical cooperation would be required in the following areas: i) Legal reform; ii) Policy advice; iii) Capacity-building of responsible government institutions (e.g. labour inspection and administration); iv) Training of other officials (e.g. police, judiciary, social workers, teachers); v) Data collection and analysis; vi) Strengthening capacity of employers' and workers' organizations; vii) Employment creation, skills training and income generation; viii) Social protection systems; and ix) Special programme for the elimination of the worst forms of child labour.</p> <p><b>2014 AR:</b> According to the Government: There is need for ILO support in strengthening the Decent Work Country Programme in Vanuatu.</p> <p><b>2012 AR:</b> According to the Government: A national tripartite workshop to promote ratification of C.138 was organized in August 2011, in cooperation with the ILO. During this activity, a draft Bill to amend the Employment Bill in accordance with the provisions of C.138 was presented to tripartite constituents for their consideration. The ILO has offered further technical assistance to draft submissions for the Council of Ministers to promote C.138 ratification and implementation.</p> <p><b>2010 AR:</b> The Government requested ILO technical support to carry out its legislative reviews in accordance with the International Labour Standards. It further requested ILO technical assistance to speed up the ratification process for C.138 that is now being delayed.</p> <p><b>2008 AR:</b> According to the Government: ILO technical assistance is required regarding labour law review and capacity building.</p> <p>The VNWU required ILO assistance for more training and for organizing tripartite discussions as soon as possible.</p> <p><b>2007 AR:</b> In the light of new ratifications, the Government Vanuatu requests ILO technical cooperation to carry out a case study on the realization of the Fundamental Principles and Rights at Work in the country. This case study should be validated by a national workshop on this issue with recommendations on how to better realize these principles and rights in the country. Labour officers and employers' and workers' representatives also need further ILO training at national and international levels.</p> <p>According to the VNWU: Without any training on C.138 and C.182, the consultations were not comprehensive enough to rule out child labour.</p> <p><b>2006 AR:</b> According to Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Vanuatu in particular in the following areas, in order of priority: (1) Legal reform; policy advice; data collection and analysis; employment creation, skills training and income generation; special programme for the elimination of the worst forms of child labour; (2) Capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; social protection systems; awareness raising, legal literacy and advocacy; (3) Sharing of experiences across countries/regions; cross-border cooperation mechanisms; inter-institutional coordination; training of other officials (police, judiciary, social workers, teachers).</p> <p>These priorities may be satisfied through the preparation (survey and validation seminar) and launch of a national IPEC Programme for Vanuatu.</p> <p>The employers' and workers' organizations supported the Government's request that a national IPEC Programme should be launched in Vanuatu. They also mentioned specific needs for ILO technical cooperation to facilitate the realization of the PR in Vanuatu. According to the VCCI: (i) capacity building of the VCCI in promoting the PR among employers in Vanuatu; and (ii) labour law reform.</p> <p>According to the VNWU: (i) legal reform; and (ii) workers' education program.</p>
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	<b>Offer</b>	ILO (including labour law reform and assistance in reporting under the 2006 AR), UNESCO, UNICEF, UNDP, INTERPOL, the Government of Australia (Pacific Children Programme), the Government of New Zealand, and national NGOs.
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed the following: “The Annual Review has made it possible to highlight and follow up country situations that require greater attention. Some countries have made important efforts during this process, for instance the Gulf States, China and new member States, in particular in the South Pacific. However, more needs to be done.”</p> <p><b>2006 AR:</b> The ILO Declaration Expert-Advisers noted that the close relationship between free, available and adequate schooling and decreasing child labour was also evident from the reports and from other information available. In this connection, they expressed concern that in Vanuatu and two other reporting countries there was no compulsory schooling (paragraph 58 of the 2006 Annual Review Introduction).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>	
<b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>	



## **GENERAL OBSERVATION BY THE INTERNATIONAL ORGANISATION OF EMPLOYERS (IOE) UNDER THE 2015 ANNUAL REVIEW**<sup>92</sup>

As in the 2014 Annual Review, the IOE sent a statement outlining its position and activities with regard to the Declaration and its follow-up, which is reproduced here *in extenso*<sup>93</sup>.

[The IOE] thanks the Office for [the] opportunity to provide comments under the [A]nnual [F]ollow-up concerning [N]on-[R]atified [F]undamental Conventions and to reflect on the relevance of the 1998 ILO Declaration on Fundamental Principles and Rights at Work (the Declaration) for the programmes and activities developed by the International Organisation of Employers (IOE).

This communication intends to give an overview of the most important activities the IOE has undertaken in the past year in its efforts to promote the Declaration and its four principles.

### ***Promotion of the ILO Declaration on Fundamental Principles and Rights at Work***

At a global level, the IOE has had the opportunity across the range of inter-governmental, UN and multilateral system consultations in which it frequently engaged, to reiterate the commitment of business to the promotion of the Fundamental Principles.

Furthermore, the last Governing Body session discussions on the implementation report for the follow-up to the resolution concerning the recurrent discussion on fundamental principles and rights and work (GB.320\_INS\_3\_1) in March 2014 provided a platform for the Employers to re-energize attention, priority and focus on the fundamental principles and rights set out in the Declaration.

The conclusions of this debate reaffirmed the objectives of [the 1998] Declaration, mutually reinforcing strategic objectives and the fundamental principles and rights at work. Key elements of the ILO action plan continue to be [IOE's] focus of attention, as follows:

- Leading the knowledge agenda, advocacy and information dissemination.
- Supporting regional priorities. Capacity building, strengthening the role of social partners.
- Strengthening partnerships with major international actors.
- Ensuring that technical assistance activities have a focus on formalizing the economy, generating employment with particular emphasis to jobs and skills for youth.

### ***Corporate Social Responsibility***

The IOE, through its member Employers' Organisations, continues to work to ensure the proper use of the Declaration within CSR activities, recognizing that the Declaration is a call to member States to promote the Principles.

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<sup>92</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers, the ILO Governing Body and the International Labour Conference.

<sup>93</sup> With some light editing by the Office.





The IOE CSR Newsletter series has attracted contributions from many IOE member federations, highlighting concerns, announcing legal developments around the world and showcasing company experiences and best practices. Furthermore, the deliberations of the IOE Policy Working Group on CSR and Business & Human Rights, capturing the business perspective on challenges and company experiences of implementing the UN Guiding Principles, is providing specific guidance to Employers and Business Organisations on how to apply and support the Declaration in this context.

Major debates within the European Union and at the Office of the High Commissioner on Human Rights (OHCHR) have led the IOE to remain focussed on promot[ing] the incorporation of the fundamental principle and rights in the CSR activities of the business community around the world.

The IOE continues to work closely with the UN Human Rights Council in advancing the implementation of the Guiding Principles on Business and Human Rights through the activities of its Working Group and keeps on ensuring the clear identification of the labour rights aspects of the Declaration in conformity with the intent and purpose behind its creation.

### *The effective abolition of child labour*

The IOE has continued to work actively with IPEC/ILO [ILO International Programme on the Elimination of Child Labour] and, together, [it] jointly support[s] a business assessment project with SHIFT to help companies eliminate the risk of child labour in their supply chains. In particular, the IOE/IPEC/SHIFT project has a focus on fundamental labour rights in alignment with the UN “Protect, Respect, and Remedy” Framework and its Guiding Principles and aims to provide guidance to companies seeking to demonstrate a proactive, rights-based approach to preventing child labour. The outcome of this project is a Toolkit for Employers on How to do business with respect for Children’s right to be free from Child Labour which is currently under review and its publication is anticipated before the end of 2015.

The IOE also continues to be actively engaged in the development of the Child Labour Platform, a business network aimed at contributing to the eradication of Child Labour from international production chains as a specific follow-up action from the Hague Conference. Please see section on Global Compact for further information.

### *The elimination of all forms of forced or compulsory labour*

The IOE welcomed the adoption of the new Protocol and Recommendation on supplementing the Forced Labour Convention (C. 29) adopted at the 2014 ILC [International Labour Conference] and fully supports the action framework that these two new instruments will provide to effectively contribute to the elimination of all forms of forced labour and human trafficking. The IOE has produced joint guidance material on the relevance of this new instrument for Business, IOE-ILO Guidance Note on the 2014 Protocol to the Forced Labour Convention, 1930 and supports the ILO 50 for Freedom Campaign as part of the follow-up global initiative.

The Employers look forward to being part of the development of the ILO platform of action for the implementation of these new instruments in alignment with the Principles of the [19]98 Declaration and call on the ILO to assert its unique role as the organisation with the legitimacy and competence to set and deal with [I]nternational [L]abour [S]tandards, and, in doing so, promote policy coherence and collaboration across the multilateral system.

The IOE has continued to strengthen its partnership with the [ILO] Special Action Programme to combat Forced Labour (SAP – FL) and has completed the updating of [the] joint publication: Combating Forced Labour: A Handbook for Employers and Business and [it] continue[s] to target the development of further booklets on critical risk sectors such as agriculture, fishery and manufacturing.

In addition, the IOE supports the ILO’s Fair Migration Agenda, including the Fair Recruitment Initiative which was designed in close consultation with employers to support pilot models of fair recruitment and capacity building of private employment agencies in target countries and in different sectors and industries; and in close cooperation with the International Organisation for Migration (IOM) committing to work at a global level and reducing exploitative recruitment practices in international labour migration.



### ***The elimination of discrimination in respect of employment and occupation***

The IOE is actively involved in addressing various forms of discrimination directly through the activities of [its] policy working groups i.e. Employment; CSR and Business & Human Rights; International Labour Migration, Industrial Relations and Sustainable Development, as well as in cooperation with others as follows:

- With the ILO Bureau for Employers' Activities (ACT/EMP) to provide first-hand support and guidance at country level.
- With the Business and Industry Advisory Committee to the OECD, BIAC, to jointly advance the business case for gender diversity and women's economic empowerment.
- With the International Federation of Business and Professional Women (BPW International) to develop strategies, share networks and promote intercultural understanding to encourage workplace diversity, gender equality and women's empowerment across the business community.
- Through its co-chairing of the B20 Employment Task Force ensuring, for example, the G20 focus on increasing job opportunities for young people, including youth entrepreneurship, and that international organisations support national efforts to this end.
- The IOE has also worked in cooperation with the global trade union movement to jointly identify key priorities for the employment of young people.
- With the support of the ILO, the IOE continues to contribute to the development of the IOE/BIAC Global Apprenticeships Network (GAN), created as a direct outcome of the commitment of the global business community to play its part in addressing the youth employment crisis.

### ***Global Compact***

With Secretary-General Linda Kromjong on the Global Compact Board, the IOE continues to play a crucial role in influencing the future direction and priorities of the Global Compact and its local networks, many of which are co-ordinated by IOE member federations.

In March 2014, the IOE launched a call to members in selected countries, in conjunction with its partner BPW International, to promote the Women's Empowerment Principles of the UN Global Compact/UN Women and we continue to monitor its development.

### ***Freedom of Association and the effective recognition of the right to collective bargaining***

One of the IOE's primary means of promoting and upholding the principle of freedom of association for employers remains ensuring that the Governing Body Committee on Freedom of Association (CFA) and the CEACR [Committee of Experts on the Application of Conventions and Recommendations] are relevant, and responsive to the cases brought by the Employers' Group.

It remains a key responsibility of the IOE to defend the rights and interests of employers' organisations in all regions that do not fully enjoy freedom of association by providing assistance, guidance, support and representation.

Whilst freedom for employers prevails in many countries of the world and is largely taken for granted, developments in other parts of the world continue to threaten those rights, requiring the attention of the Employers' Group and the IOE and providing an on-going role for the promotion of the Declaration supported by targeted technical cooperation.



In partnership with the ILO Bureau for Employers' Activities (ACT/EMP), the IOE continues to help ensure infringements of this principle of employers' rights are strongly denounced in the CFA and in the Governing Body as required.

### **Conclusions**

The Employers continue to be fully engaged in the promotion of the Fundamental Principles and Rights at Work which are the cornerstone of [IOE's] framework of action and policy recommendations.

The Employers reiterate their commitment to cooperate with all relevant actors to further promote the realisation of the Principles in accordance with the different national circumstances of [the IOE] member federations.

The Declaration remains an outstanding example of how the ILO should and can react to pressing social issues through its unique process of consensus building. [The IOE] appreciate[s] this opportunity to provide feedback and remain available to answer any questions arising from this document.



**The elimination of discrimination in respect of employment  
and occupation**

**L'élimination de la discrimination en matière d'emploi  
et de profession**

**La eliminación de la discriminación en materia de empleo  
y ocupación**



## **18 REPORTING STATES (AND THE CONVENTIONS NOT YET RATIFIED BY THEM)**

1. **Bahrain** (C.100)
2. **Brunei Darussalam** (C.100 & C.111)
3. **Japan** (C.111)
4. **Kuwait** (C.100)
5. **Liberia** (C.100)
6. **Malaysia** C.111)
7. **Marshall Islands** (C.100 & C.111)
8. **Myanmar** (C.100 & C.111)
9. **Oman** (C.100 & C.111)
10. **Palau, Republic of** (C. 100 & C.111)
11. **Qatar** (C.100)
12. **Singapore** (C.111)
13. **Somalia** (C.100)
14. **Suriname** (C.100 & C.111)
15. **Thailand** (C.111)
16. **Timor-Leste** (C.100 & C.111)
17. **Tuvalu** (C.100 & C.111)
18. **United States** (C.100 & C.111)



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015): BAHRAIN**

*THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)*

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	<b>YES</b> , except for the 2011 Annual Review (AR). No change reports for the 2004, 2005 and 2009-2010 Annual Reviews (ARs).	
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Bahrain Chamber of Commerce and Industry (BCCI), the General Federation of Bahrain Trade Unions (GFBTU) and the Bahrain Free Labour Unions Federation (BFLUF) through written and oral consultations	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the BCCI. <b>2013 AR:</b> Observations by the BCCI. <b>2012 AR:</b> Observations by the BCCI. <b>2008 AR:</b> Observations by the BCCI. <b>2007 AR:</b> Observations by the BCCI.	
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the GFBTU. Observations by the BFLUF. <b>2014 AR:</b> Observations by the GFBTU. Observations by the BFLUF. <b>2013 AR:</b> Observations by the GFBTU <b>2012 AR:</b> Observations by the GFBTU. <b>2011 AR:</b> Observations by the GFBTU. <b>2010 AR:</b> Observations by the GFBTU. <b>2009 AR:</b> Observations by the GFBTU. <b>2008 AR:</b> Observations by the GFBTU. <b>2007 AR:</b> Observations by the GFBTU. <b>2006 AR:</b> Observations by the GFBTU. <b>2003 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Bahrain ratified in 2000 the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111). However, it has not ratified the Equal Remuneration Convention, 1951 (No. 100) (C.100).</b>

		<p><b>Ratification intention</b></p>	<p><b>Under consideration, since 2000, for C.100.</b></p> <p><b>2015 AR:</b> According to the Government: There is still an assessment exploring the way forward in the ratification process of C.100.</p> <p>BFLUF reiterated its support for the ratification of C.100 and indicated that still no discussions about the ratification of C.100 were ongoing.</p> <p>The GFBTU reiterated its support for the ratification of C.100 and indicated that no progress had been made in the ratification process and expressed concern over lack of political will.</p> <p><b>2014 AR:</b> According to the Government: Ratification of C.100 is still under consideration. However, it is currently on hold as the Government is unable to move forward with the ratification process as some issues are pending under C.111. All provisions of C.100 are provided for in the new labour law adopted in August 2012.</p> <p>The BCCI expressed its support for the ratification of C.100.</p> <p>The GFBTU reiterated its support for the ratification of C.100 and indicated that no progress had been made in the ratification process.</p> <p>The BFLUF, established in July 2012, expressed its support for the ratification of C.100 and indicated that no discussions about the ratification of C.100 were ongoing.</p> <p><b>2013 AR:</b> The Government indicated that the ratification of C.100 would be done after new discussions and consensus within the Social Economic Council and adoption of new Acts in line with the principle and right (PR).</p> <p>The BCCI confirmed that tripartite discussions were being carried out to better implement and realize the PR in the country. It further indicated that the ratification of C.100 would be an important step forward after the 2011 political crisis.</p> <p>The GFBTU expressed its genuine support for the ratification of C.100, underlining that it's a priority in terms of ensuring equal remuneration for women and migrant workers.</p> <p><b>2012 AR:</b> According to the Government: At this stage, the Cabinet has not formed a common position regarding ratification of C.100, but it has emphasized that a more enabling environment is created for realizing the PR.</p> <p>The BCCI indicated that the ratification of C.100 has not yet been considered.</p> <p>The GFBTU stated that ratification of C.100 should be dealt with a priority.</p> <p><b>2009 AR:</b> The GFBTU stated its support for the ratification of C.100.</p> <p><b>2008 AR:</b> According to the Government: It is planning to establish a Tripartite Committee that would deal with the ratification of the remaining ILO fundamental conventions.</p> <p>The BCCI hoped that the Tripartite Committee would be set up very shortly.</p> <p>The GFBTU supported the ratification of C.100.</p>
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<p><b>Recognition of the principle and right (prospect(s), means of Action, main legal provisions)</b></p>			<p><b>2007 AR:</b> According to the Government: A tripartite committee should be set up to study and make recommendations on further ratification of ILO fundamental Conventions, including C.100.</p> <p>According to the BCCI and the GFBTU: A tripartite committee should be set up to study and make recommendations on further ratification of ILO fundamental Conventions, including C.100. This Convention should be ratified by Bahrain to eliminate discrimination at work.</p> <p><b>2006 AR:</b> According to the GFBTU: The Government should ratify C.100, as well as other ILO fundamental Conventions so that Bahrain can fit with social globalization.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government was examining C.100 with a view to ratifying it.</p>
		<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>The 2002 Constitution (articles 4, 8, 14, 16 and 18) provides that equality and equal opportunity between all citizens are guaranteed.</p>
		<p><b>Policy/Legislation and/or Regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2001 AR:</b> According to the Government: The Government’s policy is set out in the Bahrain Labour Act, 1976, and the Employment Act that adopts the same principles as those set out in the Constitution.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2014 AR:</b> According to the Government: All provisions of C.100 are provided for in the new labour law adopted in August 2012.</p> <p>BCCI indicated its support to the establishment of a legalislatve framework for the elimination of discrimination in the equal remuneration between men and women.</p> <p>According to the BFLUF: Legal changes in October 2012 included amendments of the social benefits scheme. Social benefits were previously only provided to men; however, following the legal amendments, both men and women are eligible beneficiaries. This has strengthened the financial status of women.</p> <p><b>2013 AR:</b> According to the GFBTU: A new Bill has been drafted since 2005, the content of which was jointly approved by the Government and the social partners. However, since then amendments have been made to the Bill without tripartite consent. The Bill has been approved by Parliament and now awaits the signature of the King of Bahrain. However, the GFBTU is unaware whether the final version of the proposed Act incorporates the provisions of C.100 and fears that it may not be in line with international labour standards (ILS).</p>
		<p><b>Basic legal provisions</b></p>	<p>(i) The Constitution (articles 4, 8, 14, 16 and 18); (ii) the Bahrain Labour law (No. 36 of 2012), which repealed and replaced the Bahrain Labour Act, 1976 (employment of women, disabled persons and young persons); and (iii) the Employment Act.</p>



		<b>Grounds of discrimination</b>	<b>2002 AR:</b> According to the Government: Discrimination in respect of employment and occupation is prohibited on grounds of language, origin, and religion.
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<p><b>2015 AR:</b> BFLUF has expressed its concerns about the situation of expatriate workers and women representation in general. GFBTU is especially advocating for women’s rights.</p> <p><b>2013 AR:</b> The GFBTU expressed its commitment to improving the rights of women workers, and mentioned that it had been promoting the introduction of maternity leave in Bahrain.</p> <p><b>2003 AR:</b> According to the Government: Specific measures have been implemented to respect, promote, and realize the PR, for the following categories of workers: (i) workers in the public service; (ii) workers in establishments of a certain size; (iii) workers in particular types of employment; (iv) agricultural workers; (v) workers engaged in domestic work; (vi) workers in EPZs; and (vii) migrant workers.</p> <p><b>2000 AR:</b> According to the Government: Women and the disabled.</p>
		<b>Information/ Data collection and dissemination</b>	<b>2008 AR:</b> According to the Government: Statistics on Bahraini Women were published in 2007.
	<b>Prevention/monitoring, enforcement and sanctions mechanisms</b>	<p><b>2000-2005 ARs:</b> According to the Government: The Constitution and the national legal system contain principles and rules that guarantee the realization of the PR.</p> <p><b>2000 AR:</b> According to the Government: Under section 155 of the Labour Act amended by Decree No. 14 of 1993, domestic servants have the right to lodge complaints with the Minister for Labour and Social Affairs, and can take the dispute to the courts if it is not resolved at the Ministry level.</p>	
	<b>Involvement of the social partners</b>	<p><b>2015 AR:</b> According to the Government: Social dialogue is ongoing through the tripartite councils.</p> <p><b>2014 – 2015 AR:</b> The GFBTU reiterated that it was not invited to participate in social dialogue and nor consulted in the legal amendment process that had taken place.</p> <p><b>2013 AR:</b> The BCCI mentioned its participation in the tripartite discussions to amend the existing national Acts and ensure compliance with the FPRW including C.100.</p> <p>The GFBTU indicated that although they had participated earlier on in the legal amendment process, they had not been consulted or informed of the final version of the revised Acts.</p>	

	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> According to BFLUF: The High Council of Women is still operational, but women should also be further educated and encouraged to take leadership roles. It further indicated that there were two regional women’s rights workshops with a representation of 15 countries in December 2014 and February 2015 as the situation of women still remains a concern.</p> <p>GFBTU reported that it was cooperating with human rights organizations and civil society and has specialized national trainings for women, youth and migrant workers.</p> <p><b>2014 AR:</b> The BCCI stated that it had carried out several training activities and awareness raising campaigns for the ratification of C.100, including several training activities.</p> <p>The GFBTU reported that it was working jointly with human rights organizations and the civil society to stop all forms of discrimination and promote equal remuneration. The GFBTU further indicated that it was also undertaking activities aiming to introduce a minimum wage in the country, as a means to ensure equal remuneration.</p> <p>According to the BFLUF: Activities have been carried out to promote the establishment of a minimum wage with a view to ensure equal remuneration. The BFLUF is also participating in the High Council of Women, where it promotes equal remuneration and attempts to address problems related to restrictions in the citizenships of women. Furthermore, the BFLUF supports migrant workers’ rights to organize and to equal remuneration for work of equal value.</p> <p><b>2013 AR:</b> The GFBTU expressed its commitment to improving the rights of women workers, and mentioned that it had been promoting the introduction of maternity leave in Bahrain.</p> <p><b>2011 AR:</b> The GFBTU mentioned its participation in the Kuwait Regional Workshop on Migrant Workers’ Rights organized in July 2010 in cooperation with AFL-CIO and the ILO. Issues pertaining to the PR were discussed during this activity.</p> <p><b>2010 AR:</b> According to GFBTU: In 2009, many activities were conducted as part of GFBTU’s promotional initiatives for the ratification of C.100 by Bahrain, including several training activities. Moreover, the Labour Day has been organized with intensive participation of all the trade unions and civil societies, and during the afternoon demonstration slogans urged the Government to ratify C.100, among others.</p> <p><b>2009 AR:</b> The GFBTU indicated that it was carrying out public awareness-raising activities on C.100.</p> <p><b>2008 AR:</b> The Government indicated that it had promoted Bahraini books on women in Bahrain. It added that along with the BCCI and the GFBTU, it had participated in the 5th ILO/Gulf Cooperation Council (GCC) Regional Seminar on the ILO Declaration and International Labour Standards in Oman. On this occasion, FOA and collective bargaining had been discussed. It added that two workshops were organized in March and May 2007 in collaboration with the International Trade Union Confederation (ITUC), one supporting the involvement of women in trade unions and the second on the right to employment and occupation of women.</p> <p><b>2007 AR:</b> The Government, the BCCI and the GFBTU referred to their participation in the Fourth ILO/GCC Regional Workshop on the ILO Declaration and International Labour Standards held in Kuwait City in April 2006.</p>
	<p><b>Special initiatives</b></p>	<p><b>2012 AR:</b> According to the Government: Measures are being taken to allow migrant workers to benefit from a minimum wage.</p> <p><b>2010 AR:</b> The GFBTU indicated that it had issued an official letter to the Parliament in April 2008 highlighting the importance of ratification of these two fundamental Conventions and urging the Members of Parliament to press the Government accordingly.</p>

<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014 AR:</b> According to the BCCI: Legislation is yet a challenge in Bahrain, together with ethnic and religious discriminations.</p> <p><b>2007 AR:</b> The BCCI shared the GBFTU's view that equal representation between men and women should be promoted in training seminars.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2014–2015 ARs:</b> According to GBFTU: Difficulties in ensuring equal remuneration are related to the lack of collective bargaining practices and the lack of a minimum wage. Furthermore, lack of awareness and recognition of the problems related to discrimination in terms of equal remuneration by Parliamentarians is hampering the process of enacting necessary laws to ensure the provisions of C.100 in the national legislation. The last attempt made by the Government to bring about legal amendments was obstructed by Parliamentarians arguing that discrimination did not exist in the country.</p> <p>According to the BFLUF: One of the main challenges in ensuring equal remuneration is the lack of capacity of labour inspectors.</p> <p><b>2013 AR:</b> According to the GBFTU: There are serious challenges related to discrimination in terms of equal remuneration in Bahrain, particularly with respect to migrant workers and women workers. There are great differences between national and migrant workers as regards working conditions. In terms of gender equality, there are legal provisions for equal pay for work of equal value, but the main challenge lies in the structural problem that women never reach higher positions. It is crucial to ensure that any legal amendments are in line with ILS and the provisions of C.100 and implemented as such. Furthermore, the norms of the society pose a serious obstacle as concerns the improvement of women's rights, as these norms and the current system have favoured men to occupy senior positions, as employers or government officials. Even if legal amendments and ratification of C.100 take place, the structural barriers will have to be addressed in order to enable women to have equal access to higher positions and get better pay.</p> <p><b>2012 AR:</b> According to GBFTU: The main challenge preventing the ratification of C.100 is the absence of the Executive's will to adopt new Acts.</p> <p><b>2008 AR:</b> The GBFTU indicated that a specific chapter of the Labour Act dealing with women was amended during the review without consultation with employers' and workers' organizations.</p> <p><b>2007 AR:</b> The GBFTU observed that equal representation between men and women should be promoted in training seminars.</p> <p><b>2006 AR:</b> According to the GBFTU: Forms of wage discrimination persist in Bahrain.</p> <p><b>2001 AR:</b> According to the ICFTU: (i) there is no recognition of the concept of "equal pay for work of equal value"; (ii) there is increasing discrimination at the workplace, including lower age and denial of promotion; and (iii) illiteracy rate is higher among women.</p>



	<b>According to the Government</b>	<p><b>2013-2014 ARs:</b> According to the Government: The main challenges to the realization of the PR in the country are inadequate Acts and lack of tripartite capacity building and understanding of the PR by the social partners.</p> <p><b>2007 AR:</b> The Government shares the GBFTU's view that equal representation between men and women should be promoted in training seminars.</p> <p><b>2003 AR:</b> In response to the ICFTU's observations, the Government stated that the Bahraini 1976 Labour Act prohibits: (i) discrimination on grounds of sex and nationality in respect of employment and occupation, and education; and (ii) provides for equal pay for work of equal value.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> The Government reiterated the request for ILO technical cooperation as made under the 2012-2013ARs concerning training and capacity building activities through the DWCP. BFLUF mentioned that ILO should support the inclusion of more federations into the discussion not only ITUC.</p> <p><b>2014 AR:</b> The Government reiterated the request for ILO technical cooperation it made under the 2013 AR as regards to training of new labour inspectors on the PR and strengthening the capacity of tripartite partners. The Government also underlined the importance of ILO technical cooperation to restart the implementation of the Decent Work Country Programme (DWCP) as soon as possible, as it is critical in building the capacity of the tripartite partners and enabling the Government to move ahead with the ratification of C.100 and realize the FPRW.</p> <p>According to the BCCI: ILO expertise is needed to enhance the importance of non-discrimination in employment.</p> <p>The GFBTU expressed its strong wish for ILO technical cooperation to continue to support the ratification of C.100, despite the Government’s refusal of entry of ILO experts into the country in 2012. Concerning the implementation of the DWCP, the GFBTU indicated that it would not be meaningful to restart the programme until the current situation in the country in respect of workers’ rights and employment practices has improved.</p> <p>The BFLUF mentioned that the ILO DWCP should strengthen the capacity of labour inspectors.</p> <p><b>2013-2014 ARs:</b> The Government requested ILO’s technical cooperation in the following areas: (i) training of new labour inspectors on the PR; (ii) strengthening the capacity of tripartite partners and the Social Economic Council, and; (iii) ILO expertise to support the Decent Work Country Programme (DWCP) implementation in Bahrain.</p> <p>According to the BCCI and the GFBTU: Following tripartite consultations, a DWCP was signed in 2010. Due to the political crisis which hit the country early 2011, the implementation of the DCWP is yet to start and ILO support is crucial in this regard.</p> <p><b>2012 AR:</b> The GFBTU requested ILO technical support to advocacy for the ratification of C.100.</p> <p><b>2010 AR:</b> According to the GFBTU: All members of the relevant tripartite Committees should participate in workshops on the 1998 ILO Declaration and its follow-up, including issues concerning equal pay for work of equal value. This training activity is necessary, as Bahrain was selected by the ILO as a model country within the Decent Work Agenda.</p> <p><b>2009 AR:</b> The GFBTU indicated that the ILO’s cooperation was needed in the area of cooperation with other countries on the methods of institutionalization of C.100.</p> <p><b>2007 AR:</b> The BCCI requested ILO technical cooperation for capacity building, enterprise development, organizational management and productivity in relation with the PR.</p> <p>The GBFTU requested ILO technical cooperation to sensitize its members on discrimination issues.</p> <p><b>2006 AR:</b> According to the GFBTU: ILO technical cooperation would be necessary in organizing a national tripartite workshop on ILO Fundamental Conventions in Bahrain, so as to identify challenges and solutions and pave the way to ratification.</p> <p><b>2003 AR:</b> According to the Government: A need for ILO technical cooperation to facilitate the realization of the PR in Bahrain exists in the following priority areas: (i) establishing or strengthening specialized institutional machinery; (ii) data collection and information analysis.</p>
	<p><b>Offer</b></p>	<p>ILO (DWCP).</p>



<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries, such as the Gulf States (as well as China and new member States, in particular in the South Pacific), had made important efforts during this process. However, according to them, more needed to be done. The IDEAs noted the intentions expressed by most governments, including the Government of Bahrain, to ratify or consider ratification of Conventions Nos. 100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification (cf. paragraphs 12 and 66 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (cf. paragraph 148 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs noted that the GCC States had been providing more information on freedom of association and the right to collective bargaining, but not enough on the other three PRs. This would help to illustrate the link between all four PRs (cf. paragraph 85 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2003 AR:</b> The IDEAs commended Bahrain and other GCC States for their continuing dialogue with the Office through the annual review process (cf. paragraph 4 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p> <p><b>2002 AR:</b> The IDEAs acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the GCC Governments, including Qatar (cf. paragraph 82 of the 2002 Annual Review Introduction – ILO: GB.283/3/1).</p> <p><b>2001 AR:</b> The IDEAs hoped in particular that the governments of GCC countries would continue a dialogue with the Office regarding the ways in which respect for fundamental principles and rights at work and positive changes could be achieved through technical cooperation (cf. paragraph 77 of the 2001 Annual Review Introduction – ILO: GB.280/3/1).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2008-2015)<sup>94</sup>: BRUNEI DARUSSALAM**

*THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)*

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	<b>YES</b> , since the 2008 Annual Review (AR). Brunei Darussalam joined the ILO in 2007.
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (the National Chamber of Commerce and Industry, NCCI) and workers' organizations (the Brunei Oilfield Workers Union, BOWU) by means of consultation and communication of a copy of the Government's report and country baseline.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the NCCI. <b>2014 AR:</b> Observations by the NCCI. <b>2013 AR:</b> Observations by the NCCI. <b>2013 AR:</b> Observations by the NCCI. <b>2012 AR:</b> Observations by the NCCI. <b>2010 AR:</b> Observations by the NCCI. <b>2008 AR:</b> Observations by the NCCI and its three affiliates.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the BOWU. <b>2014 AR:</b> Observations by the BOWU. <b>2013 AR:</b> Observations by the BOWU. <b>2012 AR:</b> Observations by the BOWU. <b>2010 AR:</b> Observations by the BOWU. <b>2008 AR:</b> Observations by the BOWU.

<sup>94</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Brunei Darussalam has ratified neither the Equal Remuneration Convention, 1951 (No. 100) (C.100) nor the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111).</b>
		<b>Ratification intention</b>	<p><b>Under consideration, since 2007, for C.100 and C.111, in consultation with the employers' and workers' organizations.</b></p> <p><b>2014-15 ARs:</b> The Government reported that it was still considering the possibility of ratifying C.100 and C.111.</p> <p>The NCCI and the BOWU expressed their support for the ratification of C.100 and C.111.</p> <p><b>2013 AR:</b> The NCCI reiterated its support to a progressive ratification of all the ILO fundamental Conventions by Brunei Darussalam, including C.100 and C.111.</p> <p><b>2009-2012 ARs:</b> The Government indicated that it was still reviewing the possibility to ratify C.100 and C.111 in consultation with the employers' and workers' organizations.</p> <p><b>2008 AR:</b> The Government stated that it was considering the possibility to ratify C.100 and C.111, in consultation with the employers' and workers' organizations.</p> <p>The NCCI and the BOWU supported the ratification of both C.100 and C.111 by Brunei Darussalam.</p>
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>NO.</b>
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2008 AR:</b> According to the Government: The elimination of discrimination in respect of employment and occupation is recognized in both aspects (elimination of discrimination in employment and occupation and equality of opportunity and treatment, including in the field of remuneration). National policy on the principle and right is guided by His Majesty's declarations (Titah) concerning the elimination of discrimination in employment and occupation. There is also a National Scheme of Service for the public sector that recognizes the principle and right.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2008 AR:</b> According to the Government: No national Acts have specifically dealt with the elimination of discrimination in employment and occupation. Only section 19.2 of the Trade Union Act (Cap. 128) prohibits discrimination based on union affiliation, and provides for sanction in case of contravention.</p> <ul style="list-style-type: none"> <li>• <b>Regulations:</b></li> </ul> <p><b>2013 AR:</b> According to the Government: The 2009 Employment Order does not make any distinction between sexes and gender and extends protection to all persons employed in Brunei Darussalam.</p>

		<b>Basic legal provisions</b>	The Employment Order 2009; The Trade Union (Cap. 128), section 19, deals with discrimination based on union affiliation.
		<b>Grounds of discrimination</b>	<b>NO.</b>
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<b>2014-15 ARs:</b> According to the Government: Special attention is given to ensure equal treatment of migrant workers, as Brunei Darussalam is a receiving country in the region. Through the ASEAN Regional Forum, the Government is cooperating and sharing experiences with other receiving countries on how to ensure that migrant workers are not being discriminated against. In this regard, a tool is being finalized to serve as guidelines for ASEAN member States.
		<b>Information/ Data collection and dissemination</b>	<b>2014 AR:</b> According to the Government: A labour force survey is in the process of being developed, which will map the structure of the workforce and collect data on salaries, facilitating efforts to promote and realize the PR.
	<b>Prevention/monitoring, enforcement and sanction mechanisms</b>	<p><b>2014-15 ARs:</b> According to the Government: No cases of discrimination related to recruitment have been reported in the private or public sectors.</p> <p><b>2008 AR:</b> According to the Government: The Labour Department is in charge of enforcing labour Acts and regulations. Concerning discrimination based on union affiliation, the Trade Union Act (Cap. 128), section 19, provides for penal sanctions (fines of B\$6,000 (about US\$4,445 as of November 2007) and 6 months imprisonment) when an employer contravenes the provisions of this Act by denying freedom of association to a worker and discriminating him by reason of his being or not being a member of a trade union. According to the Government, no cases of discrimination at workplace have been reported so far to the Labour Department and judicial authorities.</p>	
	<b>Involvement of the social partners</b>	<p><b>2014-15 ARs:</b> The Government, the NCCI and the BOWU indicated that tripartite discussions concerning the establishment of a minimum wage were ongoing and that social dialogue was well-functioning.</p> <p><b>2009 AR:</b> According to the Government: The employers' and workers' organizations are being involved in the ratification process of the ILO fundamental Conventions.</p>	
	<b>Promotional activities</b>	<b>Institutions to promote equality</b>	<p><b>NO.</b></p> <p><b>2008 AR:</b> According to the Government: For the time being, there are no institutions to promote equality in the country.</p>

		<p><b>Other activities</b></p>	<p><b>2014-15 ARs:</b> The Government indicated that the ASEAN Regional Forum is functioning as a platform in which the Government discusses and promotes C.100 and C.111 with a special focus on migrant workers.</p> <p>The NCCI and the BOWU indicated that collective bargaining was used to ensure equal remuneration and hinder discrimination.</p> <p><b>2010 AR:</b> According to the Government: Two officers have participated in the Core Labour Standards Workshop held in Singapore in September 2008. The Labour Day on in May 2009 for the third time, with a theme emphasizing on Health and Safety at Work, as well as a walkathon with the participation of the social partners. Other government initiatives also include presentation on the Labour Act (Cap. 93) to Permanent Missions in Brunei Darussalam.</p> <p><b>2009 AR:</b> The Government indicated that one of its senior officers participated in the May 2008 Turin Course on International Labour Standards and the 1998 ILO Declaration.</p> <p><b>2008 AR:</b> According to the Government: Officials of the Labour Department of the Ministry of Home Affairs and of the Attorney General's Office as well as representatives of employers' and workers' organizations were sensitized on the fundamental principles and rights at work and ILO fundamental Conventions during ILO's assistance in reporting issues carried out in November 2007.</p> <p>The NCCI stated that it promotes the relationship between these principles and rights at work, decent work and sustainable enterprises through discussions among its members and with the Government.</p> <p>The BOWU stated that it organizes monthly meetings to increase knowledge on ILO and fundamental principles and rights at work among its members.</p>
	<p><b>Special initiatives /Progress</b></p>		<p><b>2013 AR:</b> According to the Government: The Labour Department has organized one-month sport competition activities in cooperation with the employers' and workers' organizations in conjunction with the Labour Day Celebration in May 2012, with the view to strengthening the tripartite partnership in Brunei Darussalam.</p> <p><b>2012 AR:</b> The Government, the NCCI and the BOWU indicated that the celebration of Labour Day in 2011 was for the first time initiated by employers and workers and supported by the Government.</p> <p><b>2009 AR:</b> The Government stated that it had celebrated the Labour Day on 3 May 2008, including ILO's participation on Decent Work issues, and a walkathon.</p>
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2008 AR:</b> According to the NCCI: No major problems are being encountered to realize the PR in the country. However, there are not enough women among high-ranking position officers and managers.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2008 AR:</b> According to the BOWU: There are no major problems of discrimination in employment and occupation in the country. The BOWU is not aware of such practice in Brunei Darussalam.</p>

	<b>According to the Government</b>	<p><b>2012-2015 ARs:</b> The Government reiterated the same challenges as in the 2008 AR: (i) Lack of public awareness and/or support; (ii) lack of information and data; (iii) legal provisions; (iv) lack of capacity of responsible government institutions; (v) lack of capacity of employers' and workers' organizations; and (vi) lack of social dialogue on the principle and right (PR).</p> <p><b>2009 AR:</b> The Government reiterated the challenges indicated under the 2008 AR.</p> <p><b>2008 AR:</b> (i) Lack of public awareness and/or support; (ii) Lack of information and data; (iii) legal provisions; (iv) lack of capacity of responsible government institutions; (v) lack of capacity of employers' and workers' organizations; and (vi) lack of social dialogue.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2014 AR:</b> According to the Government: ILO technical cooperation is needed in the following areas: (i) Strengthening the Government's capacity to fulfil its ILO reporting obligations, and; (ii) Sharing of experiences with other countries.</p> <p><b>2008 and 2012-2013 ARs:</b> According to the Government: ILO technical cooperation will be needed to facilitate the realization of the PR in Brunei Darussalam, in particular in the following areas, by order of priority: (1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; sharing of experiences (best-practices) across countries/regions; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; coordination between institutions (e.g. various ministries and relevant commissions); (2) strengthening data collection and capacity for statistical analysis; legal reform (labour Acts and other relevant legislation); training of other officials (e.g. police, judiciary, social workers, teachers); developing labour market policies that promote equality of opportunity; developing policies regarding equal remuneration; and (3) establishing or strengthening specialized institutional machinery. In addition, social dialogue of the PR is an important step to be addressed in the country. These priorities may be satisfied through the preparation of survey/seminar to promote and realize the fundamental principles and rights at work in Brunei Darussalam, in consultation with the employers' and workers' organizations.</p> <p><b>2008-2012 ARs:</b> The NCCI and the BOWU supported the Government's requests, including the capacity building of the employers' and workers' organizations and the preparation of a survey/seminar to promote and realize the fundamental principles and rights at work in Brunei Darussalam, in consultation with the employers' and workers' organizations.</p>
	<b>Offer</b>	ILO (consultations on Decent Work Country Programme and assistance in reporting under the AR) and the United Nations (CEDAW).
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted the first report by Brunei Darussalam in cooperation with the ILO, and the intentions expressed by most governments, including the Government of Brunei Darussalam, to ratify or consider ratification of Conventions Nos. 100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification. Given that many countries have requested ILO technical cooperation in the ratification process (on the content of Conventions Nos. 100 and 111, labour Act review, ratification process, etc.), the IDEAs requested the Office to strengthen its assistance in this regard (cf. paragraphs 64, 66 and 67 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015<sup>95</sup>): JAPAN**

*THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)*

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000, but “no change” report under the 2010 and 2011 ARs.
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of Japan Business Federation (KEIDANREN (former NIKKEIREN) and the Japanese Trade Union Confederation (JTUC-RENGO) through consultations and communication of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2001 AR:</b> Observations by the JBF.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the JTUC-RENGO. <b>2014 AR:</b> Observations by the JTUC-RENGO. <b>2010 AR:</b> Observations by the JTUC-RENGO. <b>2007 AR:</b> Observations by the JTUC-RENGO. Observations by the International Trade Union Confederation (ITUC). <b>2006 AR:</b> Observations by the JTUC-RENGO. <b>2006 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the JTUC-RENGO. <b>2005 AR:</b> Observations by the JTUC-RENGO. <b>2004 AR:</b> Observations by the JTUC-RENGO. <b>2003 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the JTUC-RENGO. <b>2001 AR:</b> Observations by the JTUC-RENGO. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the JTUC-RENGO.

<sup>95</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.

<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Japan ratified the Equal Remuneration Convention, 1951 (No. 100) (C.100) in 1967. However, it has not yet ratified the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111).</b></p>
		<p><b>Ratification intention</b></p>	<p><b>Under consideration for C.111.</b></p> <p><b>2015 AR:</b> According to the Government: discussions were held on the ratification of C.111 at tripartite consultation meetings and there was an exchange of views with social partners requesting ratification of C.111. However, the Government believes that further study is needed concerning the consistency between C.111 and current national laws and regulations. JTUC-RENGO regrets the grave situation where no positive progress for ratification of C.111 has been made over the years. Tripartite consultation on this matter did take place in April 2015 at the "ILO Roundtable" set up based on C.144, but it considers the consultations be far from effective. The Government, referring to a cabinet decision in 1953, stipulates that no convention could be ratified unless all the potentially conflicting domestic laws are amended and argues that for this reason, Japan is unable to ratify C.111. Concern is raised that Japan will never actually ratify C.111 in this light.</p> <p><b>2013-2014 ARs:</b> The Government reiterated that there was no change regarding ratification status. JTUC-RENGO expressed its disappointment at the situation where no progress has been made towards ratification of C.111. It strongly urged the Government to take positive and concrete actions to ratify this Convention as soon as possible and to collect information on how countries which have ratified C. 111 ensure consistency between their domestic laws and the Convention, and to promote research and studz among the ministries and agencies concerned.</p> <p><b>2009-2012 ARs:</b> According to the Government:No change. According to the JTUC-RENGO: The Government should ratify C.111. In this regard, the JTUC-RENGO believes it is necessary for the Government to strengthen its efforts to promote Diet Members' understanding of the importance of ratification of core C.111 so as to activate discussion at the Diet toward ratification of this Convention (for instance, the Government can make thorough explanation about the purport and background of the Convention, and importance of ratifying core Conventions, etc.).</p> <p><b>2000-2006 ARs:</b> According to the Government: Further study is needed in view of,for instance, therelations between the provisions of C.111 and national Acts and regulations.</p> <p><b>2000 AR:</b> According to the JTUC-RENGO: The Government should ratify C.111 as soon as possible.</p> <p><b>2001 AR:</b> According to NIKKEIREN: Japan should ratify C.111. Tripartite consultations should be established in order to assess difficulties and obstacles as regards the ratification of this Convention and appropriate measures in order to address them.</p>



	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES.</b> Under the 1947 Constitution (article 14, paragraph 1), "...All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin. (Excerpt.)". Discriminatory measures in contravention of the constitutional provisions in national Acts and/or regulations are prohibited, and in fact, no such Acts or regulations and/or administrative measures exist. The Constitution (article 22) guarantees free choice of occupation to all individuals..
		<b>Policy/Legislation and/or Regulations</b>	<ul style="list-style-type: none"> <li> <b>Policy:</b>  <b>2008AR:</b> According to the Government:In order to promote equal opportunity between men and women, the Ministry of Health, Labour and Welfare submitted to the diet at its 164th session a revised Bill of Equal Employment Opportunity Act and related legislation, which included provisions such as prohibition of discrimination against both men and women, and prohibition of indirect discrimination. The Bill was approved in June 2006 and entered in force in April 2007.             </li> </ul>



			<ul style="list-style-type: none"> <li> <b>Legislation:</b> <p><b>2015 AR:</b> According to the Government: The Ordinance for Enforcement of the Equal Employment Opportunity Act was amended in December 2013 to promote the reduction of disparity between men and women in employment. With the amendment, the scope of what is considered indirect discrimination has broadened. These provisions took effect in July 2014. A Bill on the Partial Revision of the Act on Improvement of Employment Management for Part-time Workers was submitted to the 186th Diet and passed in April 2014. It aims to expand the scope of part-time workers deemed equivalent to ordinary workers against whom discriminatory treatment is to be prohibited and to introduce a new measure that obliges employers to explain the details of measures they take to improve employment management to newly hired part-time workers. In March 2015, ‘Guidelines for employers to treat properly, on matters set forth in the provisions relating to the prohibition of discrimination against people with disabilities (Guidelines on anti-discrimination against people with disabilities)’, and ‘Guidelines for employers on measures to ensure equal opportunities or treatment for people with disabilities in employment, and eliminate the barriers so that people with disabilities can use their abilities effectively (Reasonable accommodation guidelines)’ were formulated, based upon the Amendment of the Law for Employment Promotion of Disabled Persons. When formulating these guidelines, the Government consulted the Subcommittee on Employment of Persons with Disabilities of the Labour Policy Council in which members of the public, worker representatives, employer representatives and representatives of people with disabilities considered important matters on employment policy of disabled persons. According to JTUC-RENGO: No progress has been seen in amending domestic laws towards ratification of C.111 as of August 2015.</p> <p><b>2014 AR:</b> According to the Government: The Human Rights Commission Bill to establish a new human rights institution to handle human rights infringements including discrimination in respect of employment and occupation was submitted to the Diet in November 2012 but was scrapped due to the dissolution of the House of Representatives on 16 November 2012. Appropriate consideration as to what human rights remedy system ought to be is underway in the light of discussions made so far.</p> <p>The Act for Promotion of Employment of Persons with Disabilities was amended in June 2013 and new provisions include: the discrimination against persons with disabilities in the field of employment shall be prohibited and the measures to remove various obstacles for them in the workplace shall be taken (obligation to provide reasonable accommodation). These provisions are to be enforced as of April 2016.</p> <p><b>2012 AR:</b> According to the Government: The Basic Act for Persons with Disabilities was amended in 2011. It contains new provisions to prohibit discrimination against persons with disabilities and removes various existing obstacles encouraging equal rights and benefits for persons with disabilities.</p> <p><b>2011 AR:</b> According to the Government: A Bill on new human rights remedy system is under review in order to realize more effective relief for victims of human rights infringements which include discrimination in respect of employment and occupation.</p> <p><b>2001 and 2006 ARs:</b> According to the Government: The Equal Employment Opportunity Act was revised in June 1997 and entered into force in April 1999. Major revisions include: (i) prohibiting discrimination against women workers; (ii) introducing a monitoring and control system for enterprises; (iii) improving a mediation system at the workplace; (iv) abolishing restrictions on overtime and holiday work and night work to women workers; and (v) assisting employers in addressing various issues, including sexual harassment at workplaces.</p> </li> </ul>
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		<b>Basic legal provisions:</b>	<ul style="list-style-type: none"> <li>(i) Constitution of Japan, articles 14, 22;</li> <li>(ii) Labour Standards Act (Act No. 49 of 1947), sections 3, 4, 119;</li> <li>(iii) Mariners Act (Act No. 100 of 1947), section 6;</li> <li>(iv) National Public Service Act (Act No. 120 of 1947), sections 27, 109;</li> <li>(v) Employment Security Act (Act No. 141 of 1947), sections 2, 3, 22;</li> <li>(vi) Mariners Employment Security Act (Act No. 130 of 1948), sections 2 and 4;</li> <li>(vii) Local Public Service Act (Act No. 261 of 1950), sections 13 and 60;</li> <li>(viii) Equal Employment Opportunity Act (Act No. 113 of 1972), section 1;</li> <li>(ix) Part-Time Act (Act No. 76 of 1993, section 9.);</li> <li>(x) Basic Act for Persons with Disabilities (Act No. 84 of 1970), section 4, paragraphs 1-3;</li> <li>(xi) Act on Employment Promotion, etc. of Persons With Disabilities (Act No. 123 of 1960), sections 5, 10.S.s</li> </ul>
		<b>Grounds of discrimination</b>	<p><b>2008 AR:</b> According to the ITUC: Discrimination is prohibited on grounds of race, gender, disability, language and social status (late observations under the 2007 AR).</p> <p><b>2004 AR:</b> According to the Government: Discrimination in respect of employment and occupation is prohibited on grounds of race/colour, sex, religion, political opinion, national extraction and social origin.</p>
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<b>2015 AR:</b> According to the Government: Specific attention was paid to the prohibition of discrimination against people with disabilities and guidelines were formulated, based upon the Amendment of the Law for Employment Promotion, to eliminate discrimination against people with disabilities in employment.
		<b>Information/ Data collection and dissemination</b>	<b>2005 AR:</b> According to the Government: Relevant statistics on the realization of the principle and right (PR) are regularly kept by the Government.

	<p><b>Prevention/monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2000-2007 ARs:</b> According to the Government: The Equal Employment Opportunity Department of the Prefectural Labour Bureau visits offices in a planned manner and grasps the employment management system of each enterprise in order to ensure the enforcement of the Equal Employment Opportunity Act. Administrative guidance is implemented in case of violation of this Act.</p> <p><b>2000-2002 ARs:</b> According to the Government: Inspection Offices are established as local branches, and the proper number of necessary personnel is allocated for the monitoring and enforcement of the legal provisions. Dispute settlement is provided through advice, guidance and recommendation or mediation at the request of one or both parties concerned.</p>	
	<p><b>Involvement of the social partners</b></p>	<p><b>2015 AR:</b> The Government indicated that it consulted the tripartite Labor Policy Council in the process of amendment of the Ordinance for Enforcement of the Equal Employment Opportunity Act etc.</p> <p><b>2013 AR:</b> The JTUC urged the Government to enhance effectiveness of the tripartite consultations in order to push forward ratification.</p> <p><b>2005 AR:</b> According to the Government: Employers' and workers' organizations have been involved in the development and implementation of governmental measures regarding the PR. Indeed, representative of workers and employers were involved in the revision of the Labour Standards Bill (sections 3 and 4) and the Act on Securing, etc of Equal Opportunity and Treatment between Men and Women in Employment.</p>	
	<p><b>Promotional activities</b></p>	<p><b>Institutions to promote equality</b></p>	<p>According to the Government: The Ministry of Health, Labour and Welfare.</p>
		<p><b>Other activities:</b></p>	<p><b>2015 AR:</b> The Government stated that it was promoting effective employment management in accordance with the Equal Employment Opportunity Act through public awareness raising on the content of the Equal Employment Opportunity Act and Positive Action including the new Ordinance for Enforcement of the Equal Employment Opportunity Act.</p> <p><b>2001 and 2007 ARs:</b> According to the Government: Other programmes include: (i) recruitment and screening; (ii) distribution of various educational materials; (iii) educational activities via media; (iv) training for human rights promoters on fair recruitment and screening; and (v) training for businesspersons.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2012 AR:</b> According to the Government: The Basic Act for Persons with Disabilities was amended in 2011. It contains new provisions to prohibit discrimination against persons with disabilities and removes various existing obstacles encouraging equal rights and benefits for persons with disabilities.</p> <p><b>2009 AR</b> According to the Government: Part-Time Work Act was revised in 2007 so as to correct unreasonable treatment against workers with part-time employment contract.</p> <p><b>2001 and 2007 ARs:</b> According to the Government: Educational activities are implemented throughout the year to promote effective employment management in accordance with the Equal Employment Opportunity Act. June is considered as the “One Month Campaign on Equal Employment Opportunity between Men and Women”.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>NIL.</b></p>



		<b>Workers' organizations</b>	<p><b>2013 AR:</b> According to the JTUC-RENGO: Given that the Government's indication that some domestic laws should be amended and new laws be enacted before C.111 is ratified, the JTUC insists that the Government immediately take necessary actions as follows: (i) list the laws and the practices which must be amended, and; (ii) collect good examples how other countries ensured consistency with this Convention.</p> <p><b>2010-2012 ARs:</b> The JTUC-RENGO reiterated its appeal to the Government to ratify C.111, and regretted that no progress was made in this regard. It believed that it would be necessary for the Government to promote Diet Members' understanding of the importance of a core Convention such as C.111 so as to activate discussion at the Diet toward ratification of this instrument (for instance, the Government could make thorough explanation of the purport and background of the Convention, the importance of ratifying core Conventions, etc.).</p>
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			<p><b>2009 AR:</b> According to the JTUC-RENGO: The Government expressed its view to the workers' and employers' organizations that enactment of the Fundamental Human Rights Protection Bill at the Diet is one of the prerequisites for the ratification of C.111. The Fundamental Human Rights Protection Bill aiming to ensure full-range human rights protection was introduced to the Diet, however, the Bill failed to pass the Diet and was abandoned in 2003 since the Bill did not guarantee independence of the monitor and relief organization, and the parties in opposition could not support. Thereafter, there has been no progress to realize the Bill at the Diet and prospects are gloomy. The amendment Bill for the Part-Time Work Act passed through the Diet in 2007. Although the revised Act prohibits discriminatory treatment to part-time workers, it seems only 1-5 per cent out of whole part-time workers who can enjoy the amendment, because the Act sets strict conditions for applicable scope of part-time workers. Therefore, necessity of amendment of the Act to realize equal treatment for whole part-time workers still remains.</p> <p><b>2008 AR:</b> According to the ITUC (late observation under the 2007 AR): Sexual harassment in the workplace remains problematic throughout the country. The new version of the Equal Opportunity Act provides for enforcement of further penalties for sexual harassment at the workplace from April 2007. The ITUC also states that although persons with disabilities are not generally subject to overt discrimination in employment they face limited access of same in practice.</p> <p><b>2007 AR:</b> According to the JTUC-RENGO: The Equal Employment Opportunity Act was revised in 2006. However, its amendment was insufficient in terms of prohibition of indirect discrimination. Amendment of the Act for achieving gender equality and equal treatment between full-time and part-time workers has not been realized so far. The Government should revise the labour legislation in order to achieve gender equality and equal treatment between full-time and part-time workers.</p> <p><b>2006 AR:</b> According to the JTUC-RENGO: The Government should revise the labour legislations in order to achieve gender equality and equal treatment between full-time and part-time workers. According to the ICFTU: (i) women are under-represented in managerial track; (ii) persistent discrimination based on retirement age especially against women; (iii) persisting sexual harassment at workplace; (iv) discrimination on grounds of social origin in recruitment; (v) discrimination against foreign residents in national and local public services; (vi) disabled people are under-represented in private companies.</p> <p><b>2005 AR:</b> According to the JTUC-RENGO: (i) no improvement in wage disparities between men and women; (ii) lack of labour legislation review.</p> <p><b>2003 AR:</b> According to the ICFTU: (i) discretionary choice given to the employer at recruitment; (ii) persisting discrimination against women workers; (iii) lack of penalty and sanction measures to address sexual harassment at workplace; (iv) persisting discrimination against migrant workers; (v) increasing vulnerability of disabled people in the labour market.</p> <p><b>2002 AR:</b> According to the JTUC-RENGO: (i) persisting discrimination in employment and occupation; (ii) lack of understanding of C.111.</p>
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		<p><b>2001 AR:</b>According to the ICFTU: (i) persisting discrimination against women workers; (ii) higher concentration of women in temporary jobs and increasing female unemployment, especially young women; (iii) managerial-track jobs as a male domain in most companies; (iv) lack of effective prohibition of discrimination; (v) lack of effective sanction measures as regard sexual harassment at workplace; (vi) Japanese nationality as a requirement for employment in national and local public services and the private sector; (vii) migrants workers subject to abuses.</p>
	<p><b>According to the Government</b></p>	<p><b>2009 AR:</b> According to the Government: Part-Time Work Act was revised in 2007 so as to correct unreasonable treatment against workers with part-time employment contract.</p> <p>In response to the ITUC’s observations recorded under the 2008 AR, the Government indicated the following: The revised Equal Employment Opportunity Act between Men and Women provides that employers shall establish necessary measures in terms of employment management to give advice to workers and cope with problems of worker, and take other necessary measures so that workers they employ do not suffer disadvantages in their working conditions by reason of workers’ responses to sexual harassment in the workplace, or so that their working environments are not harmed by sexual harassment utterance. For this revision, it clearly states that employers have an obligation to take a certain action in their employment management, and sexual harassment to men was also added as this law’s object. Such measures as advice, guidance and recommendation can be taken by prefecture Labour Bureau for employers’ violating the provisions of the Act. Furthermore, the public announcement system about the name of the company is applied to sexual harassment. When the employer does not obey the recommendation, the company’s name will be disclosed to the public as a counter-measure under the Act. Both employees and employers became able to use the mediation procedure made by Prefectural Labor Bureau. These actions will surely work more effectively to prevent sexual harassment. Regarding prohibition of employment discrimination against Persons With Disabilities, the Basic Act for Persons with Disabilities (Act No. 84 of 1970) stipulates in its section 4, paragraphs 1, that “No one shall be allowed to discriminate against persons with disabilities or violate their rights and benefits on the basis of disability”. In addition, the Act for Employment Promotion, etc. of Persons With Disabilities (LEPPD) (Act No. 123 of 1960) stipulates employers’ obligation to maintain appropriate employment management (section 5). The Basic Policy on Measures of Employment for Persons with Disabilities elaborates on this stipulation: employers must ensure appropriate management with due consideration to factors such as recruitment, assignment and treatment of implementation of education and training for, and ensuring the health and safety of, persons with disabilities thereby employers must accordingly endeavour to realize a workplace where persons with disabilities can work along with non-disabled persons with a sense of fulfilment in life, according to their aptitude and capabilities, as well as to improve the quality of their working lives (Part 3 of the Basic Policy). There are various other measures to secure opportunities of open employment for persons with disabilities. For example, Public Employment Security Offices may refuse a job advertisement which requires, on no reasonable ground, the condition that the applicant does not have disabilities (section 10), LEPPD). The Government also provides guidance and advice to, and collects levies from, employers who do not meet the statutory employment rate of persons with disabilities. Meanwhile, the UN Convention on the Rights of Persons With Disabilities adopted in 2006 prohibits discrimination on the basis of disability (article 27-1(a)). The Government is currently making efforts to ratify the Convention at an early date.</p>

		<p><b>2007 AR:</b> According to the Government: The Equal Employment Opportunity Act (Act No. 113 of 1972) was revised in 2006 with a view to promoting further equal opportunity and treatment between men and women in employment. In response to the JTUC-RENGO's, the Government indicated the following: In order to promote equal opportunity between men and women, the Ministry of Health, Labour and Welfare submitted to the diet at its 164th Session a revised Bill of Equal Employment Opportunity Act and related laws, which included provisions such as prohibition of discrimination against both men and women, and prohibition of indirect discrimination. The Bill was approved in June 2006. With regard to the structure of the provision prohibiting indirect discrimination, the Bill stipulates that the ministerial ordinance of the Ministry of Health, Labour and Welfare should specify 3 kinds of cases, and that these would be considered illegal when there are no legitimate reasons. It was decided to adopt this structure on the grounds that the Labour Policy Council, consisting of intellectuals, representatives of employers and employees (all employees' members are representatives of JTUC-RENGO or its affiliated groups), concluded that it would be appropriate to adopt a legal framework in which these 3 cases activities would be considered indirect discrimination, and that the scope of prohibition could be revised to include other cases if needed, taking the trend of judgments of the court into consideration. Therefore, the JTUC-RENGO's observation that the amendment was insufficient misses the point, because the amendment covers sufficient matters, and it was based on the tripartite consensus. Additionally, in July 2006 the Ministry of Health, Labour and Welfare started a discussion on a policy concerning part-time work in the Equal Employment Subcommittee of the Labour Policy Council, consisting of intellectuals, representatives of employers and employees, and it is scheduled to compile a final conclusion at the end of this year. The Ministry of Health, Labour and Welfare intends to take appropriate action based on the conclusion.</p> <p><b>2005 AR:</b> In response to the JTUC-RENGO's observations, the Government made the following comments: (i) a panel has been held in relation to the PR; (ii) the Minister of Health, Labour and Welfare will take appropriate measures as a follow up of discussions initiated by the Equal Employment Subcommittee of the Labour Policy Council since September 2004; (iii) it is necessary to reach an agreement on the issue of strengthening regulations to ensure equal treatment in working conditions for part-time workers and to implement adequate measures based on a national consensus.</p> <p><b>2000-2001 ARs:</b> In its response to the JTUC-RENGO's comments, the Government made the following observations: (i) comments made by the JTUC-RENGO on ratified Conventions should not be reflected in the compilation of the annual report; (ii) the follow-up should not lead to the establishment of new supervisory machinery and to the duplication of the reporting system on non-ratified Conventions already established in the Constitution.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> The Government and JTUC-RENGO expressed the need for ILO's technical cooperation on providing information of good examples of how countries which have ratified C.111 ensured consistency between their domestic laws and the Convention.</p> <p><b>2014 AR:</b> According to JTUC-RENGO: ILO technical assistance is needed for information on good examples of how other countries that ratified C.111 ensure consistency with their domestic laws. It would appreciate ILO's observations on specific domestic legal provisions which seem to be in conflict with C.111.</p> <p><b>2009 and 2012 ARs:</b> According to the JTUC-RENGO: ILO technical cooperation is needed in order to ensure consistency between C.111 and national laws. Also, if ILO expert(s) could visit Japan and illustrate the importance of ratification of this Convention to the members of Diet, the situation toward ratification will be very much improved.</p>
	<p><b>Offer</b></p>	<p>ILO (technical assistance in the labour law review process).</p>





<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b>The ILO Declaration Expert-Advisers (IDEAs) noted the intentions expressed by most governments, including the Government of Japan, to ratify or consider ratification of conventions Nos. 100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification. Given that many countries have requested ILO technical cooperation in the ratification process (on the content of Conventions Nos. 100 and 111, labour law review, ratification process, etc.), the IDEAs requested the Office to strengthen its assistance this regard (cf. paragraphs 66 and 67 of the 2008 Annual Review Introduction – ILO: GB.301/3)</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>





**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>96</sup>: KUWAIT**

*THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)*

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	YES, except under the 2009 and 2011 Annual Review (ARs).
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Kuwait Chamber of Commerce and Industry (KCCI) and the Kuwait Trade Union Federation (KTUF) through consultations and communication of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the KCCI. <b>2013 AR:</b> Observations by the KCCI. <b>2012 AR:</b> Observations by the KCCI. <b>2007 AR:</b> Observations by the KCCI.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the KTUF. <b>2014 AR:</b> Observations by the KTUF. <b>2013 AR:</b> Observations by the KTUF. <b>2012 AR:</b> Observations by the KTUF. <b>2008 AR:</b> Observations by the KTUF. <b>2007 AR:</b> Observation by the KTUF. <b>2006 AR:</b> Observations by the KTUF.

<sup>96</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Kuwait ratified in 1966 the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111). However, it has not ratified the Equal Remuneration Convention, 1951 (No. 100) (C.100).</b>
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		<p><b>Ratification intention</b></p> <p><b>YES, since 2002, for C.100.</b></p> <p><b>2015 AR:</b> The Government indicated that there is no change since the 2014 AR and reiterated that it is very supportive of the ratification of C.100. However, it has stressed the need for ILO to make clear definitions of wage and benefits of all types.</p> <p>KTUF expressed its support for support the ratification of C.100, which according to it, is on the right track given that the Government is willing to ratify this instrument. It further indicated that the definition of benefits needs to be customised for each employment sector.</p> <p><b>2014 AR:</b> The Government reiterated its support for the ratification of C.100. It expressed hope that the notion of “any additional emoluments” would be clarified through social dialogue and in cooperation with ILO, so as to overcome technical obstacles to the ratification.</p> <p>The KCCI and the KTUF reiterated their support for the ratification of C.100 by Kuwait, and could see no further obstacles in the ratification process. According to the KTUF, women’s rights and equal remuneration are issues of growing importance on the social and political agendas in the country.</p> <p><b>2013 AR:</b>According to theGovernment: The Government is reviewing the different elements to be taken into consideration in the wage component, in cooperation with ILO so as to overcome the legal obstacles to ratification, in particular in relation with section 55 of the Labour Code.</p> <p>The KCCI and the KTUF reiterated their support for the ratification of C.100 by Kuwait. According to the KCCI, no progress has been made in the ratification process since 2011. However, according to the KTUF, the Government has been making progress towards ratification of C. 100 in 2011 and social dialogue needs to be strengthened to boost ratification of this instrument.</p> <p><b>2012 AR:</b> According to the Government: Ratification of C.100 is yet pending before the Council of Ministers for approval and formal submission to Parliament.</p> <p>The KCCI and the KTUF expressed their support for the ratification of C.100 by Kuwait.</p> <p><b>2010 AR:</b> According to the Government: The Government intends to ratify C.100 so as to complete the ratification of all the ILO fundamental Conventions. This ratification process has been discussed between the Ministry of Labour and Social Affairs and the employers’ and workers’ organizations. Ratification of C.100 needs now to be submitted to the Council of Ministers and the Parliament.</p> <p><b>2008 AR:</b> The KTUF hoped that the Government would soon ratify C.100 and noted that in practice, equal pay for work of equal value is already being applied on workers.</p> <p><b>2007 AR:</b> According to the Government:Ratification of C.100 is still under consideration, despite divergences in points of view.</p> <p><b>2001 AR:</b> According to the Government: a study has been undertaken in order to compare the provisions of C.100 with national legislation, with a view to ratifying this Convention.</p> <p>Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.100.</p>
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<p><b>Recognition of the principle and right (prospect(s), means of action, basic provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>NIL.</b></p>
	<p><b>Policy, Legislation and/or regulations</b></p>	<p><b>2015 AR:</b> According to the Government and KTUF, there have not been any new changes in legislation over the past one year.</p> <p><b>2013 AR:</b> According to the Government and the KTUF: Legal amendments to Act No.6 of 2010 have been made in order to ensure working conditions in the private sector. A new tripartite agreement (between the Government, the employers' organization and the KTUF) is being developed, aiming at improving working conditions for domestic workers and at ensuring equal remuneration in a sector which is dominated by women in Kuwait.</p>
	<p><b>Basic legal provisions</b></p>	<p>(i) the New Private Sector Labour Act of Kuwait, No. 6 of 2010; (ii) section 27 of the Labour Act; (iii) section 10 of the Labour Code for Private Sector, No. 38 of 1964; (iv) section 90 of 1964 Labour Act; (v) section 92 of the same Act; (vi) section 78 of Act No. 38 (1964); (vii) Ministerial Decision No. 110 of 1995.</p>
	<p><b>Grounds of discrimination</b></p>	<p><b>2003 AR:</b> According to the Government: Discrimination in respect of employment and occupation is prohibited on grounds of race, colour, sex, religion, political opinion, national extraction and social origin.</p>
	<p><b>Judicial decisions</b></p>	<p><b>2001-2002 ARs:</b> Courts of Law had made decisions on the PR in cases examined by the said courts on the basis of obligations specified in contracts, rules and domestic regulations concerning employers, but not on the implementation of the Convention in question which the State of Kuwait had not yet ratified.</p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>Special attention to particular situations</b></p>
<p><b>Exercise of the principle and right</b></p>	<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2002 AR:</b> The Government stated that it did not collect statistics and information relevant to the principle and right (PR) on a regular basis, but planned to do so.</p>
<p><b>Prevention/monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2000-2001 ARs:</b> According to the Government: The Ministry of Labour and Social Affairs is in charge of the implementation of legislative and administrative provisions concerning the PR. Measures for assessing rates of remuneration, and methods to ensure the application of the PR include monitoring the extent to which employers are complying with the labour laws, through labour inspection, the review and endorsement of work contracts, the issuing of work permits and the adoption of domestic rules and regulations relating to employers.</p>	

	<p><b>Involvement of the social partners</b></p>	<p><b>2014 AR:</b> The KCCI and the KTUF indicated that social dialogue concerning the ratification of C.100 and subjects related to equal remuneration, in particular in relation to women’s rights, was ongoing.</p> <p><b>2013 AR:</b> According to the KTUF: Social dialogue is practiced in the country. However, the KTUF would like to see further involvement by the social partners with the Government, and serious recognition of the workers’ organizations in this dialogue.</p> <p><b>2001-2002 ARs:</b> According to the Government: Employers’ and workers’ organizations have been involved in discussions regarding the implementation of national legislation, labour standards and international labour Conventions within a high level consultative committee established by Decree No. 41/1995 for this purpose). They have provided suggestions and recommendations on these issues.</p>	
	<p><b>Promotional activities</b></p>	<p><b>Institutions to promote equality</b></p>	<p><b>2000, 2001 and 2004 ARs:</b> According to the Government: the Ministry of Labour and Social Affairs.</p>
		<p><b>Other activities</b></p>	<p><b>2013 AR:</b> According to the Government: The Government has participated in ILO training activities on international labour standards, including the issue of equal remuneration. It has also organized tripartite training activities on the principle and right in cooperation with international regional organisations.</p> <p>The KTUF indicated that it had conducted training activities on the issue of equal remuneration.</p> <p><b>2012 AR:</b> According to the Government, the KCCI and the KTUF: Tripartite workshops on Fundamental Principles and Rights at Work have been organized in 2011.</p> <p><b>2010 AR:</b> According to the Government: Labour law reform is being undertaken in consultation with the employers’ and workers’ organizations. A new law that integrates, among others, the provisions of C.100 will be submitted to the new Parliament soon. Employers’ and workers’ organizations are being sensitized on the Declaration’s principles and rights, in cooperation with the ILO.</p> <p><b>2008 AR:</b> The Government indicated that it would organize an International Forum on rights and obligations for workers from GCC sending and receiving countries.</p> <p><b>2007 AR:</b> According to the Government: A Committee to strengthen national efforts in promoting the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up has been established. Furthermore, a seminar on future visions towards implementing the new labour code in the framework of ILO Conventions was held in Kuwait (10-12 January 2004). Kuwait was the host country for the Fourth ILO/GCC Regional Workshop on the ILO Declaration and International Labour Standards (Kuwait City, April 2006). The Government, the KCCI and KTUF participated in this workshop.</p> <p>The Government, the KCCI and KTUF agreed to organize tripartite consultations on the distribution of social allowances to married persons.</p> <p><b>2000-2001 ARs:</b> According to the Government: Consultations were held with the social partners with respect to state legislation, international labour standards and other international conventions.</p>

	<b>Special initiatives/Progress</b>	<p><b>2015 AR:</b> KTUF indicated that efforts have been made by the Government in increasing and levelling of salaries.</p> <p><b>2007 AR:</b> According to the Government, the KCCI and the KTUF: A tripartite committee to promote and realize the ILO Declaration was set up in 2004. It has organized several promotional activities on the ILO Declaration.</p> <p><b>2004 AR:</b> According to the Government: Successful example in relation to the PR: The issuance of Ministerial Decree No. 142/2002 concerning the obligation for employers to transfer the remuneration of their workers to their bank accounts with no discrimination.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2007 and 2013 ARs:</b> According to the KCCI: The major obstacle in realizing this PR in Kuwait is the lack of education/understanding of ILO's role and the Declaration principles and rights.
		<b>Workers' organizations</b>	<p><b>2015 AR:</b> KTUF indicated that there is no major challenge; however definition of wages and benefits need to be customised for each employment sector.</p> <p><b>2013 AR:</b> The KTUF expressed hope in the ratification process of C.100, stating that progress was being made and that no major challenges persist in the process, except the need for further commitment to social dialogue from the Government's side in order to continue moving forward to ratification of C. 100.</p> <p><b>2007 AR:</b> TheKTUF shared the KCCI's view concerning the major obstacle to the realization of the PR in Kuwait (i.e., lack of education/understanding of ILO's role and the Declaration principles and rights).</p>
	<b>According to the Government</b>	<p><b>2015 AR:</b> The Government stated that lack of clarification on the definition of wages and benefits is a major challenge in the ratification process of C.100.</p> <p><b>2012 AR:</b> According to theGovernment: Discrimination on wages exists between national and migrant workers.</p> <p><b>2007 AR:</b> According to the Government: Kuwait has not ratified C.100 because of: (i) divergences in points of view; and (ii) lack of education/understanding of ILO's role and the Declaration principles and rights.</p>	

<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> The Government stated that it has signed a two-year project with ILO, IOM and UNDP, which comprises technical support in the form of training and capacity building for the newly established institution of manpower.</p> <p>KTUF reiterated the need for ILO technical assistance to organise awareness raising workshop on discrimination at work, with a special focus on the compliance of the national laws with the provisions of C.100.</p> <p><b>2013 – 2014 ARs:</b> The Government reminded the tripartite request made for ILO technical support to organize a workshop on discrimination at work, with a special focus on the compliance of the national laws (Section 55 of the Labour Code, in particular) with the provisions of C.100.</p> <p>The KCCI and the KTUF supported the Governments’ request made under the 2013 AR to organize a workshop on discrimination at work, with a special focus on the compliance of the national laws with the provisions of C.100. The KTUF expressed a wish to participate in the ILO Turin Course on International Labour Standards.</p> <p><b>2012 ARs:</b> The Government, the KCCI and the KTUF requested ILO technical support to organize a workshop on discrimination at work, with a special focus on C.100.</p> <p><b>2010 AR:</b> The Government welcomes ILO technical support in the ratification process of C.100, reporting issues and labour law reform.</p> <p><b>2008 AR:</b> The KTUF indicated that social dialogue on the FPRW is needed, particularly on the importance of ratification of the fundamental conventions by Kuwait.</p> <p><b>2007 AR:</b> According to the Government, the KCCI and the KTUF: A national workshop on how to better understand and realize the ILO Declaration should be organized by the ILO. The KCCI further requested special training for employers on the Declaration’s follow-up.</p> <p><b>2006 AR:</b> According to KTUF: ILO technical cooperation is necessary to sensitise Government officials on C.100 and other FPRW, in particular their relations with other economic and social issues.</p> <p><b>2005 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization the PR in Kuwait, in the following areas, in order of priority: (1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the principle, strengthening data collection and capacity for statistical collection and analysis, legal reform (labour law and other relevant legislation), capacity building of responsible Government institutions, developing labour market policies that promote equality of opportunity, developing policies regarding equal remuneration; (2) sharing of experiences across countries/regions, training of other officials (e.g. police, judiciary, social workers, teachers), strengthening capacity of workers’ organizations, establishing or strengthening specialized institutional machinery, coordination between institutions (e.g. various ministries and relevant commissions); (3) awareness-raising, legal literacy and advocacy, strengthening capacity of employers’ organizations.</p>
	<b>Offer</b>	ILO.

<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries, such as the Gulf States (as well as China and new member States, in particular in the South Pacific), had made important efforts during this process. However, according to them, more needed to be done. The IDEAs noted the intentions expressed by most governments, including the Government of Kuwait, to ratify or consider ratification of Conventions Nos.100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification (cf. paragraphs 12 and 66 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council. They listed Kuwait among the countries where some efforts are being made in terms of research, advocacy activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (cf. paragraphs 13 and 148 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs noted that the GCC States had been providing more information on freedom of association and the right to collective bargaining, but not enough on the other three PRs. This would help to illustrate the link between all four PRs (cf. paragraph 85 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2003 AR:</b> The IDEAs commended Kuwait and other GCC States for their continuing dialogue with the Office through the annual review process (cf. paragraph 4 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p> <p><b>2002 AR:</b> The IDEAs acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the GCC Governments, including Qatar (cf. paragraph 82 of the 2002 Annual Review Introduction – ILO: GB.283/3/1).</p> <p><b>2001 AR:</b>The IDEAs hoped in particular that the governments of GCC countries would continue a dialogue with the Office regarding the ways in which respect for fundamental principles and rights at work and positive changes could be achieved through technical cooperation (cf. paragraph 77 of the 2001 Annual Review Introduction – ILO: GB.280/3/1).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>





**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>97</sup>: LIBERIA**

*THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)*

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	<b>YES</b> , except for the 2000, 2002 – 2004, and 2011 Annual Reviews (ARs).
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	<p><b>YES.</b></p> <p>According to the Government: Involvement of the Liberia Chamber of Commerce (LCC), the Cemenco Liberia Cement Corporation (CLCC), the Monrovia Breweries (MB), the Rubber Planters Association of Liberia (RPAL), the Liberian Agriculture Company (LAC), Firestone Liberia (FL), <i>the Confederation of National Trade Unions of Liberia (CONATUL) no longer exists</i>, the United Workers Union of Liberia (UWUL) combination of CONATU and Liberia Labour Federation)the Federation of Road Transport Unions of Liberia (FRTUL), the United Seamen, Ports and General Workers' Union of Liberia and the Liberia Federation of Labour Unions (USPOGUL-LFLU), the General Agriculture and Allied Unions of Liberia (GAAWUL), the Firestone Agricultural Workers' of Liberia (FAWUL), the Press Union of Liberia (PUL) and the Liberia Labour Congress (LLC) through communication of the baseline reports.</p> <p><b>2007 AR:</b> The Tripartite Resolution on the Humanization of Liberia Labour Force, adopted in October 2006, recommended the creation of an employers' organization in Liberia. Hence, the Liberia Chamber of Commerce (LCC) was created in early 2008.</p>
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<p><b>2015 AR:</b> Observations by the LCC.</p> <p><b>2013 AR:</b> Observations by CT.</p> <p><b>2012 AR:</b> Observations by FL.</p> <p><b>2010 AR:</b> Observations by the LCC.</p> <p><b>2007 AR:</b> Observations by the LAC.</p> <p>Observations by the RPAL.</p> <p>Observations by the CLCC.</p> <p>Observations by the MB.</p> <p>Observations by FL.</p>

<sup>97</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



	<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> Observations by LLC  <b>2014 AR:</b> Observations by LLC  <b>2013 AR:</b> Observations by the FAWUL.  Observations by the GAAWUL.  <b>2012 AR:</b> Observations by the FAWUL.  Observations by the UWUL.  <b>2010 AR:</b> Observations by the LLC.  <b>2009 AR:</b> Observations by the LLC.  <b>2008 AR:</b> Observations by the USPOGUL-LFLU.  <b>2007 AR:</b> Observations by the CONATUL and its 19 affiliates.  Observations by the FRTUL and its 15 affiliates.  Observations by the USPOGUL-LFLU and its 14 affiliates.  Observations by the GAAWUL and its 8 affiliates.  Observations by the FAWUL.  Observations by the PUL.  <b>2006 AR:</b> Observations by the USPOGUL-LFLU.  <b>2005 AR:</b> Observations by the USPOGUL-LFLU.</p>	
<p><b>EFFORTS AND PROGRESS  MADE IN REALIZING  THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Liberia ratified in 1959 the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111). However, it has not ratified the Equal Remuneration Convention, 1951 (No. 100) (C.100).</b></p>

		<p><b>Ratification intention</b></p>	<p><b>YES, since 2005, for C.100.</b></p> <p><b>2015 AR:</b> The Government reiterated its intention to ratify C.100 and requested as matter of urgency ILO technical assistance to sensitize the tripartite partners and legislators on C.100 and the need to speed up its ratification in the agenda of the House of the Representatives and the Senate.</p> <p>LCC expressed its support for the ratification of C.100.</p> <p>LLC reiterated its support for the ratification of C.100.</p> <p><b>2014 AR:</b> The Government reiterated its intention to ratify C.100 and added that the situation was similar to the previous year; legislators need to be sensitized on the content of C.100 and made aware of the importance of the Convention.</p> <p>According to LLC: It supports and is hopeful on the ratification of C.100 since the tripartite parties support and are convinced about the need for this Convention. Ratification should be a matter of time and awareness creation.</p> <p><b>2013 AR:</b> The Government reiterated its intention to ratify C.100, but added that no progress has been made in the ratification process in 2011. In order for the ratification to move ahead, the new legislators need to be sensitized on the content of C.100 and made aware of the importance of the Convention.</p> <p>The CT expressed its full support for the ratification of C.100 by Liberia.</p> <p>The FAWUL and the GAAWUL expressed their full support for the ratification of C.100.</p> <p><b>2012 AR:</b> The Government reiterated its intention to ratify C.100. The process of labour law reform is still pending before the lower House of Representatives, and the approval by the upper House of Senate is needed afterwards.</p> <p>FL expressed its full support for the ratification of C.100 and further added that on a general basis equal pay for work of equal value is not part of the gender issue in Liberia, although it might occur in few instances.</p> <p>The FAWUL and the UWUL expressed their full support for the ratification of C.100.</p> <p><b>2010 AR:</b> According to the Government: Ratification of C.100 is in process. The national revised labour law has been submitted to the House of Senate and is actually being studied for a future ratification of C.100.</p> <p>The LCC expressed its full support for the ratification of C.100 by Liberia and requested that the Government take the necessary measures for an immediate ratification of this instrument.</p> <p>The LLC stated its support for the ratification of C.100 by Liberia.</p>
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			<p><b>2009 AR:</b> The Government reiterated its support for the ratification of C.100 and all ILO fundamental Conventions, and indicated that the adoption of new laws was ongoing towards the ratification of this Convention.</p> <p>The LLC mentioned its support for the ratification of C.100.</p> <p><b>2008 AR:</b> The Government indicated that due to the recent change within the Liberian Government, the ratification process has been slowed down but added that the document was currently before the Committee on Labour of the Senate for approval.</p> <p>The USPOGUL-LFLU indicated that C.100 was currently before the Committee on Labour of the Senate for approval.</p> <p><b>2007 AR:</b> The Government reiterated its intention to ratify C.100.</p> <p>The Tripartite Resolution on the Humanization of Liberia Labour Force, adopted in October 2006, recommended ratification of C.100 by Liberia.</p> <p>The CLLCC, the RPAL, the LAC, the USPOGUL-LFLU, the CONATUL, the FRTUL, the GAAWUL and the PUL requested the Government to take immediate action to ratify this Convention in cooperation with ILO.</p> <p><b>2006 AR:</b> According to the Government: C.100 is still in the ratification process and some positive developments are expected before the end of 2005 in this respect.</p> <p><b>2005 AR:</b> The new Government stated that it was committed to ratify C.100 in the near future.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>The 1991 Constitution, under its articles 8, 11 and 18, provides for equal opportunity and treatment. The Tripartite Resolution on the Humanization of Liberia Labour Force, adopted in October 2006, recommended that article 18 of the Liberia Constitution, 1991, which refers to “equal pay for equal work” be amended to read “equal pay for work of equal value”.</p>

		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b>  <b>2007 AR:</b> The case study and the tripartite Resolution on the Humanization of Liberia Labour Force, adopted in October 2006, recommended that the Government adopt a national policy on discrimination issues.</li> <li>• <b>Legislation:</b>  <b>2015 AR:</b> The Government indicated that the Decent Work Bill was passed in April 2014 by the House of Representatives.            LLC stated that with respect to C.100, there is already a legal framework, including the Constitution and the Labour Law, which provide provisions against discrimination. Additionally, a law about equal participation has been drafted by women solidarity groups and is being submitted to the Senate for approval.  <b>2014 AR:</b> LLC stated that with respect to C.100, there is already a legal framework, including the Constitution and labour and workers’ codes, which provide provisions against discrimination. Additionally, a law about equal participation has been drafted and is being pushed by women solidarity groups for approval by the Senate.  <b>2013 AR:</b> According to the Government: There is currently a lack of legal provisions in the common law that would ensure equal remuneration. This will be addressed by the forthcoming Decent Work Bill, which will be in line with the content of C.100. All the Fundamental Principles and Rights at Work (FPRW) are covered in Chapter 2 of the Bill.            According to FAWUL and GAAWUL: The Decent Work Bill is awaiting approval by Parliament and should serve as a measurement to ensure equal remuneration and increase the minimum wage levels in the country. Although the collective bargaining agreement applicable for Firestone plantations provides the workers with higher wage levels than the national average, a higher minimum wage standard needs to be set at the national level.</li> </ul>
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			<p><b>2012 AR:</b> The Government indicated that a first public hearing was held in May 2011 on tripartite basis concerning the drafting of the Decent Work Bill which makes provisions on the FPRW.</p> <p><b>2008 AR:</b> According to the Government: a national tripartite Conference will be organized in October 2007 in order to review labour legislations in Liberia. It added that there is currently no specific legislation covering the issue of equal remuneration.</p> <p><b>2007 AR:</b> The case study and the tripartite Resolution on the Humanization of Liberia Labour Force, adopted in October 2006, recommended that legal loopholes on discrimination and equality at the minimum age in Liberia be solved in cooperation with the ILO.</p> <p><b>2006 AR:</b> According to the Government: The 1974 Labour Law also guarantees the principle of equal remuneration between men and women for work of equal value.</p> <ul style="list-style-type: none"> <li>• <b>Regulations:</b></li> </ul> <p><b>2013 AR:</b> According to FAWUL and GAAWUL: Collective bargaining agreements are used as the main tool to ensure equal remuneration and avoid discrimination.</p>
		<b>Basic legal provisions</b>	(i) The Constitution, 1991 (articles 8, 11 and 18); and (ii) the Labour Law, 1974; The Decent Work Bill, 2014.
		<b>Grounds of discrimination</b>	<b>C.111 is ratified.</b>
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<p><b>2015 AR:</b> The Government indicated that it was supporting the discussion concerning the adoption of a policy promoting a 30% participation of women in political positions.</p> <p><b>2013 AR:</b> The FAWUL and the GAAWUL indicated that special attention had been given to raising the minimum wage level as part of ensuring equal remuneration.</p> <p><b>2012 AR:</b> According to FL: Gender equality has been promoted in jobs advertisings in newspapers to encourage female applications.</p> <p>According to FAWUL: In early 2000, workers' wages in Firestone plantations were at US\$3.38 and were based on a daily rate of 750 trees per worker. However, this wage was still higher than the country minimum wage of \$2/day. In 2011, Firestone raised the minimum wage at US\$4.42/day. Today, workers in Firestone tap an average of 300-500 trees/day.</p> <p><b>2007 AR:</b> According to the CONATUL and the LFLU: Workers in the informal economy.</p>
		<b>Information/ Data collection and dissemination</b>	<p><b>2015 AR:</b> According to the Government: A national survey is under way for 2015 regarding the establishment of a national database on workers employed by sex and wage.</p> <p><b>2007 AR:</b> According to the GAAWUL: There is a lack of data collection on the principle and right (PR) in Liberia.</p>



	<p><b>Prevention/monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2015 AR:</b> According to the Government: The Labour Inspection is monitoring issues pertaining to discrimination including wage issues.</p> <p><b>2012 AR:</b> According to the Government: The Ministry of Labour has set up a Commission to help monitor plantations and improve labour conditions.</p> <p><b>2007 AR:</b> The Tripartite Resolution on the Humanization of Liberia Labour Force, adopted in October 2006, recommended the establishment of a Commission on Discrimination at Workplace.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2014-15 ARs:</b> The Government indicated that social dialogue is practiced and that all social partners are involved in the ratification process.</p> <p><b>2013 AR:</b> The FAWUL and the GAAWUL indicated that tripartite consultations on the development of the Decent Work Bill had taken place and that the tripartite National Wage Committee deals with issues concerning equal remuneration.</p> <p><b>2012 AR:</b> According to the Government: There has been a tripartite consultation on the Decent Work Bill, which includes issues on the PR.</p> <p><b>2007 AR:</b> According to the Government: The case study and the workshop on the Humanization of Liberia Labour Force were carried out in September and October 2006 in cooperation with the employers' and workers' organizations and the ILO.</p> <p>The Tripartite Resolution on the Humanization of Liberia Labour Force, adopted in October 2006, recommended, <i>inter alia</i>, the creation of an employers' organization in Liberia, the reactivation of various tripartite committees and the establishment of a Commission on Discrimination at Workplace.</p> <p>The USPOGUL-LFLU indicated that the Government had consulted the social partners before the amendment of the Labour Law.</p>



	<p><b>Promotional activities</b></p>	<p><b>2015 AR:</b> The Government indicated that Senior Official of the Ministry of Labour participated in the TURIN May-June Course on International Labour Standards in which the Fundamental Principles and Rights at Work were presented and discussed.</p> <p><b>2015 AR:</b> LLC pointed out that it undertakes advocacy and lobbying as well as organizes consultation workshops to promote awareness and ratification of C.100.</p> <p><b>2014 AR:</b> According to the Government: A workshop on the finalization of the Decent Work Bill was conducted for legislators and experts in July 2013.</p> <p>LLC indicated that tripartite discussions, seminars, workshops and sometimes training on ending discrimination are being carried out, and a committee to facilitate the ratification of the convention has been established.</p> <p><b>2013 AR:</b> According to the Government: A workshop on the preparation of the Decent Work Bill was conducted in May 2012 with participants from the Government and the social partners, in collaboration with the ILO.</p> <p>FAWUL and GAAWUL reported that activities had been undertaken in order to promote equal pay for work of equal value, in particular by promoting an increase of the national minimum wage level, which is currently at 2 US Dollars/day and has not been changed for 39 years.</p> <p><b>2010 AR:</b> According to the Government: A Child Labour Commission (CLC) has been set up on a tripartite basis to speed up the process of ratification of C.100 and facilitate the realisation of the PR in Liberia. In addition, workshops are organised to sensitize Members of the Parliament and the House of Senate to the need to ratify C.100.</p> <p><b>2009 AR:</b> The Government indicated that it had organized awareness raising activities with the participation of employers' and workers' organizations and the civil society to discuss discrimination issues.</p> <p>The LLC stated that it had convened a tripartite committee meeting on labour laws that focused on discrimination.</p> <p><b>2008 AR:</b> The Government indicated that a tripartite national conference should be held in October 2007 in order to review labour laws.</p> <p>The USPOGUL-LFLU indicated that it would be interested in participating actively in the national conference that will be held in October 2007.</p> <p><b>2007 AR:</b> According to the Government: A case study and a workshop on the Humanization of Liberia Labour Force were carried out in September and October 2006 in cooperation with the employers' and workers' organizations and the ILO. The workshop adopted a tripartite resolution on this issue, including recommendations on discrimination at workplace.</p> <p>The USPOGUL-LFLU stated that it had provided special assistance to labour unions to print promotional materials and encourage awareness raising programmes on the PR.</p> <p>The CONATUL, the GAAWUL and the CLCC referred to their participation in training and consultation activities on the PR.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> The Government indicated that the Decent Work Bill was passed by the House of Representatives in April 2014 setting the threshold of US\$6 and US\$4 per day at minimum wage for skilled and unskilled workers, respectively.</p> <p><b>2012 AR:</b> According to the Government: There has been a tripartite consultation on the Decent Work Bill, which includes issues on the PR.</p> <p>According to FL: Companies in Liberia have two reporting obligations concerning their employees: (i) A quarterly reporting obligation for the Ministry of Finance that emphasize (starting salary, present salary, taxes paid, overtime done and overtime paid, etc.); and (ii) A monthly reporting obligation to the Ministry of Labour on information concerning workers (for example, contract type, job title, etc.).</p> <p><b>2007 AR:</b> According to the Government: A tripartite identification of the realities and challenges faced in realizing the PR in the country was carried out through a case study and a workshop on the Humanization of Liberia Labour Force, in cooperation with the ILO. This exercise concluded on a tripartite resolution on the Humanization of Liberia Labour Force that included a request for technical cooperation for the better realization of the PR in the country.</p> <p><b>2006 AR:</b> According to the Government: A Bill has been submitted to the National Assembly to amend the existing labour laws, which contain discriminatory clauses against workers. A project on HIV/AIDS at the workplace is being implemented in collaboration with the UNFPA.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2013 AR:</b> According to The CT: The lack of capacity of responsible public institutions is the main challenge to realize and implement the PR.</p> <p><b>2012 AR:</b> According to FL: The main challenge faced by Liberia in realizing the PR is the lack of capacity of responsible public institutions in particular the labour inspectorate.</p> <p><b>2010 AR:</b> According to the LCC: The main challenge for Liberia to realise the PR is the reluctance of foreign investors who believe that ratification of C.100 would entail an increase in local salaries and hence make their products not competitive on the international market. Foreign investors press the Government not to ratify C.100.</p> <p><b>2007 AR:</b> Atripartite identification of realities and challenges faced in realizing the PR in the country was carried out through a case study and a workshop on the Humanization of Liberia Labour Force, in cooperation with the ILO. Employers made a significant contribution in this exercise.</p>

		<p><b>Workers' organizations</b></p>	<p><b>2015 AR</b> LLC stated that adapting the requirements of C.100 to the specific circumstances of the country is a challenge as well as lack of support in logistics and finance to keep the tripartite commission on ratification function as an independent body.</p> <p><b>2014 AR:</b> LLC stated that adapting the requirements of C.100 to the specific circumstances of the country is a challenge as well as lack of support in logistics and finance to keep the tripartite commission on ratification function as an independent body.</p> <p><b>2013 AR:</b> According to FAWUL and GAAWUL: As trade unions have been working in a coordinated manner against discrimination and conducted campaigns for equal pay for work of equal value, discrimination against women is at this stage a minor problem in Liberia. Discrimination against migrant workers is a non-issue; the few migrant workers who are in the country are often working under better conditions than their national equivalents. However, challenges remain in terms of ensuring equal remuneration in the governmental sector, as government officials are not unionized. Additionally, the Decent Work Bill which is awaiting approval by Parliament is hampering the process of ratification and application of C.100 in national laws. Although the Minister of Labour has been pushing for the Decent Work Bill to be passed, lack of awareness among the Parliamentarians is slowing down the process. Furthermore, challenges reported in the 2012 AR remain in terms of unemployment, very low incomes providing families with inadequate resources, along with a high inflation rate and with a minimum wage which is not adjusted according to the inflation rate, except in the private sector where there are strong unions.</p> <p><b>2012 AR:</b> According to FAWUL and UWUL: Challenges in realizing the PR are as follows: (i) Unemployment; (ii) lack of adequate resources for families; and (iii) socio-economic factors.</p> <p><b>2010 AR:</b> The LLC considered that one of the challenges to realise and implement the PR in Liberia was the absence of educated workers and the lack of understanding of ILO's 1998 Declaration and its principles.</p> <p><b>2008 AR:</b> According to the USPOGUL-LFLU: There are important challenges, namely: (i) logistical problems persist; and (ii) capacity building needs to be enhanced.</p> <p><b>2007 AR:</b> Atripartite identification of realities and challenges faced in realizing the PR in the country was carried out through a case study and a workshop on the Humanization of Liberia Labour Force, in cooperation with the ILO. Workers' organizations made a significant contribution in this exercise.</p> <p>According to the USPOGUL-LFLU and the GAAWUL: Labour laws need to be revised.</p> <p><b>2005 AR:</b> According to the USPOGUL-LFLU: There is no gender equity and women are underrepresented in leadership positions (ministers, deputies, trade unions).</p>
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	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> According to the Government: There is a lack of data collection and analysis on wages.</p> <p><b>2014 AR:</b> The Government indicated that it was not aware of any complaints made concerning breach of equal remuneration, and that discrimination related to equal remuneration did not appear to be a widespread problem in the country. However, the Government indicated that there is a lack of data on salaries.</p> <p><b>2013 AR:</b> According to the Government: Challenges in achieving equal remuneration are mainly related to structural problems, such as wage levels being based on whether an occupation is female or male dominated. Additionally, there is a lack of legal provisions in the common law that would ensure equal pay for work of equal value. This will be addressed by the Decent Work Bill. The main obstacle in the ratification process is lack of information and low awareness among new legislators who were elected after the 2011 elections.</p> <p><b>2012 AR:</b> According to the Government: The main difficulties encountered in realizing the PR are as follows: (i) high unemployment rate; (ii) lack of resources to encourage job creation; (iii) lack of capacity of responsible government institutions; and (iv) a lack of education and training among workers’ organizations.</p> <p><b>2010 AR:</b> The Government indicated that the main obstacle that had been encountered in Liberia in realizing the PR were as follows: (i) improvement of the dialogue between the members of the political society and the tripartite partners; (ii) better understanding of the PR by the members of the parliament and House of Senate; (iii) implementation’s difficulties of the PR; (iv) informal economy.</p> <p><b>2008 AR:</b> According to the Government: Enactment and enforcement of labour legislations are yet to be realized. The issue of accountability is also important, as the unions are usually owned by individuals without any form of membership. The Government indicated some of the challenges put forward by the USPOGUL-LFLU that are: (i) capacity building; and (ii) a lack of education and training among the employers’ and workers’ organizations.</p> <p><b>2007 AR:</b> Atripartite identification of realities and challenges faced in realizing the PR in the country was carried out through a case study and a workshop on the Humanization of Liberia Labour Force, in cooperation with the ILO. The Ministry of Labour and other technical ministries made a significant contribution in this exercise.</p> <p><b>2005 AR:</b> In response to the USPOGUL-LFLU’s comments, the Government stated that following the Accra Peace Accord (2003), it had no control over the appointment of officials, who were selected by various signatories to the Peace Agreement. It also indicated that it was giving due consideration to gender equity where it had authority to appoint.</p> <p><b>2001 AR:</b> According to the Government: The main difficulty encountered in realizing the PR was the lack of technical support during the Liberian civil war.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: ILO should urgently assist Liberia in organizing a national tripartite workshop on the unratified ILO core Conventions so as to speed up the ratification process of these instruments by Liberia. Moreover, ILO assistance would be needed in the field of data collection and labour market information system.</p> <p>LCC indicated that ILO technical support can be sought to enhance capacities of tripartite partners as well as to deliver educational and awareness raising programmes in relation to the PR.</p> <p>LLC requested technical support to create awareness for workers, develop advocacy role, and ensure access to advanced educational opportunities for the staff of the Congress.</p> <p><b>2014 AR:</b> The Government reiterated the request for technical cooperation made under the 2013 AR as regards to supporting training for legislators. The Government added that ILO assistance is also needed to strengthen labour statistics, including salaries, as a means to ensure equal remuneration. The Government further expressed wish that ILO be more responsive to its requests.</p> <p>LLC underlined the need for international support to ensure the country is in line with the requirements of the convention. LLC specifically indicated that ILO technical assistance is required to build technical capacity and awareness on the convention.</p> <p><b>2013 AR:</b> According to the Government: ILO technical cooperation is needed in terms of training for legislators to make them aware of the importance and the implications of C.100, to ensure the finalization of the Decent Work Bill and to allow the ratification process for C.100 to move ahead. Tripartite meetings should take place in parallel with these developments to ensure inclusion of the social partners in the process. The ILO technical cooperation should target the Labour Committee in the Senate (an estimated 5 members) and the House of Representatives (an estimated 7 to 8 members) as well as the tripartite partners in order to speed up the ratification process. Additionally, the Government would need support and technical assistance in order to build the reporting capacity so as to provide the Government with sufficient tools to live up to its reporting obligations.</p> <p>The CT reiterated the request for ILO technical cooperation made by the Government under the 2012 AR.</p> <p>According to FAWUL and GAAWUL: Gender discrimination in terms of equal remuneration is no longer a problem in the agricultural sector in Liberia. However, there is a need for vocational training for unskilled workers to become professionals as there is a major lack of professional workers in the agricultural sector. FAWUL and GAAWUL have been making efforts to provide unskilled workers with vocational training, but further technical support in this regard would serve as a way to ensure that the workers have sufficient skills, and that their chances to a better income will increase accordingly.</p> <p><b>2012 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Liberia in particular in the following areas: (i) awareness-raising campaign.; (ii) strengthening Government capacity with logistics; (iii) strengthening the labour inspectorate; and (iv) strengthening the capacity of employers and workers organizations.</p> <p>According to FL: ILO technical assistance is needed to strengthen the capacity building for labour inspectors as well as the employers' and workers' organizations in promoting and realizing the PR.</p> <p>According to UWUL: ILO technical cooperation is required to organize training activities and workshops to sensitize all workers on the PR.</p> <p><b>2010 AR:</b> The Government indicated that collective endeavour was needed to realise the PR. It added that specific needs for Liberia should be determined with ILO's expert.</p> <p>According to the LCC: There is a need for ILO technical cooperation to facilitate the realization of the PR in Liberia, in particular in the following areas: (i) capacity building of the Government enforcement institutions; (ii) sensitization campaign; (iii) strengthening capacity of the workers' and employers' organisations.</p> <p>The LLC mentioned that ILO's technical cooperation was needed to train, educate and help workers to better understand the PR.</p> <p><b>2009 AR:</b> According to the Government: The ILO's technical cooperation was needed to strengthen the capacity of Government and employers' and workers' institutions on the PR, but also in the ratification process of C.100.</p>
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		<p><b>2008 AR:</b> The Government and the USPOGUL-LFLU reiterated the same requests indicated in the 2007 AR and called for special assistance of ILO in educational programme for women staff.</p> <p>The Government also wishes to participate at the ILO training courses in Turin in October/November 2007 on Participatory Labour law making. The USPOGUL-LFLU added that social dialogue should be strengthened with the Ministry of Labour and that ILO should assist the workers' associations in the merging into one single trade union, like undertaken in Ghana.</p> <p><b>2007 AR:</b> Following a case study and a workshop on the Humanization of Liberia Labour Force, carried out in September and October 2006 in cooperation with the ILO, a tripartite resolution on this issue was adopted, including recommendations for technical cooperation on the PR. The Government, the employers and trade unions called for a special ILO action to help implement this resolution and realize the FPRW in Liberia.</p> <p>In particular, the CLCC requested training on the PR.</p> <p>The USPOGUL-LFLU requested ILO technical cooperation to reform national labour laws.</p> <p>The CONATUL mentioned the need for ILO technical cooperation to organize workers' education workshops on the PR.</p> <p>The GAAWUL called for ILO technical cooperation to realize the PR in the following areas: (i) capacity-building; and (ii) material support.</p> <p><b>2005-2006 ARs:</b> According to the Government: ILO technical and financial assistance would be necessary for the Follow-up of all FPRW in the country. The first step should be assessing the priority needs through a National Tripartite Seminar on International Labour Standards (ILS) and the Declaration.</p> <p>The USPOGUL-LFLU requested ILO technical and financial assistance on gender issues for trade unions so as to fight against general discrimination in the world of work. It observed that it was not involved in the national programme on HIV/AIDS at workplace run by the Government and the UNFPA. Therefore, it stressed the need for the involvement of the social partners and the ILO in this national programme on HIV/AIDS at the workplace, and requested that a national tripartite workshop be organized on this issue.</p> <p>The Government supported the USPOGUL-LFLU's request for technical cooperation.</p>
	<b>Offer</b>	ILO, UNICEF, UNMIL, UNDP, UNDAF, USDOL, NGOs.
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted the intentions expressed by most governments, including the Government of Liberia, to ratify or consider ratification of Conventions Nos. 100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification. Given that many countries have requested ILO technical cooperation in the ratification process (on the content of Conventions Nos. 100 and 111, labour law review, ratification process, etc.), the IDEAs requested the Office to strengthen its assistance in this regard (cf. paragraphs 66 and 67 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>98</sup>: MALAYSIA**

***THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)***

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	YES, since the start of the Annual Review (AR) in 2000. But no change reports under the 2007, 2008 and 2011 ARs.	
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Malaysian Employers' Federation (MEF) and the Malaysian Trades Union Congress (MTUC) through consultations and communication of government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the MEF. <b>2014 AR:</b> Observations by the MEF. <b>2013 AR:</b> Observations by the MEF. <b>2012 AR:</b> Observations by the MEF. <b>2009 AR:</b> Observations by the MEF. <b>2007 AR:</b> Observations by the MEF.	
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the MTUC. Observations by the NUBE. <b>2014 AR:</b> Observations by the MTUC. Observations by the NUBE. <b>2013 AR:</b> Observations by the MTUC. Observations by the NUBE. <b>2012 AR:</b> Observations by the MTUC. <b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU) (late observation for the 2006 AR).	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	Malaysia ratified in 1997 the Equal Remuneration Convention, 1951 (No. 100) (C.100). However, it has not ratified the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111).

<sup>98</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



		<p><b>Ratification intention</b></p>	<p><b>Unable, since 2012, to ratify C.111.</b></p> <p><b>2015 AR:</b> According to the Government, there is no change in ratification intention; Malaysia does not intend to ratify C. 111.</p> <p>According to MEF: It does not support the ratification as long as affirmative action would mean discrimination according to C.111. MEF is on the opinion that ILO should review the overall applicability of the Convention so as to enable it to accommodate the particular circumstances of a specific country.</p> <p>According to MTUC and NUBE: Being a multiracial and multi-religious country, it would be most appropriate for the Government to demonstrate its non-discrimination stand by ratifying C.111. This would prevent the emergence of any extremism in the country.</p> <p><b>2014 AR:</b> According to the Government: Malaysia does not intend to ratify C.111 due to provisions contained in Article 153 of the Federal Constitution, which allows preference to be accorded to <i>Bumiputeras</i> for employment in the public sector. Therefore any effort to ratify C.111 will necessarily involve amendments to Article 153. The amendment will not only affect the powers of the <i>Yang Di-Pertuan Agong</i> (the Head of State), it also could not be done without the consent of the Rulers Council.</p> <p>According to MEF: Malaysia cannot afford to ratify C.111 in a situation where the economic status of different racial groups has been at a critical condition and disparities among them have not been removed. MEF believes that people should be given special privileges to level the disparity and restructure society although this would mean discrimination according to C.111. MEF agrees with the policy of the Government which requires 30% of decision makers in government institutions should be made up of female. This affirmative action policy is only imposed on government institutions, and has not been issued as a law. MEF contends that if major Conventions are so rigid so as not to accommodate the particular circumstances of a specific country, it would be difficult to ratify them. Therefore, According to MEF: Malaysia cannot afford to ratify C.111 in a situation where the economic status of different racial groups has been at a critical condition and disparities among them have not been removed. MEF believes that people should be given special privileges to level the disparity and restructure society although this would mean discrimination according to C.111.</p> <p>MTUC and the NUBE reiterated their support for the ratification of C.111.</p> <p><b>2013 AR:</b> According to the Government: Malaysia ratified C. 100 on 9 September 1997 and has again recently indicated its inability to ratify C. 111 due to its domestic legal framework, and in particular the provisions contained in Article 153 of the Federal Constitution, which allows preference to be accorded to <i>Bumiputeras</i> [i.e, the Malay race, the sons of the land] for employment in the public sector. Therefore, any effort to ratify C.111 will necessarily involve amendments to Article 153 of the Federal Constitution. The amendment will not only affect the powers of the <i>Agong</i> [i.e, the Head of State, the elected Monarch of Malaysia]but it also could not be done without the agreement of the Rulers Council.</p>
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			<p>The MEF expressed its support for the Government’s position with regard to the ratification of C.111, but indicated that while it is not possible to ratify C.111 at this stage, it does support for the ratification of C.111 by Malaysia in principle.</p> <p>The MTUC and the NUBE reiterated their full support for the ratification of C.111 by Malaysia.</p> <p><b>2012 AR:</b> The Government indicated that, taking into account the support for the ratification of C.111 by the social partners, it would organize consultations with the MEF and MTUC to consider to which extent this ratification could be considered.</p> <p>The MEF reiterated its support for the ratification of C.111 by Malaysia.</p> <p>The MTUC and the NUBE expressed its full support for the ratification of C.111 by Malaysia.</p> <p><b>2009-2010 ARs:</b> According to the Government: As of now, the Ministry of Human Resources is in the opinion that so much needs to be done before Malaysia is ready to ratify C.111. Malaysia’s stand is that it would prefer to comply with the spirit of C.111 through administrative measures, which allow greater flexibility, rather than ratifying the Convention.</p> <p>The MEF expressed its support to the ratification of C.111 by Malaysia.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>2013-2015 ARs:</b> According to the Government: Article 8(2) of the Federal Constitution prohibits any form of discrimination against persons to employment or appointment to an office under a public authority by reason of race, religion, descent, place of birth or gender, and Article 136 of the same text provides that all persons of whatever racial background in the same grade in the service of the Federation shall, subject to the terms and conditions of their employment be treated impartially. However, Article 153 of the same provides for privileges and priority in quotas to Malays and natives in Sabah and Sarawak with regard to services, permits, etc.</p> <p><b>2009 AR:</b> According to the MEC: The Malaysian Federal Constitution was amended in 2006 to promote the principle and right (PR).</p> <p><b>2007 AR:</b> According to the ICFTU: In 2001, the Malaysian Parliament has approved a constitutional amendment outlawing sexual discrimination.</p> <p>The 1957 Malaysian Federal Constitution amended in 1963 clearly prohibits inclusion in any law provisions that would appear discriminatory in respect of employment and occupation. Article 8 of this text defines non-discrimination as “no discrimination against citizens on the ground only of religion, race and descent, place of birth or gender except as expressly authorised by the Constitution”. This indicates that all persons are equal before the law and entitled to the equal protection of the law. The Federal Constitution, article 136, also states that all persons whatever race, in the same grade in the service of the Federation shall, subject to the terms and conditions of their employment, be treated impartially. Except as expressly authorized by this Constitution, there shall be no discrimination against citizens on the grounds only of religion, race, descent or place of birth, in any law, or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.</p>

		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b>  <b>2009 and 2014-2015 ARs:</b> According to the Government: Malaysia’s social policies are designed to contribute overall economic prosperity by eradicating poverty, ensuring fairer income distribution, promoting racial harmony as well as preserving political stability. The national policy of the Government envisages that every citizen has equal access to employment and that employment in all occupations shall be for Malaysian citizens. However, employment of non-citizen is permitted in sectors where citizens are not available under appropriate arrangements as and when policy considerations and employment needs so dictate. In accordance with the Government’s national policies, employment should also reflect the racial composition of the country, in all occupations and at all levels of employment. Generally, the trust of Malaysia’s national development and labour policy is to restructure the imbalances of socio-economic status among the main ethnic groups in the country. These policies may be seen by some quarters as a form of racial discrimination. However, the objectives of these policies are only to create a more balanced workforce reflecting the ethnic composition of the country. It is envisaged that the correction of these imbalances would lead to a more equitable and fair society in Malaysia.  <b>2000-2002 and 2014 ARs:</b> The Government stated that its objectives were as follows: (i) ensure industrial harmony; (ii) create a favourable investment climate; (iii) enhance employment opportunities for all; and (iv) promote the economic development of the country.</li> <li>• <b>Legislation:</b>            (i) The Employment Act 1955; and (ii) The Industrial Relation Act (section 17).  <b>2014 AR:</b> MTUC and the NUBE stated that presently the country is in the middle of transformation and labour law amendment is being considered. MTUC is worried about the issues of modernisation and flexibility that are being raised as it does not know the real content of the amendments yet. As it stands now, the way the labour law is put is very much in favour of employers. MTUC claims if there are going to be changes in law and practices, they should be in line with fair labour laws and for the improvement of the law.  <b>2013 AR:</b> According to MEF: Changes related to maternity benefits have been made to the Employment Act, 1955. Every female worker is now being protected against discrimination related to maternity leave, and the scope of the benefits has been increased. Further changes include the introduction of a special chapter against sexual harassment.</li> </ul>
		<p><b>Basic legal provisions</b></p>	<p>(i) The Constitution (articles 8, 136 and 153); (ii) The Employment Act 1955 (section 60 L 1-4); and (iii) The Industrial Relation Act (section 17).</p>
		<p><b>Grounds of discrimination</b></p>	<p><b>2003-2005 ARs:</b> According to the Government: Discrimination in respect of employment and occupation is prohibited on grounds of race/colour, sex, religion, political opinion, national extraction and social origin.</p>

		<b>Judicial decisions</b>	<b>2007 AR:</b> According to the ICFTU: A ruling by the Federal Court of Malaysia which rejected a Malaysian Airlines (MAS) stewardess' application against a discrimination retirement age, has raised doubts about the newly imposed constitutional safeguard. Furthermore, statistical information provided by the government shows that only six women in comparison with 297 men receive earnings above 5001 RM in the State Administrative service.
<b>Exercise of the principle and right</b>		<b>Special attention to particular situations</b>	<p><b>2014 AR:</b> According to the Government: Labour legislation gives equal protection to all workers including foreign workers in terms of its coverage. However, the policies of Government only allow the employment of foreign workers in certain sectors that are not taken by Malaysians.</p> <p><b>2009 AR:</b> According to the Government: Women and migrant workers. The Employment Act 1955 gives equal protection to men and women in terms of its coverage, but there are certain provisions that give special protection to women. These special protective provisions in the Act should not be construed as a form of discrimination but should be viewed as a protection for women workers who are generally more vulnerable to exploitation when compared to men. As regards migrant workers, to date, the Government has allowed the employment of migrant workers on a selected basis, mainly in the critical sectors.</p>
		<b>Information/ Data collection and dissemination</b>	<b>NIL.</b>
<b>Prevention/monitoring, enforcement and sanctions mechanisms</b>			<b>2003-2005:</b> According to Government: The labour Department plays a monitoring/inspection, enforcement and defence role for the realization of the PR.
<b>Involvement of the social partners</b>			<p><b>2015:</b> According to the Government: No tripartite consultations have been held on C. 111.</p> <p><b>2006 AR:</b> According to the Government: The spirit of tripartism is being implemented between the Government, employers' and workers' organisations through the formulation of and the development of industrial relations.</p> <p><b>2003-2005 ARs:</b> According to the Government: The employers' and workers' organizations have been involved in the development and implementation of governmental measures in relation to the PR, in particular in the elaboration of amendments of national labour policies and laws. In this respect, national labour policies and amendments to labour legislations are elaborated after consultations with the social partners, in particular within the National Labour Advisory Council.</p>
<b>Promotional activities</b>		<b>Institutions to promote equality</b>	According to the Government: The Department of Labour.

		<p><b>Other activities</b></p>	<p><b>2014-2015 ARs:</b> MTUC and NUBE indicated that they had been undertaking campaigns to ensure the respect of labour issues and rights, including the discrimination aspects, through participation and organisation of events and workshops, social dialogues and cooperation with NGOs.</p> <p><b>2013 AR:</b> The Government indicated that the Concept of <i>One Malaysia</i> which has been implemented by the Government is an effort to incorporate the principles of equality which gives fair treatment to all without neglecting the right of any party. These ideas are in line with the philosophy of the Federal Constitution which aims to strengthen the relationship and cooperation of the various ethnic groups in order to become more peaceful, stable and developed nation.</p> <p><b>2006 AR:</b> According to the Government: The Ministry of Women, Family and Community Development, Malaysia formulates the National Policy on Women to address gender inequality in employment and increase female participation in the labour force.</p> <p><b>2003-2005 ARs:</b> According to the Government: The Ministry of Human Resources organizes labour education programmes to create awareness among employers and to enforce the legal provisions in relation to the PR.</p>
	<p><b>Special initiatives/Progress</b></p>		<p><b>2013 AR:</b> The Government is now studying to amend the Employment Act 1955 so as to fight against women’s discrimination for night work while providing protection to these workers so as to ensure their safety in carrying out night and underground work, as opposed to a prohibition against the carrying out of such work by these workers.</p> <p>According to the MEF: Legal changes related to maternity benefits and sexual harassment ensure better protection against discrimination for women workers. Furthermore, the Government has set out a plan to reach developed country status by 2020. In order for this goal to be achieved, the Government aims at increase the number of skilled workers with a stronger position on the labour market and less vulnerable to discrimination. At this stage, skilled workers make up 28% of the Malaysian workforce, and the Government has set out for 40% of the workforce to be composed by skilled workers by 2020. Employers’ associations have jointly set an even higher goal of reaching 50-60% skilled workers by 2020.</p> <p><b>2012 AR:</b> The Government indicated that it would cooperate with ILO in ensuring equal treatment between migrant and national workers through the extension of the social security scheme coverage to migrant workers.</p> <p>According to MTUC: The remuneration between men and women is no longer an issue of discrimination. A constitutional amendment was made already in 2001 to protect women against all forms of labour related discrimination, covering both the private and public sectors. Additionally, migrants were previously not covered by the social security schemes but, thanks to the involvement of the ILO, the Government has now rectified the problem.</p>

<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2014–2015 ARs:</b> MEF claimed that most of the challenges arise from the interpretation and lack of flexibility of C.111 to integrate the special circumstances of the country, and therefore suggested that the Convention should be re-examined.</p> <p><b>2013 AR:</b> According to the MEF: In terms of discrimination in employment and occupation, challenges are still related to the different economic status of the three big ethnic groups in the country; the Chinese, Indians and Malaysians. The Government Affirmative Action Programme was adopted to create equal footing between the ethnic groups and eliminate discrimination in relation to employment and occupation. While the Affirmative Action Programme is in conflict with the provisions of C.111, it is necessary for the programme to continue as inequalities still exist between the ethnic groups. The MEF prioritizes the elimination of discrimination and supports the content of C.111. However, the Affirmative Action Programme makes it impossible to ratify C.111 at this stage.</p> <p><b>2007 AR:</b> According to the MEF: In practice there is no discrimination in remuneration based on gender or other criteria. The employers pay equal remuneration for work of equal value to all employees. Some private sector employers implement payment based on performance of the individual employee and/or company. Objective performance criteria are established by employers to determine performance of individual employees. In this regard, the ILO should review C.111 to incorporate the elements of performance/productivity linked to wages.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2014-2015 ARs:</b> According to the MTUC and the NUBE: When a female employee becomes pregnant, she is not provided with uniform nor is she entitled to laundry allowance. Bank loans are approved based on race factor as part of bank policy.</p> <p><b>2013 AR:</b> The MTUC and the NUBE reiterated the comments it made under the 2012 AR.</p> <p><b>2012 AR:</b> According to the MTUC and the NUBE: The two main challenges to the ratification of C.111 are: (i) Discrimination caused by the governmental Affirmative Action Programme; and (ii) discrimination issues facing the migrant domestic workers.</p> <p><b>2007 AR:</b> According to the ICFTU: A ruling by the Federal Court of Malaysia which rejected a Malaysian Airlines (MAS) stewardess' application against a discrimination retirement age, has raised doubts about the newly imposed constitutional safeguard.</p>

	<p><b>According to the Government</b></p>	<p><b>2013 AR:</b> According to the Government: It should also be highlighted that the prohibition for certain categories of workers as contained in Part VIII in the Employment Act 1955 [Act 265], such as women, from night work in any industrial or agricultural undertaking, and underground work constitutes discrimination under C.111. According to the ILO, measures should be taken to provide protection to these workers so as to ensure their safety in carrying out night and underground work as opposed to a prohibition against the carrying out of such work by these workers. The Government is now studying to amend the Employment Act 1955.</p> <p><b>2010 AR:</b> According to the Government: There are no important problems of discrimination in Malaysia. Therefore, discrimination issues are not a challenge to the country.</p> <p><b>2009 AR:</b> According to the Government: The special protective provisions in the Employment Act 1955 should not be construed as a form of discrimination but should be viewed as a protection for women workers who are generally more vulnerable to exploitation when compared to men.</p> <p>In a late response to the ICFTU’s observations under the 2007 AR, the Government indicated that the issues on discrimination concerning the age of retirement were being dealt with by the Industrial Court and were not yet settled.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2014-2015 ARs:</b> According to the MTUC and the NUBE: the ILO should organise a national tripartite workshop on the PR so that all issues of forced labour are discussed together the ratification of C.111 which needs to be prompted. MTUC has been obtaining assistance from ILO Bangkok and presently requires support in terms of international lobby with ILO and Global Union Federation (BWI – Building Workers International, PSI – Public Service International). It requires assistance to run campaigns and workshops. Especially, given the rising number of migrant workers in the country, MTUC needs to focus on C. 111, and there is a need for support in this area.</p> <p><b>2013 AR:</b> The MEF requested ILO support in reaching the goals set out by the Government related to increasing the skill levels of employees to create a stronger and more skilled work force less vulnerable to discrimination.</p> <p>The MTUC and the NUBE reiterated the requests they made under the 2012 AR, along with the NUBE.</p> <p><b>2012 AR:</b> The Government requested ILO support in organizing a workshop on the Declaration and its follow-up, with a particular focus on unratified fundamental Conventions.</p> <p>The MTUC requested ILO technical support to help the Government in finding a fair solution to end the Affirmative Action Programme, so as to fully implement and realize the principle and right in the country.</p> <p><b>2007 AR:</b> According to the MEF: The ILO should review C.111 to incorporate the elements of performance/productivity linked to wages.</p>
	<p><b>Offer</b></p>	<p>ILO (technical assistance in the labour law review process; ILO/TURIN Centre Training on International Labour Standards and the 1998 ILO Declaration).</p>
<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The IDEAs noted that Malaysia (and another country) had not yet expressed their intentions concerning ratification of C.111 (cf. paragraph 67 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>





**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2009-2015)<sup>99</sup>: MARSHALL ISLANDS**

***THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , for the first time under the 2012 Annual Review (AR), but not under the previous reviews (i.e. 2009-2011 ARs). Marshall Islands joined the ILO in 2007.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (the Marshall Chamber of Commerce (MICC)) and workers' organizations (Marshall Islands Teachers' Union (MITU)) by means of consultation and communication of a copy of the government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> Observations by MICC.	
	<b>Workers' organizations</b>	<b>2012 AR:</b> Observations by MITU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Marshall Islands has ratified neither the Equal Remuneration Convention, 1951 (No. 100) (C.100) nor the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111).</b> However, it has ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in March 2006.

<sup>99</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.

		<p><b>Ratification intention</b></p>	<p><b>YES, since 2011, for both C.100 and C.111.</b></p> <p><b>2015 AR:</b> The Government may consider ratifications of C.100 and C.111. However, it would need further ILO training for relevant government officials and social partners on the fundamental principles and rights at work (FPRW) and the content of C.100 and C.111.</p> <p><b>2013-14 ARs:</b> The Government reiterated the statement it made under the 2012 AR.</p> <p><b>2012 AR:</b> The Government mentioned its intention to ratify C.100 and C.111, and make relevant legal reform, in consultation with national stakeholders, with ILO technical support. In this regard, tripartite capacities on ILO issues should be strengthened, including on fundamental principles and rights at work and international labour standards.</p> <p>According to MICC: It is critical to have C.100 and C.111 ratified by the Republic of the Marshall Islands (RMI), as “RMI needs to have a good business community in a good playing field”.</p> <p>According to MITU: As a matter of human rights and the right equal protection and freedom from discrimination guaranteed by the Bill of Rights in the RMI Constitution, the MITU supports the ratification of all ILO fundamental Conventions by RMI, including C.100 and C.111.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES</b>, the Constitution of the Republic of the Marshall Islands (RMI), 1979, article II (Bill of Rights), section 12, recognizes the right to equal protection and freedom from discrimination. It provides that: (1) All persons are equal under the law and are entitled to the equal protection of the laws; (2) No law and no executive or judicial action shall, either expressly, or in its practical application, discriminate against any person on the basis of gender, race, color, language, religion, political or other opinion, national or social origin, place of birth, family status or descent; and (3) Nothing in this section shall be deemed to preclude non-arbitrary preferences for citizens pursuant to law.</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<p>NIL.</p>
		<p><b>Basic legal provisions</b></p>	<p>The Constitution, 1979, article II, section 12.</p>
		<p><b>Grounds of discrimination</b></p>	<p>Under the Marshall Islands Constitution, 1979, article 2, section 12 (gender, race, colour, language, religion, political or other opinion, national or social origin, place of birth, family status or descent).</p>
		<p><b>Judicial decisions</b></p>	<p>NIL.</p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>Special attention to particular situations</b></p>	<p>NIL.</p>

		<b>Information/ Data collection and dissemination</b>	NIL. However, the Government requested ILO assistance in this regard.
	<b>Prevention/monitoring, enforcement and sanction mechanisms</b>		<b>2012 AR:</b> According to the Government: The Labor Division is in charge of monitoring, enforcing and providing sanctions in case of infringement to the legal provisions concerning discrimination. These cases may also be referred to courts for the same purposes. No cases of infringements have been recorded so far in this regard.
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Involvement of the social partners</b>		<b>2012 AR:</b> The Government indicated that the MICC and the MITU had been involved in the current process of formulation of the DWCP (including the fundamental principles and rights at work), in cooperation with ILO.
	<b>Promotional activities</b>	<b>Institutions to promote equality</b>	NO. <b>2012 AR:</b> In response to the MICC and MITU's comments' the Government indicated that it had no objections to set up national body to assess and monitor possible discrimination and equality issues. ILO's assistance is welcomed in this regard.  According to the MICC: There is a need to create an Employment Center in the Labor Division so as to allow the assessment of discrimination and equality at work in the country.  According to the MITU: Discrimination and equality issues need to be monitored by a special commission of representatives of all sectors of the society, or by an Ombudsperson.
		<b>Other activities</b>	<b>2012 AR:</b> According to the Government: The Government, the MICC and the MITU participated in the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010 where the fundamental principles and rights have been promoted. Moreover, the labour officers of the Labor Division of the Ministry of Foreign Affairs, were trained, among others, on the fundamental principles and rights at work and International Labour Standards during ILO's assistance in reporting issues carried out in October 2011.  The MICC and the MITU confirmed their participation in such activities and indicated that they had been sensitized on the same issues during this October 2011 ILO Mission.
	<b>Special initiatives/Progress</b>		NIL.
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	
		<b>Workers' organizations</b>	
	<b>According to the Government</b>		(i) Lack of public awareness and/or support; (ii) Lack of information and data; (iii) legal provisions (no specific sanction provisions); (iv) lack of capacity of responsible government institutions; (v) lack of capacity of employers' and workers' organizations; (vi) lack of social dialogue.

<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2014-2015 ARs:</b> According to the Government: The Government would appreciate the technical support provided by the ILO in 2011 on reporting on the fundamental principles and rights at work (FPRW). This technical support should be strengthened by further training of RMI officials and social partners on FPRW and the content of ILO core Conventions so as to consider possible ratifications. The Government would also welcome tripartite experience-sharing with other countries on FPRW and reporting issues, including participation in the ILO Training in Turin.</p> <p><b>2013 AR:</b> According to the Government: The Government would appreciate ILO technical support in promoting the Fundamental Principles and Rights at Work (FPRW), including the content of all core Conventions so as to consider possible ratifications. This support could also include international tripartite training so as to share experience with other countries.</p> <p><b>2012 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of this PR in Marshall Islands, in particular in the following areas, in order of priority: (1) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; legal reform (labour law and other relevant legislation); (2) Strengthening data collection and capacity for statistical analysis;); developing labour market policies that promote equality of opportunity; developing policies regarding equal remuneration; and (3) Sharing of experiences (best-practices) across countries/regions; training of other officials (e.g. police, judiciary, social workers, teachers).</p> <p>The MICC and MITU supported the government's request for ILO technical cooperation, and in particular the strengthening of their capacity building on the fundamental principles and rights at work. The MICC further requested a permanent ILO presence in RMI. The MITU stressed the need for a holistic approach on the fundamental principles and rights at work and labour law reform.</p>
	<b>Offer</b>	(i) ILO: Decent Work Country Programme; (ii) Assistance in reporting under the AR; and (iii) The United Nations (CEDAW).
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	NIL.	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>100</sup>: MYANMAR**

***THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)***

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000. No change report under the 2007 AR.	
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organization, the Union of Myanmar Federation of Chamber of Commerce and Industry (UMFCCI), and workers organisations such as: the Confederation of Trade Unions of Myanmar (CTUM) [formerly know as the Federation of Trade Union of Myanmar (FTUM) and the Federation of Trade Unions – Burma (FTUB)], the Workers' Welfare Associations and the Ceramic Industrial Labour Organization (CILO), the Myanmar Trade Union Federation (MTUF), and the Agriculture and Farmers Federation of Myanmar (AFFM).	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the UMFCCI. <b>2014 AR:</b> Observations by the UMFCCI. <b>2013 AR:</b> Observations by the UMFCCI. <b>2012 AR:</b> Observations by the UMFCCI. <b>2008 AR:</b> Observations by the UMFCCI.	
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the CTUM. Observations by the MTUF. <b>2014 AR:</b> Observations by the FTUM.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Myanmar has ratified neither the Equal Remuneration Convention, 1951(No. 100) (C.100) nor the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111). However, it has ratified the United Nations Conventions on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1997.</b>

<sup>100</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

		<p><b>Ratification intention</b></p>	<p><b>Under consideration, since 2012, for both C.100 and C.111.</b></p> <p><b>2015 AR:</b> The Government indicated that Myanmar is in the process of studying the alignment of its national laws to the requirements of the Conventions, and hence ratification would be considered at an appropriate time in the future.</p> <p>UMFCCI reiterated its support for the ratification of C.100 and C.111, but emphasized that ratification alone is not sufficient and building capacity for implementation is important.</p> <p>CTUM supports the ratification of C.100 and C.111 and lobbies the Government to move ahead with ratification.</p> <p>MTUF expressed its support for the ratification of C.100 and C.111, however emphasized that improvement of economic conditions in the country is necessary prior to ratification of the Conventions.</p> <p><b>2014 AR:</b> The Government reiterated the statement it made under the previous review.</p> <p>The UMFCCI and the FTUM indicated their full support for the ratification of C.100 and C.111</p> <p><b>2013 AR:</b> The Government stated that ratification of C.105 would be considered at the appropriate time.</p> <p>The UMFCCI indicated its full support for the ratification of C.100 and C.111 and mentioned that new laws were being discussed to create adequate institutional bodies to better enforce the PR in the country. It further indicated that the suspension of the international embargo would help foster better implementation of the international labour standards (ILS) in Myanmar.</p> <p><b>2010-2011 ARs:</b> According to the Government: The new Constitution was adopted by the referendum held in May 2008, and the ILO should cooperate with Myanmar for the ratification of all ILO fundamental Conventions in appropriate time.</p> <p><b>2008 AR:</b> The Government indicated that it would consider the ratification of C.100 and C.111 once the new Constitution is promulgated.</p>
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	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>2010 AR:</b> The Government indicated that the new States Constitution was adopted in May 2008.</p> <p><b>2008 AR:</b> The Government indicated that it was currently reviewing the Constitution in order to include the principle and right (PR).</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> </ul> <p><b>2015 AR:</b> According to the Government: There are Employment Policy and Labour Migration Policy.</p> <p><b>2002 AR:</b> According to the Government: There is a national policy concerning the PR.</p> <ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p>The “Law Defining the Fundamental Rights and Responsibilities of the People's Workers” (1964) covers all workers who are using their physical or mental capacities in order to earn their living.</p> <p><b>2015 AR:</b> According to the Government: The Settlement of Labour Dispute Law was enacted on 28th March 2012 and its rules were issued on 26th April 2012. The new Social Security Law was enacted in 31st August, 2012. Its rules were issued in 2nd April 2014. The Employment and Skill Development Law was enacted on 30th August 2013. The Minimum Wage Law has been enacted on 22 March 2013 and its rules were issued on 12 July 2013.</p> <p>According to UMFCCI: Minimum wage law, social security law and skills development law have been enacted between early 2013 and early 2014.</p> <p><b>2013 AR:</b> The Government indicated that existing labour laws were currently being amended or redrafted as new ones in line with the democratic system.</p> <p><b>2011 AR:</b> According to the Government: The Employment and Training Act, 1950 is being amended to include the provisions of employment exchanges, employment contract, skill training, and skill recognition of workers to enhance discipline and efficiency.</p>
		<p><b>Basic legal provisions</b></p>	<p><b>2015 AR:</b> Labour Organization Law 2011, The Settlement of Labour Dispute Law 2012, Social Security Law 2012, Employment and Skill Development Law 2013, Minimum Wage Law 2013, Employment Restriction Act 1959 , Employment Statistics Act 1948, Workmen’s Compensation Act 1923, The Law Relating to Overseas Employment Law 1999, Leave and Holidays Act 1951, Factories Act 1951, Payment of Wages Act 1936, Dock Workers (Regulation of Employment ) Act 1946, The Dock Labourers Act 1934, Shops and Establishments Act,1951.</p> <p>The 1964 “Law Defining the Fundamental Rights and Responsibilities of the People's Workers”.</p>



		<p><b>Grounds of discrimination</b></p>	<p><b>2015 AR:</b> According to the Government: The Constitution of the Republic of the Union of Myanmar (2008) provides that the Union shall guarantee any person to enjoy equal rights before the law and shall equally provide legal protection.</p> <p><b>2009 and 2011 ARs:</b> According to the Government: There is no discrimination either in employment and occupation or in any other field, and people have equal rights in economic, political, social, administration and judicial spheres in accordance with the laws.</p> <p><b>2008 AR:</b> According to the Government: There is no discrimination in respect of employment and occupation, in equal opportunity in race/colour, sex, religion, political opinion, national extraction and social origin.</p> <p><b>2004 AR:</b> According to the Government: Discrimination in respect of employment and occupation is prohibited on grounds of: race/colour; sex; religion; political opinion; national extraction; and social origin.</p>
		<p><b>Judicial decisions</b></p>	<p>NIL.</p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>Special attention to particular situations</b></p>	<p><b>2002 AR and 2013 ARs:</b> According to the Government: Specific measures have been implemented to respect, promote and realize the PR for the following categories of workers: (i) all categories of workers in the public service; (ii) workers in establishments of a certain size; (iii) workers in particular types of employment; agricultural workers; (iv) workers engaged in domestic work; (v) workers in EPZs; (vi) women workers; (vii) migrant workers and (viii) workers in the informal economy.</p>
		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> According to the Government: The Ministry of Labour, Employment and Social Security, Department of Labour has conducted Labour Force, Child Labour and School-to-Work Transition Survey 2015. The data entry of the survey is in progress. Labour Force Survey Questionnaire included the household composition and characteristics and work and Labour Force Characteristics; Migration, Disability, Training, Occupational Safety and Health, Social security and Youth activity.</p> <p><b>2011 and 2013 ARs:</b> According to the Government: Statistics and information are collected on a regular basis. The Ministry of Labour has issued the Handbook on Human Resources Development Indicators in 2007 and 2009.</p> <p><b>2005 AR:</b> According to the Government: Statistics and information relevant to the PR are collected on a regular basis.</p>



	<p><b>Prevention/Monitoring, enforcement and/or sanction mechanisms</b></p>	<p><b>2015 AR:</b> According to the Government: Township and District Officers, Labour Inspectors, the Workplace Coordinating Committee, the Conciliation Body, the Dispute Settlement Arbitration Body and the Dispute Settlement Arbitration Council have been implementing to better enforcement of existing labour laws and PR in cooperation with tripartite partners.</p> <p><b>2011 AR:</b> According to the Government: The Department of Labour and Factories and the General Labour Laws Inspection Department have been strengthened to better enforce the application of the PR.</p> <p><b>2005 AR:</b> According to the Government: The PR is implemented through monitoring bodies.</p> <p><b>2003 AR:</b> According to the Government: In case of violation of the PR, sanctions include dismissal, fines, or imprisonment up to two years.</p>	
	<p><b>Involvement of the social partners</b></p>	<p><b>2015 AR:</b> According to the Government: UMFCCI, CTUM, MTUF, AFFM, and other employers' and workers' organizations have been involved:</p> <p><b>2011 AR:</b> According to the Government: The Government is planning to initiate a tripartite technical cooperation programme that includes the realization of the PR in the sector.</p>	
	<p><b>Promotional activities</b></p>	<p><b>Institutions to promote equality</b></p>	<p><b>2008 and 2013 ARs:</b> The National Women's Committee (NWC) was formed on 3 July 1996 and the focal point is the Ministry of Social Welfare Relief and Resettlement. Moreover, the Myanmar Women's Affairs Federation (MWAF) was constituted on in December 2003 as an NGO. The Myanmar Women Entrepreneur Association was also established in February 1995.</p>
		<p><b>Other activities</b></p>	<p><b>2015 AR:</b> According to the Government: National Tripartite Dialogue Forum will be formed by 9 government representatives, 9 workers representatives and 9 employer representatives to achieve the overall goal of development through the promotion of Decent Work and the practice of social dialogue.</p> <p><b>2014 AR:</b> The Government indicated that a tripartite delegation of Myanmar had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards held in May-June 2013 where issues concerning the PR were addressed.</p> <p><b>2008 AR:</b> According to the Government: Activities were carried out within the NWC, namely developing protective measures for women and health, and HIV/AIDS. The NWC also attended the 8<sup>th</sup> Global Conference of Women Entrepreneurs, held in Bali in 2003. Finally, the ARCPPT-Asia Regional Cooperation to fight against trafficking was set up on 20December 2003.</p>

	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: A Stakeholders Forum on Labour Law Reform was conducted on 18-19 May 2015 in Yangon in cooperation with United States, Japan, Denmark and the International Labour Organization (ILO). The Stakeholder Forum (SF) was intended to complement and strengthen domestic tripartite consultations and existing labour-related initiatives, provide international support for Myanmar’s labour reforms, and foster collaboration among international and domestic stakeholders. Ultimately, this engagement was intended to contribute towards constructive industrial relations and progressive improvement of worker rights and working conditions as Myanmar’s economy integrates with the global economy.</p> <p><b>2013 AR:</b> According to the Government: Most restrictions upon Myanmar adopted during the International Labour Conferences in 1999 and 2000 have been lifted. This has boosted cooperation between Myanmar and ILO. Existing labour laws are currently being amended or redrafted as new ones in line with the democratic system.</p> <p>According to the UMFCCI: Private companies are directly involved through their corporate social responsibility to better implement C.100 and C.111 by subscribing to a business charter to combat discrimination in the workplace including HIV/AIDS discrimination.</p> <p><b>2012 AR:</b> According to the Government: The Ministry of Labour is redrafting the Employment and Training Act, 1950, with a view to including the provisions of the PR.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2015 AR:</b> According to UMFCCI: The country’s transition process in all sectors constrains the pace of progress in the ratification of the Conventions.</p> <p><b>2008 AR:</b> According to the UMFCCI: The economic context is very fragile due to the embargos and economic sanctions placed on Myanmar by several Western countries.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2015 AR:</b> According to MTUF: Existing poor economic conditions pose challenges that undermine the ratification of the Conventions in the immediate future.</p>
	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> The Government indicated insufficient capacity and awareness of government staff and the private sector as an issue to be addressed..</p>	



<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> According to the Government, UMFCCI, FTUM and MTUF: There is a need for technical cooperation to consolidate awareness creation at different levels, and to strengthen tripartite technical capacities.</p> <p><b>2014 AR:</b> The Government, the UMFCCI and the FTUM requested the ILO to provide comprehensive training courses on the PR to tripartite partners and other relevant stakeholders.</p> <p><b>2013 AR:</b> The Government requested the ILO to provide comprehensive training courses on the PR for tripartite partners and other relevant stakeholders.</p> <p>According to the UMFCCI: There is a need for ILO technical cooperation to facilitate the realization of this PR in Myanmar, in particular in the following areas: (i) sharing of experiences across countries/regions; (ii) capacity building of responsible government institutions; (iii) training of other officials (police, judiciary, social workers, teachers), and; (iv) awareness-raising campaign and dissemination in local languages.</p> <p><b>2012 AR:</b> The UMFCCI requested ILO’s support for capacity building of employers, in particular in training of trainers (TOT) on the fundamental principles and rights at work.</p> <p><b>2011 AR:</b> According to the Government: Training courses should be provided by the ILO for the capacity building of the responsible governmental institutions (i.e., labour inspection and administration).</p>
	<b>Offer</b>	UNICEF supporting the Women and Child Health Development Project and Prevention of HIV/AIDS, Prevention of Mothers to Child Transmission.
<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted the intentions expressed by most governments, including the Government of Myanmar, to ratify or consider ratification of Conventions Nos100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification. Given that many countries have requested ILO technical cooperation in the ratification process (on the content of Conventions Nos. 100 and 111, labour law review, ratification process, etc.), the IDEAs requested the Office to strengthen its assistance in this regard (cf. paragraphs 66 and 67 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The ILO Expert-Advisers noted that the regular supervisory system was closely following the national situation Myanmar concerning a variety of violations under different principles and rights, including this one (cf. paragraph 22 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>

**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>101</sup>: OMAN**

***THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)***

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	<b>YES</b> , except for the 2000 Annual Review (AR).	
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Omani Chamber of Commerce and Industry (OCCI), The General Federation of Oman Trade Unions (GFOTU) and the Board of Employers' and Workers' Organizations (the Oman Oil Company; Khimji Ramdas, Oman Oil Company, Ahmed and Mohammed Khunji, W.J. Towel and Baqir Salman) through communication of Government reports and tripartite meetings on reporting issues.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the OCCI. <b>2013 AR:</b> Observations by the OCCI. <b>2009 AR:</b> Observations by the OCCI and the GFOTU. <b>2007 AR:</b> Observations by the OCCI.	
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the GFOTU. <b>2014 AR:</b> Observations by the GFOTU. <b>2013 AR:</b> Observations by the GFOTU. <b>2012 AR:</b> Observations by the GFOTU. <b>2008 AR:</b> Observations by the General Federation of Oman Trade Unions (GFOTU) that substituted the Main Omani Workers' Committee (MOWC). <b>2007 AR:</b> Observations by the MOWC. <b>2006 AR:</b> Observations submitted by the Main Omani Workers' Committee.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Oman has ratified neither the Equal Remuneration Convention, 1951 (No. 100) (C.100), nor the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111).</b> However, Oman ratified the Convention on the Elimination of All Forms of Discrimination Against Women Convention (CEDAW) in February 2006.

<sup>101</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

		<p><b>Ratification intention</b></p>	<p><b>YES, since 2008 for both C.100 and C.111.</b></p> <p><b>2015 AR:</b> The Government reiterated its intention to ratify C.100 and C.111 once national laws are aligned with international standards.</p> <p>GFOTU stated that, currently, there is no shared, official momentum on the part of the tripartite partners toward ratification of the two Conventions. However, in general, the Basic Statute of the State forbids discrimination on grounds of sex, ethnicity, colour, language or religion and, as applied in the public and private sectors, national legislation forbids the discrimination which is the subject of the C.100 and C.111.</p> <p><b>2014 AR:</b> The Government indicated that ratification should be made once national laws come in line with C. 100 and C.111.</p> <p>OCCI reaffirmed its supports for the ratification of C.100 and C.111.</p> <p>The GFOTU expressed its support for the ratification of C.100 and C.111, but observed that the GFOTU is unable to give full priority to the ratification of C.100 and C.111 before it has strengthened its organizational capacity and fully established itself as a legitimate and recognized counterpart to the employers.</p> <p><b>2013 AR:</b> The Government reiterated the statement it made under the previous review.</p> <p>According to the OCCI: The OCCI supports the ratification of C.100 and C.111 by Oman. The implementation of the principle and right (PR) will take time as the working population needs to better understand how to use efficiently the fundamental principles and rights at work (FPRW) in particular collective bargaining. Moreover, enhance tripartite discussions have considerably improved the working conditions of all workers by reducing the working days from six to five days and increased basic wages by 70 per cent. .However, the working conditions of expatriate still need to be progressively levelled off from national workers.</p> <p>The GFOTU reiterated its support for the ratification of C.100 and C.111 by Oman.</p> <p><b>2012 AR:</b> The Government indicated that the ratification of C.100 and C.111 would be done after the implementation of the Decent Work Country Programme (DWCP) and the adoption of new laws in line with the PR.</p> <p>The GFOTU expressed its supports for the ratification of C.100 and C.111, and emphasized its anti-discrimination position, both between men and women workers, and between national and foreign workers.</p> <p><b>2010-2011 ARs:</b> The Government reiterated the statement it made under the 2009 AR, and further mentioned that the process of ratification of C.100 and C.111 would be initiated.</p>
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			<p><b>2009 AR:</b> The Government indicated that it was strongly supporting the ratification of C.100 and C.111, however, national laws needed to be reviewed to incorporate the provisions of those Conventions.</p> <p>The OCCI and the GFOTU stated their support for the ratification of C.100 and C.111.</p> <p><b>2008 AR:</b> The Government reiterated its support for the ratification of C.100 and C.111 and added that once national labour laws come in line with international standards, the process of ratification will be initiated.</p> <p>The GFOTU expressed its support for the ratification of C.100 and C.111.</p> <p><b>2007 AR:</b> The Government, the OCCI and the MOWC mentioned the need for tripartite discussions and ILO support for the ratification of all ILO fundamental Conventions by Oman.</p>
<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>		<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p><b>2007 AR:</b> According to the Government: Article 17 of the Basic Law provides that: “All citizens are equal before the law, and they are equal in public rights and duties. There shall be no discrimination between them on the grounds of gender, origin, colour, language, religion, sect, domicile, or social status.” Articles 18, 25, 26, 28, 29, 30, 31, 32, 33, and 34 of the said law include the same concept about discrimination.</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2005 AR:</b> The Labour Ministry has developed the SANAD Programme to provide employment opportunities for young persons and to encourage initiatives for self-employment.</p> <p><b>2004 AR:</b> According to the Government: Following the adoption of the new Omani Labour Law in 2003 and its amendments, a series of activities have been implemented in line with the Declaration on Fundamental Principles and Rights at Work.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2015 AR:</b> The Government provided information on a new law in effect as of 1 July 2014 which would disable expatriots to return to Omar after two years of absence, except domestic workers.</p> <p>The Labour Law, 2003 and its amendments.</p> <ul style="list-style-type: none"> <li>• <b>Regulations:</b> Ministerial Order No. 19/74.</li> </ul>
		<p><b>Basic legal provisions</b></p>	<p>According to the Government: The Basic Law (articles 12, 17, 18, 25, 26, 28-34); the Labour Law, 1973; Ministerial Order No. 19/74.</p>
		<p><b>Grounds of discrimination</b></p>	<p><b>2003-2004 ARs:</b> According to the Government: Discrimination in respect of employment and occupation is prohibited on grounds of race, colour, sex, religion, political opinion, national extraction.</p>



		<b>Judicial decisions</b>	<b>2007 AR:</b> According to the Government: Judicial decisions are made by independent courts and are regulated by articles 59-71 of the Basic Law.
<b>Exercise of the principle and right</b>		<b>Special attention to particular situations</b>	<b>2015 AR:</b> The Government indicated that the current focus is on all sectors and all workers; however possible future focus might be given to the oil and gas industry. <b>2001 AR:</b> According to the Government: Women and handicapped persons.
		<b>Information/ Data collection and dissemination</b>	<b>2015 AR:</b> GFOTU reported that several trade unions have complained about discrimination in the oil and gas sector, with many oil and gas companies paying much higher salaries, benefits and incentives to foreign workers, particularly workers from European countries, than those paid to Omani citizens. However, their demands went unanswered, in spite of the fact that these companies have formulated written rules and regulations for foreigners that are considered more advantageous than those applying to Omani workers. <b>2012 AR:</b> The Government indicated that it was planning to collect further data on the PR under the Labour Market Information Programme of the DWCP for Oman. <b>2007 AR:</b> According to the Government: The Department of Labour Affairs in the Ministry of Manpower collects data on the issue of PR.
	<b>Prevention/monitoring, enforcement and sanctions mechanisms</b>		<b>2015 AR:</b> According to the Government: There are more than 150 inspectors who have been trained on a regular basis. <b>2010 AR:</b> According to the Government: Sixty (60) new labour inspectors have been recruited by the Ministry of Labour. <b>2001-2002 ARs:</b> According to the Government: Prevention/monitoring and sanctions are implemented through the Basic Statute of the State, laws and regulations for the realization of the PR.
	<b>Involvement of the social partners</b>		<b>2013 AR:</b> The Government indicated that amendments to labour laws during late 2011 were carried out in discussion with the social partners. The OCCI and the GFOTU indicated that harmonious tripartite dialogues have been going on to improve the working conditions of all workers in Oman. <b>2008 AR:</b> The GFOTU indicated that it also reviewed Ministerial Resolution concerning minimum wages for workers in the private sector. <b>2003 AR:</b> According to the Government: Employers' and workers' organizations have been involved in the development and implementation of governmental measures in relation to the PR, including the revision of the 2003 Labour Law.

	<p><b>Promotional activities</b></p>	<p><b>Institutions to promote equality</b></p>	<p><b>2015 AR:</b> OCCI indicated that it has been involved in various social dialogue and awareness raising activities.</p> <p><b>2011 AR:</b> According to the Government: A tripartite delegation of Oman participated in an ILO/Gulf Cooperation Council (GCC) Regional Seminar on Reporting Issues in October 2010 in Beirut. During this activity, Core labour standards were reviewed and discussed among other topics.</p> <p><b>2009 AR:</b> The Government stated that it had sent a representative to the ILO Turin Centre for training on gender issues.</p> <p><b>2008 AR:</b> The GFOTU indicated that it participated in a number of tripartite activities organized by the Arab Labour Organization (ALO).</p> <p><b>2007 AR:</b> According to the Government: The Ministry of Manpower.</p>
		<p><b>Other activities</b></p>	<p><b>2015 AR:</b> GFOTU indicated that it has held a series of training courses and programmes at its first session, designed to promote the elimination of gender-based discrimination in employment and occupation. Courses and programmes designed to promote gender equality included: a) suitable employment and gender equality; b) the working woman and the importance of union activity; c) incorporating the gender approach; and d) the role of women in promoting union activity. A committee of the GFOTU – the Expatriate Workforce Committee – is responsible for designing programmes to raise awareness among the expatriate workforce of their acknowledged rights and for carrying out visits to private sector businesses to inspect the situation of expatriate workers, receive complaints and monitor any violations of workers’ rights.</p> <p><b>2014 AR:</b> According to the Government: An officer of the Ministry of Labour had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards held in May-June 2013 where issues concerning the PR were addressed. Moreover, a Decent Work Country Programme (DWCP) is being developed in Oman in close cooperation with ILO.</p> <p><b>2012 AR:</b> The Government indicated that an official of the Ministry of Labour had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards (ILS) in May-June 2011 where issues concerning the PR were addressed.</p> <p><b>2010 AR:</b> The Government indicated that capacity building activities on the PR were undertaken in cooperation with the ILO.</p> <p><b>2008 AR:</b> The Government indicated that several tripartite seminars and trainings have been organized in collaboration with ILO, in particular the 5<sup>th</sup> Regional Seminar on ILO Declaration on Fundamental Principles and Rights at Work (FPRW).</p> <p><b>2007 AR:</b> The Government, the OCCI and the MOWC referred to their participation in the Fourth ILO/Gulf Cooperation Council (GCC) Regional Workshop on the ILO Declaration and International Labour Standards (ILS) held in Kuwait City in April 2006. Moreover, tripartite activities were organized in Oman with the support of the Arab Labour Organization (ALO).</p>

			<p><b>2005 AR:</b> According to the Government: (i) training and awareness programme related to the PR; (ii) dissemination of the new Omani Labour Law and its provisions, including on discrimination in employment; (iii) various activities of the Ministry of Manpower such as the organization of training programmes and symposia, and publication of public information pamphlets, including on women’s employment, work practices and the publication a manual on small project management in 2004.</p>
	<p><b>Special initiatives/Progress</b></p>		<p><b>2012 AR:</b> According to the Government: A Social Dialogue Committee was established to strengthen social dialogue among tripartite partners and to study new developments on ILS. Moreover, reforms are being made to the labour relations so that they will be in line with ILS. In addition the Ministry of Labour issued new regulations governing the recruitment of migrant workers in respect of the PR.</p> <p>According to the GFOTU: A major step forward in the implementation and realization of the PR in Oman was the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women Convention (CEDAW).</p> <p><b>2010 AR:</b> According to the Government: Sixty (60) new labour inspectors have been recruited for the Ministry of Labour.</p> <p><b>2005 AR:</b> According to the Government: Publication of public information pamphlets, including on women’s employment and work practices.</p>
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2007 AR:</b> The OCCI mentioned its lack of capacity building and training on the ILO Declaration and its follow-up.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2015 AR:</b> GFOTU stated that there are no significant obstacles that might impede the elimination of discrimination in employment and occupation. However, it indicated that from time to time, there is some difficulty in determining the criteria of discrimination, given the different nature of jobs and conditions of appointment. Also, lack of capacity building of trade unions, public awareness and social dialogue on the PR are other challenges.</p> <p><b>2014 AR:</b> According to the GFOTU: The trade union movement is still at an early stage of its organization in Oman, and there is a lack of awareness on the FPRW.</p> <p><b>2013 AR:</b> The GFOTU indicated the following challenges: (i) promoting the culture of trade unionism in Oman between workers and employers still needs to be strengthened; (ii) capacity building and training of workers and trade unions members on the Declaration Follow-up is lacking in Oman; and (iii) skills for collective bargaining amongst trade union members should be raised.</p> <p><b>2012 AR:</b> The GFOTU mentioned that the main challenge is the existing poor social dialogue in the country.</p> <p><b>2007 AR:</b> The MOWC also mentioned its lack of capacity building and training on the ILO Declaration and its follow-up.</p>



	<b>According to the Government</b>	<p><b>2013 AR:</b> The Government indicated that amendments to labour laws during late 2011 were carried out in discussion with the social partners.</p> <p><b>2012:</b> According to the Government: The current functioning of the labour relations, based on the KAFEEL-system, is operating in contradiction to the PR. The whole employment system, and in particular the discriminatory employment situation against migrant workers, needs to be changed. National laws need to be amended for the future ratification of C.100 and C.111.</p> <p>The GFOTU mentioned that the main challenge is the existing poor social dialogue in the country.</p> <p><b>2010 AR:</b> According to the Government: The main challenge for Oman is the lack of capacity building.</p> <p><b>2009 AR:</b> According to the Government: The need to adapt national laws to the requirements of C.100 and C.111 is a major challenge.</p> <p><b>2008 AR:</b> The Government indicated that it had not encountered serious challenges in realizing the PR.</p> <p><b>2007 AR:</b> According to the Government: Further awareness programmes are required.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> The Government, OCCI and GFOTU requested ILO technical assistance in strengthening awareness, social partners' capacity and social dialogue on the PR through DWCP.</p> <p>GFOTU further reported that there is a need for undertaking a) a scrutiny of pertinent national legislation, comparing it with the relevant Arab and international principles and conventions and putting forward the necessary observations which, if adopted, will help eliminate discrimination in employment and occupation, and b) a compilation of a reference manual to assist trade unions to recognize the types of discrimination and how to present evidence of discrimination to the competent bodies and courts.</p> <p><b>2014 AR:</b> According to the Government and The GFOTU requested continuous ILO technical cooperation through the DWCP, along with targeted capacity building activities for trade union leaders.</p> <p><b>2013 AR:</b> According to the Government and the GFOTU: ILO technical support is needed to strengthen the capacity of workers' organizations and ILO Decent Work Country Programme should be sustained.</p> <p><b>2012 AR:</b> The Government requested ILO technical and material support to develop an information system for storing, monitoring and analysing labour market data, so as to equip the Government with the proper tools for reporting once the ratification process has been completed.</p> <p>The GFOTU required ILO technical assistance to: (i) strengthen social dialogue; and (ii) organize workshops on the ratification process.</p> <p><b>2010-2011 ARs:</b> The Government requested ILO's technical cooperation in the following areas: (i) training of the 60 new labour inspectors on the PR; (ii) strengthening capacity building; and (iii) awareness raising campaign on the PR.</p> <p><b>2009 AR:</b> The Government indicated that the ILO's cooperation was needed for the training of civil servants in identifying discrimination issues: Moreover, the ILO Decent Work Country Programme should be continued.</p> <p><b>2008 AR:</b> The Government reiterated the same requests mentioned in the 2007 AR.</p> <p>According to the GFOTU: ILO technical support is needed for the elaboration of workshops and seminars to raise awareness on the trade union's role in promoting equality at work and other ILO FPRW.</p> <p><b>2007 AR:</b> According to the Government: The OCCI and the MOWC: ILO technical cooperation would be needed to organize in Oman a national tripartite workshop on ILS and the ILO Declaration. Moreover, employers' and workers' organizations need special training on their roles in the Declaration's Follow-up.</p> <p>The Government stated that there should be continuous dialogue between the Ministry of Manpower, the ILO and the social partners.</p> <p><b>2006 AR:</b> According to the Main Omani Workers' Committee: ILO technical cooperation would be necessary in establishing Workers' Committees and raising awareness on their role in promoting the PR and other ILO Fundamental Principles and Rights at Work (FPRW) in Oman.</p>
	<p><b>Offer</b></p>	<p>ILO (Decent Work Country Programme (2004-2005) and capacity building activities) ILO/GCC Joint Plan of activities; ALO.</p>

<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries, such as the Gulf States (as well as China and new member States, in particular in the South Pacific), had made important efforts during this process. However, according to them, more needed to be done. The IDEAs noted the intentions expressed by most governments, including the Government of Oman, to ratify or consider ratification of Conventions Nos100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification (cf. paragraphs 12 and 66 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (cf. paragraph 148 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs noted that the GCC States had been providing more information on freedom of association and the right to collective bargaining, but not enough on the other three PRs. This would help to illustrate the link between all four PRs (cf. paragraph 85 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2003 AR:</b> The IDEAs commended Oman and other GCC States for their continuing dialogue with the Office through the annual review process (cf. paragraph 4 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p> <p><b>2002 AR:</b> The IDEAs acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the GCC Governments, including Qatar (cf. paragraph 82 of the 2002 Annual Review Introduction – ILO: GB.283/3/1).</p> <p><b>2001 AR:</b> The IDEAs hoped in particular that the governments of GCC countries would continue a dialogue with the Office regarding the ways in which respect for fundamental principles and rights at work and positive changes could be achieved through technical cooperation (cf. paragraph 77 of the 2001 Annual Review Introduction – ILO: GB.280/3/1).</p>
<p><b>GOVERNING BODY OBSERVATIONS RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2014-2015)<sup>102</sup>: REPUBLIC OF PALAU**

***THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, for the first time under the 2014 Annual Review (AR). Palau joined ILO in May 2012.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>		
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>		
	<b>Workers' organizations</b>		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Palau has ratified neither the Equal Remuneration Convention, 1951 (No. 100) (C.100) nor the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111).</b>
		<b>Ratification intention</b>	<b>Under consideration for both C.100 and C.111.</b> <b>2015 AR:</b> The Government stated that the ratification of C.100 and C.111 is under consideration. <b>2014 AR:</b> The Government has requested ILO technical assistance to help it consider ratification of all fundamental Conventions, including C.100 and C.111.
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES,</b> According to the Government: The Fundamental Rights are spelled out in Article IV of the Constitution of Palau, 1979.
		<b>Policy, Legislation and/or regulations</b>	<b>2015 AR:</b> The Government indicated the adoption of Minimum Wage Law No. 9-1 to raise the minimum wage in May 2013.
		<b>Basic legal provisions</b>	

<sup>102</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).





		<b>Judicial decisions</b>	
	<b>Exercise of the principle and right</b>	<b>Compulsory education</b>	
		<b>Minimum Age</b>	
		<b>Worst Forms of Child Labour</b>	
		<b>Special attention to particular situations</b>	
		<b>Information/ Data collection and dissemination</b>	
	<b>Monitoring, enforcement and sanctions mechanisms</b>		
	<b>Involvement of the social partners</b>		
	<b>Promotional activities</b>		
	<b>Special initiatives</b>		
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	
		<b>Workers' organizations</b>	
	<b>According to the Government</b>		



<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> According to the Government: Following the Government’s request, ILO is currently undertaking a gap analysis on labour laws policies and practices related to ILO’s 8 fundamental Conventions. Tripartite partners are involved in the consultation process.</p> <p><b>2014 AR:</b> According to the Government: Given that Palau is a new member State, the Government wishes to request ILO technical assistance for: (i) better understanding and reporting on the Fundamental Principles and Rights at Work, and (ii) reviewing its national legislation to assess compliance with ILO fundamental Conventions on the elimination of discrimination in respect of employment and occupation (C.100 and C.111).</p>
	<b>Offer</b>	
<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	
<b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link:<a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>	



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015): QATAR**

**THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)**

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	YES, since the start of the Annual Reviews (ARs) in 2000. No change reports under the 2009 and 2010/2011 ARs.	
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Qatar Chamber of Commerce and Industry (QCCI), the Qatar Petroleum Workers' Committee (QPWC) through consultations and communication of government's reports and the General Union of Workers of Qatar (GUWQ).	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> Observations by the QCCI. <b>2007 AR:</b> Observations by the QCCI.	
	<b>Workers' organizations</b>	<b>2013 AR:</b> Observations by the GUWQ. <b>2008 AR:</b> Observations by the QPWC. <b>2007 AR:</b> Observations by the QPWC. <b>2006 AR:</b> Observations by the QPWC. Observations by the International Confederation of Free Trade Unions (ICFTU).	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Qatar ratified in 1976 the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111). However, it has not ratified the Equal Remuneration Convention, 1951 (No. 100) (C.100).</b>

		<p><b>Ratification intention</b></p>	<p><b>YES, since 2002, for C.100, but no progress in the ratification process at the current time.</b></p> <p><b>2015 AR:</b> According to the Government: There have been no developments in the ratification process of C.100.</p> <p><b>2013 AR:</b> According to the GUWQ: Ratification of C.100 is in progress.</p> <p><b>2012 AR:</b> According to the QCCI: National legislation already provides for protection against discrimination and recognize that no obstacle prevents the ratification of C.100. The QCCI expressed its strong support for the equality between men and women in the work place.</p> <p><b>2007 AR:</b> According to the Government: The “ambiguity” of the text of C.100 is deemed to be an obstacle to ratification of C.100. Despite this fact, the Government intends to meet the conditions that would allow for its ratification.</p> <p><b>2006 AR:</b> The Government stated the following: The Government endorses the ILO Fundamental Principles and Rights. C.100 is in the process of ratification and the Government expects some positive developments by the end of 2005 in this regard.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.100.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>2007 AR:</b> According to the Government: The Constitution of the State of Qatar has guaranteed the right of equality to all in article 35: “All people are equal before the law. There shall be no discrimination on account of sex, origin, language, or religion”.</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2003-2005 ARs:</b> According to the Government: There is a national policy concerning the elimination of discrimination in employment and occupation through the amendment of the provisional basic law.</p> <p><b>Legislation:</b></p> <p>(i) Labour Law No. 3; (ii) the Public Service Law; and (iii) the Civil Service Law, 1967.</p> <p><b>Regulations:</b></p> <ul style="list-style-type: none"> <li>• The Executive Regulations of the Public Service Law.</li> </ul> <p><b>2013 AR:</b> According to the GUWQ: The National Collective Agreement has been approved by the Government and is being implemented.</p>
		<p><b>Basic legal provisions</b></p>	<p>(i) The Labour Law No. 3 (sections 2 and 28); (ii) the Public Service Law and its Executive Regulations; and (iii) the Civil Service Law, 1967.</p>
		<p><b>Grounds of discrimination</b></p>	<p><b>2003 AR:</b> According to the Government: Discrimination in respect of employment and occupation is prohibited on grounds of race, colour, sex, religion, political opinion, national extraction and social origin.</p>

		<b>Judicial decisions</b>	<b>NIL.</b>
<b>Exercise of the principle and right</b>		<b>Special attention to particular situations</b>	<b>2003-2005 ARs:</b> According to the Government: (i) all categories of workers in the public service; (ii) workers in particular types of employment; (iii) agricultural workers; (iv) workers engaged in domestic work; (v) workers in EPZs; (vi) migrant workers; and (vii) workers in the informal economy.
		<b>Information/ Data collection and dissemination</b>	<b>2002 AR:</b> According to the Government: Questionnaires and requests for information addressed to companies and enterprises confirm the non-existence of discrimination.
<b>Prevention/monitoring, enforcement and sanctions mechanisms</b>	<p><b>2015 AR:</b> According to the Government: Pursuant to the adoption of Emiri Decree no. 29 (2014), three departments have been created under the the Ministry of Labour, namely: Department of employment; Department of government relations, and Department of labour inspection. These departments will strengthen the protection and observance of workers’ rights.</p> <p><b>2013 AR:</b> According to the GUWQ: New Labour laws are adopted every year and contain detailed provisions to enforce the PR, including sanctions in cases of breach. If a company contravenes such laws, the Government puts it in a “black list”.</p> <p><b>2007 AR:</b> According to the Government: The new Labour Code provides that women workers shall be granted equal remuneration to that of male workers for work of equal value. Thus, the Labour Department ensures, through labour inspectors and by legalizing labour contracts that undertakings and companies comply with the law, and hence pay a female worker an equal remuneration as a male worker for work of equal value.</p> <p><b>2002-2005 ARs:</b> According to the Government: The realization of the principle and right (PR) is ensured through the inspection and supervision of enterprises.</p>		
<b>Involvement of the social partners</b>	<p><b>2013 AR:</b> According to the GUWQ: There is a continuous dialogue and cooperation between the Ministry of Labour and Social Affairs and workers’ and employers’ organizations on all labour and social matters.</p> <p><b>2004 AR:</b> According to the Government: Workers’ and employers’ organizations have been involved in the development and implementation of governmental measures regarding the PR.</p> <p><b>2002 AR:</b> According to the Government: The Labour Department cooperates closely with employers in realizing the PR. A national training scheme had been set up to prepare Qatari for employment after consultations were held with the private and public sectors.</p>		
<b>Promotional activities</b>		<b>Institutions to promote equality</b>	<b>2003-2005 ARs:</b> The Government stated that it would consider establishing such machinery, if necessary.

		<p><b>Other activities:</b></p>	<p><b>2013 AR:</b> The Government indicated that an official of the Ministry of Labour and Social Affairs had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards in May-June 2012 where issues concerning the PR had been discussed. It further indicated that the Ministry of Labour and Social Affairs had organised several workshops and conferences for employers and workers with a view to strengthening the principle of justice in employment, including the issue of equal remuneration.</p> <p>According to the GUWQ: Tripartite discussions and social dialogue are organized with a view to respect, promote and realize the ILO Declaration in Qatar.</p> <p><b>2012 AR:</b> The Government indicated that an official of the Ministry of Labour and Social Affairs had participated in the ILO/TURIN Pre-Conference Course on International Labour Standards in May-June 2011 where issues concerning the PR were addressed.</p> <p><b>2008 AR:</b> The QPWC participated in the 5<sup>th</sup> ILO/Gulf Cooperation Council (GCC) Regional Seminar on the ILO Declaration and International Labour Standards (ILS) in Oman.</p> <p><b>2007 AR:</b> The Government, the QCCI and the QPWC referred to their participation in the Fourth ILO/Gulf Cooperation Council (GCC) Regional Workshop on the ILO Declaration and International Labour Standards held in Kuwait City in April 2006.</p> <p><b>2002 AR:</b> According to the Government: A committee had been established to study the Declaration and to define the position of the State of Qatar vis-à-vis the PR and obligations contained therein.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>NIL.</b></p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2012 AR:</b> The QCCI emphasized that discrimination is not a widespread problem in the country, and there is a broad participation of women at all levels of the society, in the political sphere as well as in the public and private sectors.</p> <p><b>2007 AR:</b> According to the QCCI: There is a lack of social dialogue on the PR. Tripartite discussions should be organized in view of a better understanding of the ILO Declaration in Qatar.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2013 AR:</b> According to the GUWQ: There are no challenges in realizing the PR.</p> <p><b>2007 AR:</b> According to the QPWC: There is a lack of social dialogue on the PR. As has been mentioned by the QCCI, tripartite discussions should be organized in view of a better understanding of the ILO Declaration in Qatar.</p> <p><b>2006 AR:</b> According to the ICFTU: Challenges in realizing the PR in Qatar are as follows: (i) lack of ratification of C.100; and (ii) the vulnerability of migrant workers and domestic workers.</p>

	<p><b>According to the Government</b></p>	<p><b>2013 AR:</b> According to the Government: In the private sector, some employers may not respect the PR, contrary to public sector where employment conditions are harmonious.</p> <p><b>2007 AR:</b> According to the Government: No challenges are worth mentioning, as most of the companies adopt regulations that define remuneration on the basis of occupation or job, regardless of whether the candidate is a man or a woman. However, some employers, in particular those in small enterprises, need to have clarifications regarding allowances and premiums falling under the concept of salary. Thus, specialists in labour administration are available to give answers to their inquiries on this matter.</p> <p><b>2003 AR:</b> According to the Government: There is no statistical or information collection.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2008 AR:</b> The QPWC reiterated the same request mentioned in the 2007 AR regarding a better understanding of the ILO Declaration in Qatar.</p> <p><b>2007 AR:</b> According to the Government: In the framework of the Plan of Joint activities signed in 2001 between the Council of Ministers of Labour and Social Affairs in the Gulf Cooperation Council (GCC) and its Executive Bureau and the ILO, an activity should be dedicated to explaining the text of C.100, and in particular what is meant by work of equal value, and the practical mechanism to follow up this matter in regulations and practice.</p> <p>Moreover, according to the Government, the QCCI and the QPWC, the ILO technical cooperation is needed to promote a better understanding of the ILO Declaration in Qatar.</p> <p><b>2006 AR:</b> According to the Qatar Petroleum Workers’ Committee: ILO technical cooperation would be needed soon to facilitate the realization of the PR and other fundamental principles and rights at work when the Workers’ Committees will be located across the country.</p> <p><b>2005 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR, in the following areas in order of priority: (1) assessment of the difficulties identified and their implications; and (2) training of other officials (e.g. police, judiciary, social workers, teachers).</p>
	<p><b>Offer</b></p>	<p>ILO, GCC, NGOs and bilateral donors.</p>



<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries, such as the Gulf States (as well as China and new member States, in particular in the South Pacific), had made important efforts during this process. However, according to them, more needed to be done. The IDEAs noted the intentions expressed by most governments, including the Government of Qatar, to ratify or consider ratification of Conventions Nos.100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification (cf. paragraphs 12 and 66 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs noted with interest the continuing efforts made by the countries of the Gulf Cooperation. They further complimented the Government of Qatar (and four other governments) for having given special attention to specific categories of workers or enterprises and encouraged the country to enhance its efforts in reducing and eliminating this type of discrimination (cf. paragraphs 48 and 270 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs noted that the GCC States had been providing more information on freedom of association and the right to collective bargaining, but not enough on the other three PRs. This would help to illustrate the link between all four PRs (cf. paragraph 85 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2003 AR:</b> The IDEAs commended Qatar and other GCC States for their continuing dialogue with the Office through the annual review process (cf. paragraph 4 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p> <p><b>2002 AR:</b> The IDEAs acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the GCC Governments, including Qatar (cf. paragraph 82 of the 2002 Annual Review Introduction – ILO: GB.283/3/1).</p> <p><b>2001 AR:</b> The IDEAs hoped in particular that the governments of GCC countries would continue a dialogue with the Office regarding the ways in which respect for fundamental principles and rights at work and positive changes could be achieved through technical cooperation (cf. paragraph 77 of the 2001 Annual Review Introduction – ILO: GB.280/3/1).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>





**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>103</sup>: SINGAPORE**

*THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)*

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Reviews (ARs) in 2000.
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Singapore National Employers' Federation (SNEF) and the Singapore National Trade Union Congress (SNTUC) by means of consultations and communication of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations by the SNEF. <b>2012 AR:</b> Observations by the SNEF. <b>2009 AR:</b> Observations by the SNEF. <b>2007 AR:</b> Observations by the SNEF.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the SNTUC. <b>2014 AR:</b> Observations by the SNTUC. <b>2012 AR:</b> Observations by the SNTUC. <b>2009 AR:</b> Observations by the SNTUC. <b>2005 AR:</b> Observations by the SNTUC and its affiliates. <b>2001 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).

<sup>103</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Singapore ratified in 2002 the Equal Remuneration Convention, 1951 (No. 100) (C.100). However, it has not yet ratified the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111).</b>
		<b>Ratification intention</b>	<b>Under consideration, since 2008, for C.111.</b>  <b>2015 AR:</b> The Government reiterated its no change statement. SNTUC reiterated its support for the ratification of C.111. It indicated that ratification of the Convention requires the creation of a national legal framework, ensuring compliance with the requirements of the Convention. <b>2014 AR:</b> According to the Government: No change. SNEF stated that opinions from previous years remain valid for this year. SNTUC urged the Government to seriously consider ratifying C.111. <b>2011 AR:</b> According to the Government: No change. <b>2010 AR:</b> According to the Government: Further to the meeting the Government had with the Bangkok Regional Office in September 2008 to discuss the requirements of C.111, the Government met the Office on the sidelines of the November 2008 Governing Body session for further discussions on the same topic. Base on the existing interpretation of C.111, it would appear that the ILO might not be able to accommodate Singapore’s promotional approach in dealing with discrimination at work. That said, the ILO clarified that having a clause in some legislation to specify non-discrimination on various grounds may be sufficient. Singapore notes the provisions of C.111 and will take into consideration the inputs given by the ILO and continue to consult the Office in its review of C.111. <b>2009 AR:</b> The Government indicated that it met, in September 2008, with ILO Regional Office in Bangkok to discuss the requirements of C.111. It further mentioned that it would continue to study this Convention and review its position accordingly. The SNTUC expressed its support for the ratification of C.111 while mentioning that the Government should consider it as a priority.
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES.</b> The principle and right (PR) is firmly entrenched in the Constitution. The 1965 Constitution has amended article 12(1) which provides that “all persons are equal before the law and entitled to the equal protection of the law”.

		<p><b>Legislation, regulations and/or policy</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> </ul> <p><b>2013 AR:</b> According to the Government: While many countries rely on anti-discrimination laws, they are not the panacea or magic solution to the challenges that we face. Dealing with discrimination at the workplace is not straightforward. It is quite a complex issue, whereby complainant's unhappiness may not be about discrimination but involve disagreements over quality of work, miscommunication of expectations, misunderstanding over a company's restructuring plans, or in various instances, it is about disgruntled employees. There is a set of Tripartite Guidelines on Fair Employment Practices which we expect all employers to follow. So far almost all employers contacted by the Tripartite Alliance for Fair Employment Practices (TAFEP), following a complaint alleging unfair employment practices have heeded the practical advice from TAFEP which is given with reference to the Tripartite Guidelines on Fair Employment Practices.</p> <p><b>2012 AR:</b> According to the Government: Leveraging on Singapore's unique tripartite framework, the TAFEP works in partnership with employers' organisations, unions and the government to create awareness and facilitate the adoption of fair, responsible and merit-based employment practices. TAFEP provides tools and resources, including training workshops, advisory services, and educational materials, to help organisations implement fair employment practices.</p> <p><b>2005 AR:</b> According to the Government: In 2005, the Tripartite Committee on Employability of Older Workers was established to review, among other issues, discrimination against older workers in employment and to strengthen existing measures, codes and guidelines such as the Code of Responsible Employment Practices and the Guidelines on Non-Discriminatory Job Advertisements. This Tripartite Committee is also implementing a broad strategy to shape positive perceptions of employers, employees and customers on the employability of older workers.</p> <p><b>2000 AR:</b> According to the Government: The principle of equal remuneration has been institutionalised since 1962.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p><b>2014 AR:</b> SNTUC indicated that the Government was reviewing the Employment Act in consultation with employers and trade unions to better protect the rights of Professionals, Managers and Executives (PMEs) who will turn 2/3 of the workforce in 2030.</p> <p><b>2011 AR:</b> According to the Government: The Retirement and Re-employment Act has been enacted to take effect from 1 January 2012 to enable more people to continue working beyond the current statutory retirement age of 62, up to 65. Singapore's employment legislation also provides recourse for workers who feel they have been unfairly dismissed, including dismissal on the grounds of their minority status, age and gender. They may appeal to the Minister for Manpower for reinstatement to their former employment.</p>
		<p><b>Basic legal provisions</b></p>	<p>According to the Government: The 1965 Constitution as amended (article 12(1)); Employment Act (section 14(2)).</p>



		<b>Grounds of discrimination</b>	<b>2000-2014 ARs:</b> The principle of equality of all persons before the law is enshrined in the Constitution of the Republic of Singapore, regardless of race, religion, sex or descent.
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<b>NIL.</b>

		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2015 AR:</b> According to the Government: The promotional and educational approach undertaken through TAFEP continues to bear results. As of the end of 2013, more than 3,000 employers have signed the Employers' Pledge of Fair Employment Practices. In addition, TAFEP organised a range of workshops and seminars to raise employers' awareness of fair employment practices and facilitate implementation of such practices within their organisations. These training sessions were well received by employers, with a total of 5,752 participants attending in 2013, a 23% increase from 2012. The employment situation for older workers has further improved to a new high of 65% in 2013, a target the Government achieved two years ahead of schedule.</p> <p>According to SNEF: The number of employers that have signed the Pledge for Fair Employment Practices has increased to 3,327 as at 31 July 2014.</p> <p>According to NTUC: TAFEP received 475 workplace discrimination complaints in 2013, as compared to 303 and 277 in 2012 and 2011 respectively. The increase was due to a spike in complaints from Singaporeans concerned with nationality-related discrimination, likely driven by greater public awareness arising from TAFEP's promotional efforts and the announcement of the Fair Consideration Framework in 2013. The NTUC will continue to work with social partners to monitor development and progress in this area.</p> <p><b>2014 AR:</b> According to the Government: There have been positive results with the promotional and educational approach taken so far. As at end 2012, over 2,000 employers have signed the Employers' Pledge of Fair Employment Practices, a three-fold increase from 2007. The employment situation for older workers has improved significantly over the last 10 years. The employment rate of older residents aged 55 to 64 rose from 45.2% in 2003 to a new high of 64.0% in 2012.</p> <p><b>2013 AR:</b> According to the Government: The Retirement and Re-employment Act came into effect on 1 Jan 2012. In an ad-hoc survey conducted by the Ministry of Manpower's (MOM) Manpower Research and Statistics Department in the last quarter of 2011, covering 3,200 private establishments (each with at least 25 employees), it was found that amid the tight labour market and tripartite efforts at promoting re-employment, nearly all (97% or 11,100) the local employees retiring in 2011 were offered employment beyond 62. Employers in general were re-employment ready even before the law was introduced. The implementation of the new law has so far been smooth.</p> <p><b>2012 AR:</b> According to the SNEF: The total number of employers that are Pledge-Signers to Fair Employment Practices have reached 1,770.</p> <p>According to NTUC: In 2010, TAFEP handled 115 workplace discrimination cases.</p> <p><b>2009 AR:</b> The SNTUC referred to a recent survey concerning employers' recruitment preference.</p>
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	<p><b>Prevention/monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2015 AR:</b> According to the Government: The set up of the Fair Consideration Department in Ministry of Manpower (MOM) reinforces MOM’s stance that all employers doing business in Singapore are expected to consider Singaporeans fairly for job and development opportunities as well as to comply with the Tripartite Guidelines for Fair Employment Practices. MOM’s actions taken against these unfair employers will send a strong deterrent message towards discriminatory practices.</p> <p><b>2014 AR:</b> According to the Government: There have been positive results with the promotional and educational approach taken so far. As at end August 2013, 2,341 employers have signed the Employers’ Pledge of Fair Employment Practices, which represents approximately three-fold increase from 2007. The Tripartite Alliance for Fair Employment Practices (TAFEP) continues its outreach efforts to employers as well as workers through public campaigns, advertorials as well as conducting conference, workshops and making available resources to help employers implement fair employment practices.</p> <p><b>2013 AR:</b> According to the Government:TAFEP will continue to issue advisories to companies to address any discriminatory practices by employers. For employers who blatantly disregard the guidelines, MOM will not hesitate to take firm action. The focus of all these efforts is on practical solutions and at the heart of it is to address the real issue of mindset change. With the support of the Tripartite partners, TAFEP is adopting a promotional and educational approach to tackle the issue of discrimination at the workplace. We believe that this will be a more effective way to encourage employers to adopt progressive and enlightened employment.</p> <p><b>2012 AR:</b> According to the Government, the SNEF and the SNTUC: The TAFEP provide advice and assistance for both employers and workers who have concerns relating to fair employment and workplace discrimination. The TAFEP has been effective in changing employers’ mindsets and bringing about the adoption of fair employment practices and help to better implement the PR. Many employers have signed the fair employment pledge and took a public commitment to cease from carrying out any form of discrimination in employment.</p> <p><b>2011 AR:</b> According to SNEF: Fair employment practice through promotional rather than legislative approach, will be more effective, harmonious and sustainable to better implement the PR in the country. The SNEF strongly supports the work and efforts of TAFEP in ensuring employer-members adopt and exercise fair employment practices.</p> <p>According to the SNTUC: Instead of introducing anti-discrimination legislation, the SNTUC is prepared to work with the employers and government to tackle discrimination issues through promotional means to change the mindset of employers and to adopt fair employment practices based on tripartite guidelines.</p> <p><b>2008 AR:</b> According to the Government: A Tripartite Committee on Employability of Older Workers published its final report in May 2007, with extensive recommendations to enhance the employability of older workers. These recommendations include: (i) the expansion of employment opportunities for older workers; (ii) the enhancement of the cost competitiveness of older workers; (iii) the improvement of skills of older workers; and (iv) positive shaping of perceptions towards implementing the various tripartite guidelines. Moreover, the Tripartite Alliance for Fair Employment Practices (TAFEP) was formed in May 2006 to encourage the adoption of fair employment practices at the workplace. With a view to facilitating this process, a new Tripartite Centre for Fair Employment, led by employers’ and workers’ representatives with the support of the Government, was also established in September 2007. This Centre should develop training programmes and toolkits to assist employers, and institute a national award to recognize companies for implementing fair employment practices.</p> <p><b>2005 AR:</b> TheGovernment stated that the Executive Mediation Unit in the Ministry of Manpower looks into complaints and disputes on unfair employment practices such as disputes on maternity leave. It also acts on companies with unfair and discriminatory recruitment practices, e.g. recruitment ads with specific race requirements.</p> <p><b>2002-2003 ARs:</b> According to the Government: Investigations are held after complaints received by the Ministry against employers for alleged discrimination. Sanctions and fines are meted out as appropriate.</p>
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**Involvement of the social partners**

**2015 AR:** According to the Government: TAFEP itself is a collaborative effort among the government, the employers and the union. Given the positive results from TAFEP’s promotional and educational approach, TAFEP has expanded its mandate to include the promotion of progressive employment practices such as work-life harmony and age management. TAFEP has also been rebranded as the “Tripartite Alliance for Fair and Progressive Employment Practices”. With the expansion, TAFEP will continue to work closely with the tripartite partners to promote the adoption of fair and progressive employment practices. TAFEP also works with other social partners where relevant. For example, in 2013, we worked with BoardAgender to produce a publication, “Journey to The Top” which aimed to share insights from Singapore woman leaders on the factors that had contributed to their successful careers. Currently, TAFEP is working with the Disabled People’s Association on a publication to showcase how enlightened employers have successfully hired persons with disabilities.

**2014 AR:** According to the Government: The social partners were consulted on the measures adopted under the Child Development Co-Savings (Amendment) Act to enhance maternity benefits and the introduction of new parental leave schemes.

**2013 AR:** According to the Government: TAFEP actively engages employers to educate them on how to implement fair and progressive employment practices. For example, it organises workshops where expert speakers and enlightened employers share their experience and insights on working with people with disabilities. The efforts by TAFEP as well as the employers to extend fair employment opportunities to people with disabilities have seen results. For example, the Enabling Employers Network, which is an alliance of like-minded employers, and the Singapore National Employers Federation, has influenced over 160 companies to commit some 600 employment opportunities for people with disabilities.

**2011-2012 ARs:** According to the Government: The TAFEP has continued to promote the Tripartite Guidelines on Fair Employment Practices one of the key principles of which states that “employers should reward employees fairly based on their ability, experience, contribution and experience.” Moreover, the Government has continued to work with its tripartite partners to promote re-employment and age friendly practices to prepare employers and workers for the upcoming re-employment legislation and to better address the issue of the ageing workforce.

**2010 AR:** The Government indicated that it was working closely with employers and unions in continuing to encourage employers to implement re-employment and other age-friendly practices, in preparation for the enactment of re-employment legislation.

**2009 AR:** According to the Government: The Singapore Government adopts a promotional and educational approach, with the support of unions and employers’ associations, to encourage companies to implement fair employment practices. This is in addition to general provisions in the law to check against unfair dismissal on the grounds of discriminatory practices. The Government believes that a combination of such approaches is more effective in changing mindsets to support fair employment in the long term. Furthermore, a new Tripartite Centre for Fair Employment, led by employers’ and workers’ representatives with the support of the Government, was also established in September 2007.

The SNEF indicated that it had been working very closely with the tripartite partners concerning the PR.

The SNTUC indicated that it was managing together with the SNEF the Flexi-Works Fund.





	<p><b>2007 AR:</b> According to the SNTUC: the SNTUC Women’s Committee forwarded a proposal to the Ministry of Manpower in September 2005 suggesting amendments to the law to give better protection to pregnant employees. This Committee is also currently working with the Government and employers, to help older women and homemakers re-integrate the labour market.</p> <p><b>2000-2005 ARs:</b> According to the Government: The Guidelines on Non-Discriminatory Job Advertisements issued in 1999 were drawn up through the joint effort of the Ministry of Manpower, the SNEF and the SNTUC.</p> <p><b>2001 AR:</b> According to the Government: The SNTUC has initiated information technology (IT) and computer training courses and skills re-development programme for union members.</p> <p><b>2000 AR:</b> According to the Government: Employers’ and workers’ organizations have been involved in the launch of the tripartite “Back to Work” Programme.</p>	
<p><b>Promotional activities</b></p>	<p><b>Institutions to promote equality</b></p>	<p>According to the Government: The Ministry of Manpower, along with the SNTUC, the SNEF and the TAFEP.</p>

		<p><b>Other activities</b></p>	<p><b>2015 AR:</b> According to the Government: TAFEP continues to reach out to employers and employees through advertising campaigns, advertorials, training workshops and seminars. In 2014, TAFEP presented the TAFEP Exemplary Employer Award to eight organisations for their outstanding achievements in leading and implementing fair employment practices. Seven organisations were also awarded Special Mention titles for distinctive achievements in specific areas of building inclusiveness, establishing proactive senior leadership support and enabling fair employment programmes for women and mature employees. In addition, the Work-Life Excellence Awards in November 2014 would recognise employers for putting in place policies and practices to support employees in managing their family and personal needs alongside work responsibilities. TAFEP has also embarked on a campaign to promote the employability of older workers in 2014. TAFEP also organised a range of workshops and seminars to raise employers' awareness of fair employment practices and facilitate implementation of such practices within their organisations.</p> <p>SNTUC stated that it undertakes various efforts including advisory service, tripartite meeting and training to promote the ratification of C.111.</p> <p><b>2014 AR:</b> According to the Government: TAFEP continued with its public campaign to increase awareness of and promote fair, responsible and merit-based employment practices. Besides advertisements in the mass media, there were also advertorials with case studies to educate employers and workers on adopting fair employment. TAFEP has also started engaging the public through the use of social media in 2013. Besides the employers' pledge, it has also started to reach out to individuals to encourage them to make their "Fair@Work" Promise so that they would also play an active role to create fair and responsible workplaces.</p> <p><b>2013 AR:</b> According to the Government: TAFEP actively engages employers to educate them on how to implement fair and progressive employment practices. For example, it organises workshops where expert speakers and enlightened employers share their experience and insights on working with people with disabilities. The efforts by TAFEP as well as the employers to extend fair employment opportunities to people with disabilities have seen results. For example, the Enabling Employers Network, which is an alliance of like-minded employers, and the Singapore National Employers Federation, has influenced over 160 companies to commit some 600 employment opportunities for people with disabilities.</p>
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		<p><b>2012 AR:</b> According to the Government: The TAFEP has promoted the Tripartite Guidelines on Fair Employment Practices and organised various promotional activities include training sessions, seminars, conferences, on-site visits and advisory services. In addition, it has organised training on fair hiring highlighting the importance of objective job descriptions and evaluations. In April 2010, the TAFEP has coordinated a conference on fair employment, where international and local speakers discussed ways to better harness the economic potential of women. Moreover, the TAFEP also collaborates closely with social partners such as Singapore Corporation of Rehabilitative Enterprise (SCORE), Enabling Employers Network (EEN) and Society for the Physically Disabled (SPD) on several projects to reach out to more employers to champion and advance the employment opportunities for persons with either a past criminal record or disabilities. In 2010, the TAFEP, together with Hong Kong-based NGO, community Business, launched a related Asia-wide study on the impact of ageing on companies in Asia and provided more information on the leading practices for the effective management of mature workers.</p> <p>According to the SNTUC: The Marriage and Parenthood package announced in 2008, ensures that working mothers are well protected from errant or unfair employers. Employers who dismiss pregnant employees without sufficient cause during the last 6 months of pregnancy are now required to compensate the employee with the payment of the maternity leave benefits that she would have been entitled to if not for the dismissal. In addition, an employer who retrenches a pregnant employee within the last 3 months of her pregnancy will also be required to compensate her with the payment of maternity leave benefits, on top of any other retrenchment benefit that the employee is entitled to.</p> <p><b>2010 AR:</b> The Government indicated that it was working closely with employers and unions in continuing to encourage employers to implement re-employment and other age-friendly practices, in preparation for the enactment of re-employment legislation.</p>
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		<p><b>2009 AR:</b> According to the Government: The following activities organized: (i) in November 2007 the Tripartite Centre for Fair Employment was launched. The Centre has provided advice to jobseekers, employees and employers on matters relating to alleged discrimination at the workplace and the adoption of fair employment practices. As of July 2008, more than 800 organizations have pledged their commitment to fair employment by signing the Employers’ Pledge of Fair Employment Practices; (ii) in April 2008 the Tripartite Implementation Work Group (TIWG) released the Tripartite Advisory on Re-employment of Older Workers to help companies adopt re-employment early, ahead of its legislation by 2012; and (iii) the Singapore Workforce Development Agency (WDA) has introduced a new “Step Out For Change Programme” to reach out to economically inactive women and encourage them to re-enter the workforce.</p> <p>The SNEF stated that it had organized several activities to promote the PR, including: (i) encouraging more members to incorporate the Equal Remuneration Clause (ILO Convention No. 100) in collective agreements and memorandums on wage increases; (ii) educating and promoting members to comply with the Guidelines on Non-Discriminatory Job Advertisements; (iii) persuading more than 700 of its members to sign and implement the Employers’ Pledge of Fair Employment Practices; and (iv) actively supporting the work of the Tripartite Centre for Fair Employment.</p> <p>The SNTUC indicated that it had convened a tripartite Committee and labour meetings to discuss the PR, and that it was managing together with the SNEF the Flexi-Works Fund that was a new initiative by the Singapore Workforce Development Agency (WDA) to encourage companies to hire new workers, especially women, on part-time or flexible work arrangements.</p> <p><b>2008 AR:</b> The Tripartite Centre for Fair Employment, which will be set up in September 2007, will roll out training programmes and tool kits to assist employers, and institute a national award to recognize companies for implementing fair employment practices.</p> <p>The SNEF has been promoting the elimination of discriminatory practices by: (i) encouraging its members to comply with the Guidelines on Non-Discriminatory Job Advertisements; (ii) persuading more employers to sign and implement the Employers’ Pledge of Fair Employment Practices; and (iii) endorsing more employers to incorporate the Equal Remuneration Clause in collective agreements and memos on wage increases.</p> <p>According to the SNTUC: The SNTC Women’s Committee has developed the two following key projects for 2007 include: (i) “Women back to Work”, which aims to get more women into the workforce by encouraging more employers to offer part-time and flexi-work schemes to women, as well as to encourage women to take up the various subsidized schemes available to upgrade their skills and take up higher paying jobs; and (ii) “Work Life Initiative”, which looks into the provision of benefits such as childcare leave, lactation room and flexi-work arrangements to help women balance better their work and family commitments.</p>
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			<p><b>2007 AR:</b> According to the Government: The Tripartite Committee on Employability of Older Workers released its interim report and a range of recommendations to enhance the employability of older workers in January 2006. One of the recommendations was to set up the TAFEP to shift mindsets among employers, employees and the general public towards fair and responsible employment practices for all workers. The TAFEP was formed in May 2006 and is co-chaired by the SNEF and the SNTUC, with participation from the Government. On the proposed changes to the labour laws, the Government conducts reviews of the law regularly, and will take into account inputs from both the workers and the employers.</p> <p><b>2005 AR:</b> According to the Government: The Tripartite Committee on Employability of Older Workers set up by the Ministry of Manpower seeks to encourage the adoption of measures and guidelines through promotion and incentives.</p> <p><b>2001-2003 ARs:</b> According to the Government: Under the Employment Act, paid maternity leave had been extended to working mothers in order to give them time to bond with their new baby without suffering a loss in wages. It also indicated that a budget of \$200 million had been allocated for a five-year Manpower Development Assistance Scheme (MDAS) project for skills development.</p> <p><b>2001 AR:</b> According to the Government: In September 1996, the tripartite “Back to Work” Programme for homemakers and older persons aged 55 years and above was launched by the Ministry of Manpower in collaboration with the Singapore Productivity and Standards Board (PSB), the SNTUC and the SNEF. The Employment (Part-Time Employees) Regulations was also implemented.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: TAFEP collaborated with the Chartered Institute of Personnel and Development (CIPD), United Kingdom, to develop a qualitative study on employers’ attitudes towards older workers. Findings from the study resulted in recommendations for more training and support to be given to mature workers and their managers, as well as more flexible job options for the silver generation. In another partnership, TAFEP, together with BoardAgender and the Center for Creative Learning, studied the factors that contributed to the career success of senior women leaders in Singapore. The study established that having a strong support network and personal attitudes were significant factors for success, and recommended several ideas on nurturing women leaders. In addition, TAFEP engaged the next generation of employees and employers through collaboration with all three Institute of Technical Education (ITE) colleges. For the first time, fair employment practices were included as a component of the Human Resources module, and more than 400 graduating students completed this module as part of their curriculum. In 2013, over 5,700 participants took part in training workshops and seminars on implementing fair employment practices conducted by TAFEP.</p> <p><b>2014 AR:</b> According to the Government: The number of pledge signers has increased to 2,341 as at end August 2013. In 2012, over 4,800 participants attended various conferences, briefings and workshops organised by TAFEP. Apart from senior management and HR practitioners, it also reached out to graduating students so that they are aware of fair employment practices even before they join the workforce. Workshops on “Creating An Inclusive Workplace” were held with positive feedback from participants. In addition, it has created an online version of the toolkit on creating inclusive workplaces to provide an interactive tool for users. Another e-tool is the Workforce Diversity E-Calculator which enables employers to benchmark their current workforce against the national and industry levels so that they have a good comparison of age and gender profiles. It also provides practical tips on how to improve workforce diversity. In line with the enhanced Tripartite Guidelines on Fair Employment Practices, TAFEP introduced a new training workshop, Optimising Local Talent. This workshop trains employers and HR practitioners to look at how inclusive their companies are and if their diverse workforce is leveraging well on one another’s differences. It also touches on how to get local talents to take on bigger roles to grow the organisation’s profitability.</p> <p><b>2013 AR:</b> According to the Government: Since the Employers’ Pledge of Fair Employment Practices was first introduced in 2007, the number of organisations who have signed the Pledge has tripled. At last count in April, over 1,900 firms have signed the Employers’ Pledge of Fair Employment Practices and this represents a growing readiness from employers to commit to the implementation of fair employment practices within their organisations. In 2011, over 4000 participants which included HR practitioners, line managers and senior managers attended fair employment training organised by TAFEP. This was an increase of 67% from 2,400 in 2010. This is a significant increase which reflects the growing demand for skills training to implement fair and responsible employment practices. Many firms are working with TAFEP to enhance and share their leading practices. TAFEP released a toolkit especially developed for SMEs, which sets out steps to help SMEs kickstart their diversity and inclusion journey.</p> <p><b>2012 AR:</b> According to the Government: Leveraging on previous years’ efforts, TAFEP continued to build on the strong momentum achieved through its educational and promotional approach. In 2010, TAFEP’s took on a more holistic approach in promoting fair and responsible employment practices, with an emphasis on raising employer awareness on Singapore’s key employment legislation – the Employment Act. In light of Singapore’s ageing workforce, TAFEP also placed added attention on encouraging mindsets that support the employment and employability of older workers through educational collateral, events, television, radio, print and online channels. As part of efforts to raise employer awareness on the Employment Act, the TAFEP launched a new E-Learning Programme in November 2010. And produced a variety of educational literature, ranging from handbooks to research publications such as the “Guide on Employment Laws for Employers” in 4 languages and the “Fair Grievance Handling Handbook”.</p>
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		<p>With the spotlight in Singapore’s ageing workforce, TAFEP also commissioned two research studies to help employers better understand how to manage the age diversity, so as to develop appropriate strategies to address challenges and harness the potential of the diverse workforce. These studies provided insights and recommended strategies and practices to maximise inter-generational collaboration to raise employee engagement, organisational productivity as well as harness the potential of the diverse workforce.</p> <p><b>2011 AR:</b> According to the Government: As of April 2010, more than 1,300 employers have signed the Employers’ Pledge of Fair Employment Practices as a sign of Commitment to Fair Employment Practices. Recently, the TAFEP also recognized exemplary organisations that have effectively implemented progressive and Fair employment practices through the TAFEP Exemplary Employer Award. Moreover, the tripartite partners issued a set of Guidelines on the Re-employment of older employees to help guide employers and workers in adopting re-employment measures. Both these Guidelines and the upcoming legislation (to be enacted in early 2011 and to enter into force in January 2012) were formulated incorporating feedback gathered from public consultation. Partly as a result of this effort the employment rate for older residents rose to a 59 per cent high.</p> <p><b>2010 AR:</b> According to the Government: The TAFEP launched an advertising campaign in October 2008 to build on earlier awareness programmes and reinforce the mindset that hiring should be based on skill and ability. The campaign targeted at employers and hiring managers, with the tagline “Hire on Merit. Be Fair Employer”. Moreover, TAFEP’s other initiatives included monthly briefings on fair employment and regular joint awareness and networking sessions with partners, as well as advisory services to companies and company visits, where constructive recommendations on fair recruitment practices are provided. The number of organizations that have signed the Employer’s Pledge of Fair Employment Practices has increased from over 800 organizations to more than 1,000 as of September 2009. In February 2009, TAFEP organized the inaugural Conference on Fair Employment Practices in partnership with the Singapore Tripartite Forum with the theme “Managing Employment issues in Challenging Times” The event brought together 500 business leaders and HR Practitioners to share practical and sustainable strategies to create fair and inclusive workplaces. In addition, the Conference launched the Leading Fair Employment Practices” handbook, which showcased how these organizations have implemented fair employment practices that cater to their diverse workforce and benefit their business. In July 2009, TAFEP launched a “What does fair employment practices mean to me?” photo competition to engage the public and encourage individuals to think about fair employment and build a greater appreciation for merit-based employment practices.</p> <p><b>2009 AR:</b> According to the Government: A new Tripartite Centre for Fair Employment, led by employers’ and workers’ representatives with the support of the Government, was also established in September 2007. This Centre should develop training programmes and tool kits to assist employers, and institute a national award to recognize companies for implementing fair employment practices. Moreover, the Singapore Workforce Development Agency (WDA) has introduced a new “Step Out For Change Programme” to reach out to economically inactive women and encourage them to re-enter the workforce. Furthermore, in April 2008 the Tripartite Implementation Work Group (TIWG) released the Tripartite Advisory on Re-employment of Older Workers to help companies adopt re-employment early, ahead of its legislation by 2012. Finally, the Singapore Workforce Development Agency (WDA) has introduced a new “Step Out For Change Programme” to reach out to economically inactive women and encourage them to re-enter the workforce.</p>
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		<p>The SNEF mentioned that it had persuaded more than 700 of its members to sign the Employers' Pledge for Fair Employment Practices (according to the Government: the number of employers' signatures to this document reached 800 as of July 2008).</p> <p>According to the SNTUC: The SNTUC is managing together with the SNEF the Flexi-Works Fund that is a new initiative by the Singapore Workforce Development Agency (WDA) to encourage companies to hire new workers, especially women, on part-time or flexible work arrangements. This programme was offering a grant up to \$100,000 (i.e., about US\$ 78,000) to support a company's effort in the recruitment of older workers on part-time or flexible work arrangements. Moreover the SNTC Women's Committee has developed the two following key projects for 2007 include: (i) "Women back to Work", which aims to get more women into the workforce by encouraging more employers to offer part-time and flexi-work schemes to women, as well as to encourage women to take up the various subsidized schemes available to upgrade their skills and take up higher paying jobs; and (ii) "Work Life Initiative", which looks into the provision of benefits such as childcare leave, lactation room and flexi-work arrangements to help women balance better their work and family commitments.</p> <p><b>2008 AR:</b> The Government indicated that the new Tripartite Guidelines on Fair Employment Practices were published in May 2007. In this respect, five hundred employers have already publicly pledged to be fair employers by adhering to these guidelines.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2009 AR:</b> According to the SNEF: The existing employment Acts are adequate in protecting the rights and well-being of workers. However, where there is need for review and proposed changes are not to undermine business, the employers' organization would be receptive in considering the changes.</p>
		<b>Workers' organizations</b>	<p><b>2015 AR:</b> SNTUC indicated that main challenges in the ratification of C.111 are changing the mindset of people and putting in place the right legal framework, which is currently lacking.</p> <p><b>2014 AR:</b> SNTUC recognizes that serious difficulties exist as current laws are not in compliance with the Conventions.</p> <p><b>2009 AR:</b> According to the SNTUC: The Employment Act is likely to be amended at the end of 2008, as a part of the labour movement proposal to better protect pregnant employees.</p> <p><b>2005 AR:</b> According to the SNTUC: There is persisting discrimination against older and female workers. More stringent enforcement of the Acts against those who violate them and legal literacy and educational Activities for employers are necessary to address discrimination against pregnant employees.</p>
	<b>According to the Government</b>	<p><b>2009 AR:</b> The Government indicated that the ageing population was a challenge that was tackled by a series of measures.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2009 AR:</b> The Government indicated that, even though it wanted to ensure the requirements of C.111 were formally and fully met in Singapore, it would be seeking advice from the ILO on these requirements in due course.</p>	
	<b>Offer</b>	<p>ILO (technical advice).</p>	





<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The IDEAs noted that Singapore (and another country) had not yet expressed their intentions concerning ratification of C.111 (cf. paragraph 67 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2004 AR:</b> The IDEAs urged the Government of Singapore (and four other governments) to send reports within the prescribed time frame, so as to ensure the smooth running of the annual review process (cf. paragraph 21 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)**<sup>104</sup>: SOMALIA

*THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)*

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	<b>YES</b> , since the 2006 Annual Review (AR). But no change reports under the 2007 AR (national crisis) and the 2011 AR.
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	According to the Government: The Somalia Chamber of Commerce and Industry (SCCI has been established in January 2007. and the Somali Federation of Trade Union (SOFETU), composed 16 of trade unions, has been recognized by the Government in 2010. These social partners have been involved in the reporting process after their creation, together with the Federation of Somali Trade Unions (FESTU) which was established in March 2010. FESTU is composed of five affiliates, and indicated the prospect of three more sectoral unions to join the Federation in a near future. One of its affiliates is the National Union of Somali Journalist (NUSOJ). The Somali Congress of Trade Union (SCTU) is a newly created union.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the SCCI. <b>2014 AR:</b> Observations by the SCCI. <b>2010 AR:</b> Observations by the SCCI.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the FESTU. Observations by the SCTU. <b>2014 AR:</b> Observations by the FESTU. <b>2013 AR:</b> Observations by the FESTU and NUSOJ. <b>2012 AR:</b> Observations by the FESTU.

<sup>104</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Somalia ratified in 1961 the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111). However, it has not yet ratified Equal Remuneration Convention, 1951 (No. 100) (C.100).</b>
		<b>Ratification intention</b>	<p><b>YES, since 2007, for C.100.</b></p> <p><b>2015 AR:</b> The Government indicated that there is no major challenge toward the ratification of C.100 and once its capacities are built, the Convention will be ratified. SCCI, FESTU and SCTU expressed their full support for the ratification of C.100.</p> <p><b>2014 AR:</b> The Government confirmed its intentions to ratify C. 100; however it reiterated that ILO technical assistance is required to move ahead with the ratification process. SCCI expressed its support to the position of the Government in ratifying C. 100.</p> <p>The FESTU expressed its support for the ratification of C.100 by Somalia, and indicated that due to lack of political will no progress had been made in the ratification process over the last year.</p> <p><b>2013 AR:</b> The Government reiterated its call for ILO technical support to speed up the ratification process for all unratified fundamental Conventions, including C.100. The FESTU and NUSOJ expressed their full support for the ratification of C.100, also indicating that no progress has been made over the last year.</p> <p><b>2012 AR:</b> According to the Government: In view of easing ratification, a comprehensive review of labour laws will be undertaken once the country is out of the current crisis. The FESTU strongly supported the ratification of C.100, and recognized the current obstacles preventing the realization of the principle and right in the country. Ratification of C.100 is one of the main priorities of FETSU, as they recognize discrimination of women in Somalia as being serious and widespread.</p> <p><b>2010 AR:</b> The Government indicated its intention to ratify ILO Core conventions but only when the country is in a peaceful process and that new laws can be adopted. The SCCI supported fully the ratification of all core Conventions by Somalia and shared the Government's opinion that the ratification of any convention was difficult because of the political instability of the country.</p>

			<p><b>2009 AR:</b> The Government confirmed its intention to ratify all the ILO fundamental Conventions, including C.100, as soon as possible and with ILO’s technical support.</p> <p><b>2008 AR:</b> According to the Government: It is yet to receive the ILO technical assistance, which was requested in 2005. Once this technical guidance is received, the Government will start the ratification process in consultation with employers’ and workers’ organizations. The Government intends to ratify the ILO Fundamental Conventions, but lacks technical capacities.</p> <p><b>2006 AR:</b> According to the Government: With a view to considering ratification of all ILO fundamental Conventions, the Government would appreciate receiving ILO technical assistance in organizing a national workshop on labour standards and the Declaration on Fundamental Principles and Rights at Work.</p>
<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> , articles 15 and 18.1 a) of the 2004 Somali Transitional Federal Charter (STFC) prohibit all forms of discrimination.	
	<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li><b>Policy:</b> <b>No, however:</b> <b>2006 AR:</b> The Government intended to adopt a national policy on the PR.</li> <li><b>Legislation:</b> <b>2014 AR:</b> The Government indicated that it is in the process of reviewing the labour law using the 8 fundamental Conventions as guidance. <b>2005 AR:</b> The PR is recognized under Part I.3 of the Labour Code, Law no. 65 of 1972 that prohibits all forms of discrimination. Article 70 of the same text provides that equal remuneration shall be given for equal value, efficiency and duration.</li> </ul>	
	<b>Basic legal provisions</b>	(i) The 2004 Somali Transitional Federal Charter (STFC) (articles 15 and 18.1 a); and (ii) The Labour Code, 1972 (Part I.3 and section 70).	
	<b>Grounds of discrimination</b>	C.111 is ratified.	
	<b>Judicial decisions</b>	<b>NIL.</b>	
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<b>NIL.</b>
	<b>Information/ Data collection and dissemination</b>	<b>NIL.</b>	

	<b>Prevention/monitoring, enforcement and sanction mechanisms</b>	<b>NIL.</b>	
	<b>Involvement of the social partners</b>	<b>2014 AR:</b> The FESTU reported that while tripartite dialogue is not established in the country, the dialogue between the social partners had improved over the last year. The FESTU added that it had been consulted in discussions concerning legal revisions of the Labour Code (1972).	
	<b>Promotional activities</b>	<b>Institutions to promote equality</b>	<b>2008 AR:</b> According to the Government: A Ministry of Women Affairs was created in 2005 with the intention of promoting gender equality.
		<b>Other activities</b>	<b>2015 AR:</b> SCCI indicated that it has participated in tripartite discussions related to the PR. FESTU and SCTU stated that they organize workers and run campaigning to advocate for ratification. <b>2008 AR:</b> A government official was trained on international labour standards and the Declaration Follow-up between May-June 2007 under the sponsorship of the ILO/Turin Centre.
	<b>Special initiatives/Progress</b>	<b>2012 AR:</b> The Government indicated that equal employment opportunity for all was encouraged.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> SCCI stated that lack of human resource and institutional capacity to do the work as well as time taking procedures involved pose challenges in the process of ratification. <b>2010 AR:</b> According to the SCCI: Peace and capacity challenges made it difficult to implement the PR in the country.

		<p><b>Workers' organizations</b></p>	<p><b>2015 AR:</b> FESTU and SCTU indicated that parliament has not yet debated on the C.100 and this affects the timing of the ratification process. Also, FESTU restated that limited institutional capacity of the Government hampers attempts to realize the PR and move ahead with the ratification of C.100</p> <p><b>2014 AR:</b> According to the FESTU: (i) The weak government structure and the lack of political will seriously hampers any attempts to realize the PR and move ahead with the ratification of C.100. (ii) The lack of social dialogue and low collective bargaining coverage are further challenges to ensuring equal remuneration. (iii) Employers' lack of capacity and understanding of C.100 are also obstructing the realization of the PR. (iv) Legal obstacles, as the Labour Code from 1972 is not in line with the provisions of C.100. (v) The overall instability in the country is further adding to the challenges.</p> <p><b>2013 AR:</b> According to the FESTU and NUSOJ: Discrimination is widespread in the country, particularly against women and minority clans. Although FESTU recognizes the seriousness of discrimination, and that it is widespread, the union is not able to prioritize the issue due to the current political and security situation in the country, as well as lack of capacity among the trade unions. The trade union movement in the country is not well established and struggles with serious security concerns.</p> <p><b>2012 AR:</b> The FESTU indicated challenges in the following areas: (i) lack of political will; (ii) lack of awareness campaign; and (iii) the political instability.</p>
	<p><b>According to the Government</b></p>		<p><b>2015 ARs:</b> The Government indicated that there are no major challenges and ratification of the Convention will happen soon.</p> <p><b>2013 AR:</b> According to the Government: Global and sustainable peaceful situation in the country is a challenge to the implementation of the fundamental principles and rights at work (FPRW) in Somalia.</p> <p><b>2012 AR:</b> According to the Government: The political crisis, lack of skilled workers and low capacity of social partners make it difficult to realize the PR.</p> <p><b>2009-2010 ARs:</b> The Government reiterated that peace and capacity challenges made it difficult to realize the PR in the country.</p> <p><b>2008 AR:</b> According to the Government: The Government is endeavouring to establish total peace in the country. As a result of a long period of instability, the Government has no record for reference purpose. There is also a lack of technical personnel and financial means. This also goes for the employer's and worker's organizations that need training and capacity building. As regards the PR in particular, the Government reiterates the same challenges raised under the 2006 AR.</p> <p><b>2007 AR:</b> The Government reported no change because of national difficult circumstances.</p> <p><b>2006 AR:</b> The main difficulties encountered in realizing the PR in Somalia were as follows: (i) lack of public awareness and support; (ii) lack of information and data; (iii) social values, cultural traditions; (iv) social and economic circumstances; (v) political situation; (vi) legal provisions; (vii) prevailing employment practices; (viii) lack of capacity of responsible government institutions; (ix) lack of capacity of employers' organizations; and (x) lack of capacity of workers' organizations.</p> <p>Moreover, there is a need to implement new national labour administration, new tripartite institutions and to ensure compliance of national laws and practice with the ILO Conventions following the national reconstruction process.</p>

<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> According to the Government: Somalia needs ILO technical assistance, mainly through a national tripartite workshop to finalize the ratification process of C.100 and tripartite training and capacity building on the FPRW. SCCI indicated the need for ILO support to build institutional capacity, develop database system, create educational level awareness and promote tripartite engagement.</p> <p>FESTU and SCTU expressed that ILO technical assistance is required to support the engagement of workers with the Government and Parliament, to understand better ways to campaign in trade unionism, to build capacity in trade union development and to sensitize relevant Government officials and employers' organisations to facilitate the ratification process of C.100.</p> <p><b>2014 AR:</b> The Government reiterated the need for ILO's technical assistance to facilitate the ratification of C.100. The FESTU stressed the need for an ILO Decent Work Country Programme (DWCP) in Somalia and for targeted trainings to sensitize the Government and employers' organizations on C.100.</p> <p><b>2013 AR:</b> The Government reiterated its request for ILO's assistance in: (i) tripartite capacity building on reporting issues; (ii) accelerating the ratification process of all unratified ILO fundamental Conventions, and; (iii) better implementing the FPRW in a peaceful context.</p> <p>The FESTU requested capacity building on labour rights and the organization of trade unions, as well as special training for workers' representatives on their role. FESTU also requested support from the ILO in increasing the international exposure in order to achieve recognition from the international community on the situation of workers' rights and the difficulties for trade unions to operate.</p> <p><b>2012 AR:</b> According to the Government: The ILO is needed for labour Laws reform and capacity building of tripartite partners. The FESTU requested the following technical support by the ILO: (i) build up the capacity building of government officials, employers and workers organizations; (ii) conduct awareness raising campaign and literacy; and (iii) training and sensitization workshops.</p> <p><b>2010 AR:</b> According to the Government: ILO's technical assistance will be needed to train the responsible government institutions and strengthen government's building capacity when peace time comes. However, the ILO should maintain its activities in the country despite the war. The SCCI supported the Government's views and requested ILO's support in capacity building.</p> <p><b>2009 AR:</b> The Government reiterated the requests for ILO technical cooperation made since the 2006 AR and expressed its interest in having an ILO Decent Work Country Programme developed in Somalia when national situation allows it.</p> <p><b>2008 AR:</b> The Government reiterated the request for ILO technical cooperation made under the 2006 AR. It further reiterated its request for urgent ILO assistance for the realization of a country assessment followed by a national tripartite workshop on labour standards and the Declaration Follow-up.</p>
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		<p><b>2006 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of this PR in Somalia, in particular in the following areas, in order of priority: (1) Capacity building of responsible government institutions; (2) Strengthening capacity of employers' organizations; (3) Strengthening capacity of workers' organizations; (4) Legal reform (labour law and other relevant legislation); (5) Strengthening data collection and capacity for statistical analysis; (6) Awareness-raising, legal literacy and advocacy; (7) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; (8) Developing labour market policies that promote equality of opportunity; (9) Training of other officials (police, judiciary, social workers, teachers); (10) Developing policies regarding equal remuneration; (11) Establishing or strengthening specialized institutional machinery; (12) Cooperation between institutions (e.g. various ministries and relevant commissions); and (13) Sharing of experiences across countries/regions.</p> <p>Furthermore, after 15 years of civil war and political turmoil, in 2004, a Transitional Federal Parliament and Transitional Federal Government were formed in Nairobi, Kenya. The Government has launched a programme with the view to establish a new labour administration, new employers' and workers' organizations, new tripartite institutions, revised labour laws and new labour courts.</p> <p>In this historical and instrumental process for national peace, stability and reconstruction, the ILO assistance is most needed to enable the Government to apply the Convention in law and practice, and report accordingly. In view of considering the ratification of all ILO Fundamental Labour Conventions, the Government requests the organization of a national workshop on these standards and the Declaration, with ILO technical assistance.</p>
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>Offer</b></p>	<p>ILO (including assistance in reporting under the 2006 AR).</p> <p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted the intentions expressed by most governments, including the Government of Somalia, to ratify or consider ratification of Conventions Nos. 100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification. Given that many countries have requested ILO technical cooperation in the ratification process (on the content of Conventions Nos. 100 and 111, labour law review, ratification process, etc.), the IDEAs requested the Office to strengthen its assistance in this regard (cf. paragraphs 66 and 67 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2006 AR:</b> The IDEAs encouraged the Government of Somalia that had provided its first report under the Declaration to follow up and had expressed its willingness to ratify C.87 and C.98 (cf. paragraph 34 of the 2006 Annual Review Introduction – ILO: GB.295/5).</p> <p><b>2005 AR:</b> The IDEAs looked forward to receiving a first reply from Somalia (and few other countries) that had never reported under the Declaration Annual Review (cf. paragraph 8 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2003-2004 ARs:</b> The IDEAs expressed concern that several countries, including Somalia, had never reported under the Declaration Annual review. They recommended that the Office initiate a dialogue with Somalia and other countries that had never reported under the Declaration Annual Review (cf. paragraph 9 of the 2003 Annual Review Introduction – ILO: GB.286/4 and paragraph 16 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p>





<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>105</sup>: SURINAME**

*THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)*

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	<b>YES</b> , except for the 2002 and 2011 Annual Reviews (ARs).
	<b>Involvement of employers' and workers organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of employers' organizations (the Vereniging Surinaams Bedrijfsleven (VSB); the Associatie van SurinaamseFabrikanten (ASFA) and workers' organizations (the Federation of Labour Unions in Suriname (RAVAKSUR); the Centrale van LandsdienarenOrganisatie (CLO); the Federatie van Agrariërs en Landarbeiders (FAL); the Progressieve Werknemers Organisatie (PWO); the Organisatie van SamenwerkendeAutonomeVakbonden (OSAV); the ProgressieveVkcentrale C-47 (C-47); and the AlgemeenVerbond Van. Vakverenigen in Suriname (AVVS) by means of consultations and communication of the Government's report.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the VSB. <b>2014 AR:</b> Observations by the VSB. <b>2013 AR:</b> Observations by the VSB.
	<b>Workers' organizations</b>	<b>2015 AR:</b> Observations by the PWO. Observations by the RAVAKSUR <b>2014 AR:</b> Observations by the RAVAKSUR. <b>2013 AR:</b> Observations by the C-47. <b>2012 AR:</b> Observations by the CLO. Observations by the RAVAKSUR. <b>2010 AR:</b> Observations by the AVVS. <b>2009 AR:</b> Observations by the RAVAKSUR. <b>2008 AR:</b> Observations by the CLO.

<sup>105</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<b>EFFORTS AND PROGRESS MADE IN REALIZING</b>	<b>Ratification</b>	<b>Ratification status</b>	Suriname has ratified neither the Equal Remuneration Convention, 1951 (No. 100) (C.100) nor the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111).
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<p><b>THE PRINCIPLE AND RIGHT</b></p>		<p><b>Ratification intention</b></p>	<p><b>YES, since 2002, for C.100 and C.111.</b></p> <p><b>2015 AR:</b> According to the Government: The Ministry of Labour has already submitted its proposal for ratification of the Conventions to the Council of Ministers for approval. The new Council of Ministers was installed in August 2015 for a new term of five years. After the approval by the Council, the documents will be submitted to the State Council for approval and ultimately to The National Assembly for the final government decision towards execution and completion of the national ratification process. In July 2015 the new setting of the National Assembly was also established for the term of five years. The ratification is part of the Decent Work Country Program Suriname 2014-2016.</p> <p>VSB and RAVAKSUR reiterated their support for the ratification of C.100 and C.111.</p> <p>PWO expressed its full support for the ratification of all unratified fundamental Conventions, including C.100 and C.111.</p> <p><b>2014 AR:</b> The Government reiterated its intention to ratify C.100 and C.111 but indicated that legal amendments would be needed before any further steps could be taken in the ratification process.</p> <p>VSB and RAVAKSUR reiterated their support for the ratification of C.100 and C.111.</p> <p>PWO expressed its full support for the ratification of all unratified fundamental Conventions, including C.100 and C.111.</p> <p><b>2013 AR:</b> According to the Government: Suriname reiterates its earlier position concerning the ratification of C.100 and C.111. However, the political instability of the past months is delaying the necessary legislative amendments for the ratifications.</p> <p>The VSB and C-47 strongly supported the ratification of all non-ratified core Conventions, including C.100 and C.111 and mentioned that national laws should be amended accordingly.</p> <p><b>2012 AR:</b> According to the Government: There is a strong consensus among the tripartite partners for the ratification of all non-ratified fundamental Conventions by Suriname, including C.100 and C.111.</p> <p>The CLO mentioned that there was no need for legislation or ratification of C.100 and C.111, as it has not identified discrimination as a problem in labour market activities in Suriname.</p> <p><b>2009 AR:</b> The Government indicated its support for the ratification of C.100 and C.111 and stated that a reform of the national laws was needed.</p> <p>The RAVAKSUR stated its support for the ratification of these instruments.</p> <p><b>2008 AR:</b> The Government indicated that once the labour law review on job classification and minimum wage is completed, the Council of Ministers would review the previous memos regarding the ratification of C.100 and C.111.</p> <p>The CLO expressed its support for the ratification of C.100.</p> <p><b>2003 AR:</b> According to the Government: Ratification of C.100 and C.111 were being envisaged.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.100 and C.111.</p>
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<p><b>Recognition of the principle and right (prospect(s), means of action, basic provisions)</b></p>	<p><b>Constitution</b></p>	<p>Under article 8, paragraph 2, of the 1987 Constitution of Suriname, discrimination on grounds of birth, sex, race, language, religion, education, political beliefs, economic position or any other status is prohibited. The Constitution (article 27, paragraph 1(c)) also provides for the right to work maximally by guaranteeing equal opportunity in the choice of profession and type of work and forbidding that access to any function or profession be prevented on grounds sex. Moreover, article 28 of the Constitution guarantees to all employees, irrespective of age, sex, race, nationality, religion or political opinion, the right to: (i) Remuneration for their work corresponding to quantity, type, quality and experience on the basis of equal pay for equal work; (ii) The performance of their task under humane conditions; (iii) Safe and healthy working conditions; and (iv) Sufficient rest and recreation.</p>
	<p><b>Policy, legislation and/or regulations</b></p>	<p><b>YES.</b></p> <p>The PR is recognized, but not defined in legislation. However, clauses in collective bargaining agreements provide for non-discrimination.</p> <ul style="list-style-type: none"> <li>• <b>Policy:</b></li> </ul> <p><b>2003 AR:</b> There is a national policy concerning the elimination of discrimination in respect of employment and occupation, which aimed at ensuring equality of life for everyone, through a continuing reform of the current legal system.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b></li> </ul> <p>Section 12, paragraph 1, of the General Decree A-11 (S.B. 1982, No. 53) provides for equal remuneration of workers, regardless of race.</p> <p><b>2015 AR:</b> According to the Government: The existence of a minimum wage system is considered by the Government of Suriname as a condition that can further the implementation of the Conventions. The Minimum Wage Act was adopted by the parliament (The National Assembly) along with two separate social security laws in August 2014. The Minimum Wage Act is already in force. The General Pension Act and the National Basic Care Insurance Act – the ‘two separate social security laws’ which are mentioned above – were also discussed and adopted in The National Assembly. They contain provisions to create equality between men and women with regard to pensions and benefits related to sickness and inability to work. These laws are also in force.</p> <p><b>2014 AR:</b> According to the VSB: A law on sexual harassment and strengthening the legislation on discrimination was amended in 2012. The law is pending at the Ministry of Labour and has not yet been formally adopted. Furthermore, a Decent Behaviour Code is under development by a special commission in which the social partners were invited.</p> <ul style="list-style-type: none"> <li>• <b>Regulations:</b> the General Decree A-11 of 1982.</li> </ul>
	<p><b>Basic legal provisions</b></p>	<p>(i) The Constitution, 1987 (articles 8, 27 and 28); (ii) the Labour Law; and (iii) the General Decree A-11 of 1982.</p>

		<b>Grounds of discrimination</b>	<b>2003 AR:</b> According to the Government: Discrimination in respect of employment and occupation is prohibited on grounds of race/colour, sex, religion, political opinion, national extraction and social origin.
		<b>Judicial decisions</b>	<b>NO.</b> According to the Government: The principle and right (PR) is recognized, but not defined in judicial decisions.
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<b>2015 AR:</b> According to the Government: Special attention is being paid to the situation of women, including the adoption of legislative provisions to create equality between men and women with regard to pensions and benefits related to sickness and inability to work, and civil society initiatives to improved women’s active political participation. <b>2014 AR:</b> According to the VSB: Special attention is directed towards contracted workers, as they are more vulnerable and at risk of discrimination. The tripartite partners are working together to ensure sufficient regulations to protect contracted workers against discrimination.
		<b>Information/ Data collection and dissemination</b>	<b>2003-2005 ARs:</b> According to the Government: There is no information and data on the PR. However, any ILO assistance in this respect would be appreciated.
	<b>Prevention/monitoring, enforcement and sanctions mechanisms</b>	<p><b>2008 AR:</b> According to the Government: Labour inspections are being undertaken and complaint procedures have also been made available. Moreover, a minimum wage system will be set up shortly with the aim to eradicate poverty and achieve equality of treatment between men and women.</p> <p><b>2003-2005 ARs:</b> According to the Government: The PR is implemented through the Gender Bureau of the Ministry of Internal Affairs’ activities. The Bureau is used as machinery to combat discrimination against women and perform monitoring and consultative tasks. The following committees also have a role to play: (i) Committee on the Elimination of Discrimination Against Women which deals with the rights of women workers; (ii) the Foundation “Stop Violence Against Women” and other women’s organizations; and (iii) the Organization for Haitians, which focuses on migrant workers.</p>	



	<p><b>Involvement of the social partners</b></p>	<p><b>2014 AR:</b> According to the Government: Tripartite bodies are operating and meeting regularly, such as the Labour Advisory Group and the Social Economic Advisory Group. However, the establishment of a minimum wage and issues related to equal remuneration has not come across as priorities by the social partners.</p> <p>According to the VSB: Discussions concerning revisions of a law on contract labour are currently ongoing, and the social partners have been invited to participate in a commission with the mission to develop a Decent Behaviour Code.</p> <p><b>2012 AR:</b> The CLO and the RAVAKSUR indicated that employers' and workers' organizations had participated, within the Labour Advice Group and the Social Economic Advice Group, in the implementation and realization of the principle and right in Suriname.</p> <p><b>2004 AR:</b> According to the Government: Employers' and workers' organizations have been involved in the development and implementation of governmental measures in relation to the elimination of discrimination in employment and occupation. In this respect, the representatives of the employers' and workers' organizations had the possibility of making suggestions within the Labour Advisory Board. In its policy-making, the Government kept these suggestions in mind and applied them, where necessary.</p> <p>Furthermore, activities sponsored by the social partners have been organized by women's employers and workers' organizations, and workers education activities have been conducted at the Suriname Labour College.</p>	
	<p><b>Promotional activities</b></p>	<p><b>Institutions to promote equality:</b></p>	<p>According to the Government: (i) The Gender Bureau of the Ministry of Home Affairs; (ii) the Commission on Gender Regulations (established in 2000) with the main objective of screening of the labour legislation on issues that concern discriminatory conditions against women; and (iii) the Labour Advisory Board.</p>

		<p><b>Other activities:</b></p>	<p><b>2015 AR:</b> According to the Government: In January 2015 the Decent Work Country Program Suriname 2014-2016 (DWCP-S) was adopted and signed by the social partners and the ILO. Important part of the DWCP-S is the ratification of the remaining core conventions and strengthening of the capacity to implement these standards by research with regard to the existing law and practice and recommendations with regard to amendments of law and practice and training of government staff and the social partners. During the election campaigns in 2015, a NGO initiative ‘Ook Zij’ was launched to empower women towards an improved and active political participation during the election in May 2015 as candidate parliamentarians. The result of this campaign is an increased candidacy of women and an increase in actual participation of women in the new setting of The National Assembly.</p> <p>VSB stated that it promoted corporate social responsibility and carried out workshops on standards.</p> <p><b>2014 AR:</b> The Government indicated that it was working towards the establishment of a minimum wage to ensure equal remuneration.</p> <p><b>2012 AR:</b> According to the Government: A national tripartite seminar on sexual harassment, equality of treatment and decent work was organized in March/April 2011.</p> <p><b>2010 AR:</b> According to the Government: A seminar on the elaboration OF THE Minimum Wage System was held in March 2009 in collaboration with the ILO. A Senior Officer of the Ministry of Labour participated for the first time in the March 2009 ILO/Turin Course on International Labour Standards during which issues concerning the Declaration and its follow-up had been addressed, including those relating to C.100 and C.111. In addition, a tripartite committee on the minimum wage has been set up in February 2009. Its conclusions have been submitted to the Minister of Labour, but no clear cut solution has been established.</p> <p>The AVVS indicated that awareness raising campaigns on the PR were organized across the country.</p> <p><b>2009 AR:</b> The Government stated that it had supported the awareness-raising campaign on sexual harassment organized by RAVAKSUR and NGOs.</p> <p>The RAVAKSUR confirmed that it had organized, together with NGOs, an awareness-raising campaign supported by the Government.</p> <p><b>2008 AR:</b> The Government indicated that a seminar would be organized in August 2007 in collaboration with the ILO Caribbean Office in Trinidad in order to assist Suriname in the elaboration of the Minimum Wage System.</p> <p>The CLO indicated that it had organized several workshops in order to train the workers in the agricultural sector.</p>
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	<b>Special initiatives/Progress</b>		<p><b>2014 AR:</b> According to the VSB: The development of a minimum wage system is in progress, currently at the Ministry of Labour. The proposal on the establishment of a minimum wage has passed the relevant tripartite bodies and is pending submission to Parliament.</p> <p><b>2006 AR:</b> The Government of Suriname reported that it was considering the possibility of setting up a system of minimum wages in collaboration with the social partners.</p>
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2014-2015 ARs:</b> According to the VSB: While there is no widespread discrimination in Suriname, it may occur in the informal sector where there is a lack of monitoring and labour inspection. The lack of a minimum wage system continues to pose difficulties in realizing the PR, and although discrimination is not high on the agenda of the tripartite partners, there is focus on the establishment of a minimum wage. Discrimination may also occur among contracted workers who do not enjoy the same labour protection. Another challenge is related to the regulation of working hours and equal remuneration.</p> <p><b>2013 AR:</b> According to the VSB: The major challenges to implement the PR in Suriname are: (i) lack of minimum wage system; (ii) lack of understanding of the PR; (iii) lack of capacity of the responsible government institutions; (iv) the informal economy, and; (iv) lack of capacity of labour inspection.</p>
		<b>Workers' organizations</b>	<p><b>2015 AR:</b> PWO stated that there is no widespread discrimination in Suriname, but the informal economy should be closely monitored in this regard.</p> <p><b>2014 AR:</b> According to the RAVAKSUR: There is no widespread discrimination in Suriname.</p> <p><b>2013 AR:</b> C-47 fully supported VSB's observations.</p> <p><b>2010 AR:</b> According to the AVVVS: The main challenge for Suriname is the lack of capacity of the employers' and workers' organisations, in particular for the Social Economic Advisory Group.</p> <p><b>2009 AR:</b> The RAVAKSUR indicated that recent changes in the law made it difficult for the implementation of C.100 and C.111 in the informal economy.</p>

	<p><b>According to the Government</b></p>	<p><b>2015 AR:</b> The Government indicated that more research has to be done in order to focus attention in an efficient way by means of programs and projects.</p> <p><b>2014 AR:</b> According to the Government: A national system collecting data on salaries need to be established before any further steps can be taken in the ratification process of C.100. Data on salaries are currently only compiled at company level and there is no coordination across the country. Without a national system in place, it is not possible to ensure equal remuneration. Challenges hampering the ratification of C.111 include lack of structures to monitor and enforce anti-discrimination laws. As reported under the 2012-2013 ARs, the lack of a minimum wage system continues to make it difficult to realize the PR in Suriname.</p> <p><b>2012-2013 ARs:</b> According to the Government: The lack of minimum wage system makes it difficult to realize the PR in Suriname.</p> <p><b>2010 AR:</b> According to the Government: The main challenge for Suriname is the need to implement a minimum wage policy and to determine a clear classification of the salaries in the country. Moreover, the understanding of the technical aspect of the C.100 (job evaluation mechanism) is another challenge for the Government.</p> <p><b>2009 AR:</b> According to the Government: The legislation needs revision to include sexual harassment as a component of discrimination, and equality in remuneration and job classification are essential for the implementation of C.100 and C.111.</p> <p><b>2008 AR:</b> According to the Government: Women are still not sufficiently aware about the issue of discrimination in respect of employment and remuneration. Comprehensive policies should therefore be elaborated in this respect.</p> <p><b>2003-2005 ARs:</b> According to the Government: The main difficulties encountered in relation to this PR are as follows: (1) social and economic circumstances (bureaucracy, small budget of the Ministry of Labour, Technological Development and Environment); (2) lack of information and data (there is insufficient data on women workers in rural areas and in the informal sector regarding wages and unemployment); (3) legal provisions (modernization of the labour laws); and (4) lack of social dialogue on this principle (within the Labour Advisory Board, the Government and social partners have not yet fully discussed this issue).</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2015 AR:</b> The Government reiterated the urgent request it made under the 2010 AR concerning the organization of a workshop on the Declaration’s follow-up in Suriname so as to help facilitate the ratification process of C.100 and C.111. It stated that Suriname has adopted and signed the Decent Work Country Program Suriname 2014-2016 with assistance and guidance of the ILO Decent Work Team and Office for the Caribbean. The tripartite DWCP-S Implementation Commission was installed in May 2015. This Commission is now in the process to formulate its Work Plan in cooperation with the relevant government departments and the social partners.</p> <p><b>2014 AR:</b> The VSB and the RAVAKSUR expressed that ILO technical cooperation should be directed towards the Government to strengthen its labour inspection capacity.</p> <p><b>2013 AR:</b> The Government reiterated the request it made under the 2010 AR concerning the organization of a workshop on the Declaration’s follow-up in Suriname so as to help facilitate the ratification process of C.100 and C.111.</p> <p>The Government together with the VSB and the C-47 indicated that Suriname needs ILO technical assistance in the following areas: (i) capacity building of responsible Government’s institutions; (ii) legal reform; (iii) developing policies regarding the minimum wage; (iii) implementation of the minimum wage and a job analysis mechanism, and; (iv) awareness-raising campaign on the PR.</p> <p><b>2010 AR:</b> The Government requests urgently the ILO to organize a workshop on the Declaration’s follow-up in Suriname so as to help facilitate the ratification process of C.100 and C.111.</p> <p><b>2010 AR:</b> According to the Government: There is a need for ILO’s technical cooperation in the following areas: (i) capacity building of responsible Government’s institutions; (ii) legal reform; (iii) developing policies regarding the minimum wage; (iii) implementation of the minimum wage and a job analysis mechanism; (iv) awareness-raising campaign.</p> <p>The AVVS stated that ILO’s technical cooperation is needed in the following areas: (i) capacity building of the employers’ and workers’ organizations; (ii) training of the responsible government institutions on the PR; (iii) poverty eradication with the help of ILO and other UN organisations; and (iv) awareness raising campaign on the PR.</p> <p><b>2009 AR:</b> The Government indicated that ILO’s technical cooperation was needed in the review of labour laws regarding discrimination.</p> <p>The RAVAKSUR stated that ILO’s technical cooperation was needed to develop structures that reflect the issues of discrimination in compliance with C.100 and C.111.</p> <p><b>2008 AR:</b> The Government requested ILO technical assistance for a country assessment on the Declaration Follow-up and in providing training for women in the workplace.</p> <p>The CLO stated that ILO support was needed for awareness-raising campaigns and examples of best practices.</p> <p><b>2003-2005 ARs:</b> According to the Government, ILO technical cooperation was needed to facilitate the realization of the principle of non-discrimination, in the following order of priority: (1) developing policies regarding equal remuneration; (2) developing labour market policies that promote equality of opportunity; and (3) assessment in collaboration with the ILO regarding the difficulties identified and their implications for realizing the PR.</p>
	<p><b>Offer</b></p>	<p><b>NIL.</b></p>



<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted the intentions expressed by most governments, including the Government of Suriname, to ratify or consider ratification of Conventions Nos. 100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification. Given that many countries have requested ILO technical cooperation in the ratification process (on the content of Conventions Nos. 100 and 111, labour law review, ratification process, etc.), the IDEAs requested the Office to strengthen its assistance in this regard (cf. paragraphs 66 and 67 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)**<sup>106</sup>: THAILAND

***THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)***

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000.
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	<b>YES</b> , according to Government: Involvement of the employers' (Employers' Confederation of Thailand – ECOT); the Employers' Confederation of Thai Trade and Industry (ECONTHAI); Confederation of Thai International Employers (CTIE)) and workers' organizations (the Confederation of Thai Labour (CTL); the National Congress of Thai Labour (NCTL); the Labour Congress of Thailand (LCT); the National Free Labour Union Congress (NFLUC); the State Enterprise Workers' Federation of Thailand (SEWFOT); the State Enterprises Workers' Relations Confederation (SERC); Thai Trade Union Congress (TTUC)); and workers' representatives of the Aeronautical Radio of Thailand Ltd. (AEROTHAI) through consultations and communication of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2015 AR:</b> Observations by the ECOT. <b>2012 AR:</b> Observations by the ECOT. <b>2010 AR:</b> Observations by the CTIE. <b>2008 AR:</b> Observations by the ECONTHAI. <b>2007 AR:</b> Observations by the ECOT. <b>2004 AR:</b> Observations by the ECONTHAI. <b>2003 AR:</b> Observations by the ECOT.

<sup>106</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



	<p><b>Workers' organizations</b></p>	<p><b>2014 AR:</b> Observations by the SEWFOT.  <b>2013 AR:</b> Observations by the AEROTHAI.  <b>2012 AR:</b> Observations by the NCTL.  Observations by the SERC.  Observations by the CTL.  Observations by the TTUC.  <b>2011 AR:</b> Observations by the NCTL.  <b>2010 AR:</b> Observations by the NCTL.  Observations by the NFLUC.  Observations by the SEWFOT.  <b>2009 AR:</b> Observations by the NCTL.  <b>2008 AR:</b> Observations by the NCTL.  <b>2007 AR:</b> Observations by the NCTL.  <b>2005 AR:</b> Observations by the NCTL.  <b>2002 AR:</b> Observations by the NCTL.  <b>2001 AR:</b> Observations by the World Confederation of Labour (WCL).</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Ratification</b></p>	<p><b>Ratification status</b></p>	<p><b>Thailand ratified in 1999 the Equal Remuneration Convention, 1951 (No. 100) (C.100). However, it has not yet ratified the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111).</b></p>

		<p><b>Ratification intention</b></p>	<p><b>2015 AR:</b> According to the Government: Although C.111 has not yet been ratified, Thailand has been complying with the provisions of C.111 in law and practice and ratification could be expected any time soon but some issues relevant to migrants remain to be clarified. ILO clarification would be needed on compliance doubts.</p> <p>ECOT supports the ratification of C.111 and indicated that ratification could be undertaken, provided that stability is achieved and Parliament re-established.</p> <p><b>2014 AR:</b> According to the Government: Any laws or practices of the government do not contain provisions contrary to the provisions of this Convention. Workers engage in employment for the same condition of work will receive legal protection without any discrimination.</p> <p>According to the SEWFOT: While the SEWFOT supports for the ratification of C.111, it is not a priority issue, as all the provisions of C.111 are already provided for by the national legislation and discrimination is not a widespread problem in Thailand.</p> <p><b>2013 AR:</b> The Government indicated that national laws and practice were not contrary to the provisions of this Convention. Workers engage in employment for the same condition of work will receive legal protection without any discrimination.</p> <p>The AEROTHAI expressed its support for the ratification of C.111.</p> <p><b>2012 AR:</b> The ECOT expressed their support for the ratification of C.111.</p> <p>The NCTL, the SERC, the CTL and the TTUC jointly indicated their support for the ratification of C.111.</p> <p><b>2011 AR:</b> According to the Government: The ILO must be involved in working on the preliminary research on the feasibility of C.111.</p> <p>According to the NCTL: The Government should support more research on C.111.</p>
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			<p><b>2010 AR:</b> According to the Government: A tripartite committee has been set up to study the feasibility of C.111 by Thailand. Furthermore, the establishment of a Decent Work Country Programme can accelerate the ratification process through ILO's expertise.</p> <p>The NFLUC and the SEWFOT expressed their full support for the ratification of C.111 by Thailand. However, they considered that Thailand need time to ratify this instrument because of the large numbers of unskilled workers.</p> <p><b>2009 AR:</b> The NCTL reiterated its support for the ratification of C.111 by Thailand.</p> <p><b>2008 AR:</b> The ECONTHAI and the NCTL indicated their support for the ratification of C.111 by Thailand.</p> <p><b>2007 AR:</b> The ECOT expressed its support for the ratification of C.111 by Thailand.</p> <p><b>2004 AR:</b> According to the Government: The major duties of the Department of Labour Protection and Welfare are to develop national labour standards in accordance with International Labour Standards (ILS), including the principle and right (PR).</p> <p><b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.111.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p>The Constitution of the Kingdom of Thailand B.E. 2550 (2007), Part II, article 30, provides that all persons are equal before the law and shall enjoy equal protection under the law, irrespective of their sex. Moreover, Part IV, article 80(1), of the same text provides that the State shall protect and develop children and youth, promote gender equality, and sustain families and communities.</p>



		<p><b>Policy/Legislation and/or Regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b> <p><b>2014 AR:</b> According to the Government: The Government implements a 4-year action plan (B.E. 2555-2558) on labour protection eliminating discrimination as follows: (i) promoting the knowledge and skills of labour protection laws, the treatment of young workers, women workers and the disabled as well as continuously support and regularly train to enhance knowledge and skills of the concerned personnel; (ii) promoting the knowledge of labour protection to the informal workers; (iii) conducting the promotional campaign on the rights of women workers; (iv) conducting the promotional campaign on the rights of working women in the economic sector and informal workers; (v) conducting network promotion and development project related to labour protection for workers in formal sector; (vi) conducting the cooperation with the concerned agencies related to labour protection of employed migrant workers in the business establishments; (vii) publishing brochures concerning rights and duties of employers and employees under the Labour Protection Act B.E. 2541 in Thai and foreign languages (English, Myanmar, Laos and Cambodia)</p> <p><b>2012 AR:</b> According to the Government: A Sub-Committee of the Elimination of Discrimination against Persons with Disabilities (SCEDPD) has been created regarding the elimination of discrimination in the following fields: (i) employment and vocation; (ii) education products and services; (iii) building facility and transportation; (iv) social services; (v) membership of association, club, group and access to policy, plan and program; (vi) access to information and technology; and (vii) violation of rights or inaccessibility to rights in general. In addition, the Merit Protection Commission (MSPC) has been established to deal with matters concerning the preservation of the merit system.</p> <p><b>2011 AR:</b> According to the Government: The Government is implementing a Four-Year Plan (B.E. 2551-2554) which includes measures and activities regarding the elimination of discrimination such as: (i) regular support and consistent training to broaden knowledge and skills of concerned personnel; (ii) campaign to promote the rights of women workers; (iii) project promotion and development of network protection; (iv) labour inspection’s monitoring in establishments hiring migrant workers; and publication of brochures on the rights and duties of employers and workers under the Labour Protection Act B.E. 2541 in Thai and foreign languages (English, Burmese, Laos and Cambodian). Furthermore, the National Commission on the Promotion and Coordination of Women’s Affairs has been restructured from the Thai National Commission on Women’s Affairs and Family Development. This Commission deals with policies, strategies and national plans on the promotion and coordination of women’s affairs and its decisions are submitted directly to the Cabinet for approval.</p> </li> </ul>
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			<p><b>2010 AR:</b> According to the Government: The Strategic Plan concerning Women’s Development under the Tenth National Economic and Social Development Plan (2007-2011) has been formulated and seeks to focus on changing attitudes of Thai Society towards gender equality, while continuing to build women’s capacity. This strategic plan is used as a guideline to promote gender equality and women’s advancement in all line ministries.</p> <ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p><b>2014 AR:</b> According to the Government: The Home Worker Protection Act B.E. 2553 (2012) Section 16 provides that the determination of remuneration for the home work, if the home work is of the same nature and quality and equal quantity the remuneration for the home worker to be determined by the hirer shall not be less than that stipulated by the labour protection law specified by the Committee on the Protection of Home Workers without discrimination in this regard.</p> <p><b>2013 AR:</b> According to the Government: The Home Worker Protection Act B.E. 2553 (2012) Section 16 provides that the determination of remuneration for the home work, if the home work is of the same nature and quality and equal quantity the remuneration for the home worker to be determined by the hirer shall not be less than that stipulated by the labour protection law specified by the Committee on the Protection of Home Workers without discrimination in this regard.</p> <p>(i) The Labour Protection Acts No.1 B.E. 2541 (1998) and Nos. 2 and 3 B.E. 2551 (2008) include human rights principles and intend to eliminate discrimination in respect of employment and occupation, including issues regarding migrant workers, and address the PR and (chapter 8, sections 199-200); (ii) The Promotion and Quality of Disabled Life Development Act B.E 25550 (2007) also contains provisions (sections 20 and 33 concerning disabled persons) in relation with C.111; (iii) A Bill on “Equal Opportunity Promotion” is undergoing the legislative procedure; (iv) A Bill on Gender Equality has been approved by the Cabinet and is being reviewed by the Legal Office; (v) The Civil Service Act, B.E.2551 (2008) section 42, deals with discrimination in the public service; and (vi) The Persons with Disabilities’ Empowerment Act B.E. 2550 (A.D. 2007).</p>
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			<ul style="list-style-type: none"> <li>• <b>Regulations</b></li> </ul> <p><b>2013 AR:</b> According to the Government: Ministerial Regulation No. 14 (B.E. 2555) (2012) requires compliance with Section 15 and Section 53 of the Labour Protection Act B.E. 2541 (1998) that provisions to encourage workers in the informal economy and home workers are protected without discrimination. In accordance with the human rights principles and intend to eliminate discrimination in respect of employment and occupation.</p> <p><b>2011 AR:</b> According the Government: The Cabinet approved the Draft Ministerial Regulation proposed by the Ministry of Labour to increase the quota of employees with disabilities in workplaces from 0.5 per cent (200:1) to 1 per cent (100:1). The Regulation will be effective within 180 days after the day it is announced in the Royal Gazette in order to allow employees, entrepreneurs and government agencies some time to adapt their workplace setting to become accessible for persons with disabilities. Moreover, on June 11<sup>th</sup>, 2009, the National Committee for Empowerment of Persons with Disabilities issued a Regulation concerning sign language interpretation services, which, inter alia, has entitled persons with hearing impairment to have access to sign language interpretation services in respect of job application and occupational coordination.</p>
		<b>Basic legal provisions</b>	(i) The 2007 Constitution (article 30); (ii) the Labour Protection Act B.E 2541 (1998), chapter 8, sections 199-200; (iii) the Disabled Act of 1991; (iv) The Labour Protection Acts No.1 B.E. 2541 (1998) and Nos. 2 and 3 B.E. 2551 (2008) include human rights principles and intend to eliminate discrimination in respect of employment and occupation, including issues regarding migrant workers, and address the PR and (chapter 8, sections 199-200); (v) The Promotion and Quality of Disabled Life Development Act B.E 25550 (2007) also contains provisions (sections 20 and 33 concerning disabled persons) in relation with C.111; (vi) A Bill on “Equal Opportunity Promotion” is undergoing the legislative procedure; (vii) A Bill on Gender Equality has been approved by the Cabinet and is being reviewed by the Legal Office; (viii) The Civil Service Act, B.E.2551 (2008) section 42, deals with discrimination in the public service; and (ix) The Persons with Disabilities’ Empowerment Act B.E. 2550 (A.D. 2007).
		<b>Grounds of discrimination</b>	<p><b>AR 2011:</b> According to the Government: The Gender Equality Bill that has been drafted since 2006 and has been approved by the Cabinet is currently being reviewed by the Legal Office. This Bill defines the word “discrimination” and aims at protecting those who suffer from inequality in employment, occupation, education, training and access to public facilities or services. It further establishes legal procedure, committee on hearing the complaint, as well as remedy fund.</p> <p><b>2003 AR:</b> According to the Government: Discrimination in respect of employment and occupation is prohibited on grounds of sex, religion, political opinion, national extraction and social origin.</p>
		<b>Judicial decisions</b>	<b>NIL.</b>

	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<p><b>2015 AR:</b> The Government indicated that attention has been paid to Migrant workers and Persons with disabilities.</p> <p><b>2014 AR:</b> The Government stated that it pays special attention to migrant workers.</p> <p><b>2013 AR:</b> According to the Government: The government has specific measures to ensure strict law enforcement, focusing through labour inspection concerning migrant workers in the garment and textile industries, fishery industry and fishing industry, including the labour protection of migrant workers based on the principles of equality and non-discrimination. Furthermore, young workers, women workers, disabled workers' and workers in the informal economy are being trained on discrimination issues and receiving special training to ease access to employment.</p> <p><b>2011 AR:</b> According to the Government: Since September 28<sup>th</sup> 2009, the Civil Servants' Regulations on Sexual Harassment have been enforced. The Government has initiated various activities such as E-training system and community distance learning centres to promote women's capacity to cope with the changing economy, in particular through their skill development. Furthermore, a special fund has been devoted to protect and empower people with disabilities and promoted related welfare services.</p> <p><b>2000-2003 ARs:</b> According to the Government: Women.</p>
		<b>Information/ Data collection and dissemination</b>	<b>NIL.</b>
	<b>Prevention/monitoring, enforcement and sanctions mechanisms</b>	<p><b>2012 AR:</b> According to the Government: The Ministry of Labour has a new policy to eliminate discrimination against illegal migrant workers by legalizing the present illegal migrants. The registration process allow these workers to work temporarily in Thailand and be treated equally under the Thai labour law without being discriminated.</p> <p><b>2011 AR:</b> According to the Government: The Government has issued the Labour Inspection Guidelines in order to prevent and protect workers operating in establishment involving occupational risks such as those hiring migrant workers or contract labourers, but also construction industries as well as some types of business and certain small establishments.</p> <p><b>2006 AR:</b> According to the Government: Employment services provided to the public by the Department of Employment, Ministry of Labour are free of charge and without discrimination. In providing such services, the department will consider job seekers' education level and experience to match the employers' requirements for job vacancies. However, the success of job placement depends on the satisfaction of employers upon the applicants' qualifications. As regard self-employment promotion, the services provided by the Department of Employment is on an equal basis, with the objective of enhancing employability and entrepreneurial skills.</p> <p><b>2003 AR:</b> According to the Government: The Labour Department plays a monitoring/inspection, enforcement and defence role for the realization of this PR.</p>	
<b>Involvement of the social partners</b>	<b>2003 AR:</b> According to Government: The employers' and workers' organizations have been involved in the establishment of a Remuneration Committee.		



	<p><b>Promotional activities</b></p>	<p><b>Institutions to promote equality</b></p>	<p><b>2015 AR:</b> According to the Government there is an initiative called the One Stop Service (OSS) in 86 Centres nationwide which conducts registration for migrant workers from neighbouring countries (Myanmar, Cambodia and Lao P.D.R.). The total number of registered migrant workers during 26 June to 15 September 2557 (2014 CE) was 1,035,254 persons (484,676 Cambodian, 442,685 Myanmar and 172,154 Laotian)</p> <p><b>2012 AR:</b> According to the Government: A Sub-Committee of the Elimination of Discrimination against Persons with Disabilities (SCEDPD) has been created. Its members are designated by the Prime Minister and the Disability Discrimination Petition Center. The SCEDPD main aim is to coordinate with concerned entities to eliminate discrimination in the following fields: (i) employment and vocation; (ii) education products and services; (iii) building facility and transportation; (iv) social services; (v) membership of association, club, group and access to policy, plan and program; (vi) access to information and technology; and (vii) violation of rights or inaccessibility to rights in general. In addition, the Merit Protection Commission (MSPC) has been established to deal with matters concerning the preservation of the merit system and submit proposal to the Civil Service Commission regarding appeals, complaints and appointment of qualified persons. Moreover, the National Office for Employment of Disabled People (NEP) has participated in the implementation of measures concerning employment for persons with disabilities.</p> <p><b>2010 AR:</b> According to the Government: The National Commission on the Promotion and Coordination of Women’s Affairs (NCPCWA) has been restructured from the Thai national Commission on Women’s Affairs and Family Development. This Committee is chaired by the Prime Minister, or Deputy prime Minister designated by the Prime Minister and has 15 subcommittees and 11 experts in the fields of economics, social sciences, culture, protection of women’s human rights, gender equality promotion, communication, healthcare and law. Policies, strategies and national plans on the promotion and coordination of women’s affairs considered by the NCPCWA are to be submitted directly to the Cabinet for approval.</p> <p><b>2009 AR:</b> According to the Government: A tripartite committee has been established to protect labour, equality and welfare of workers.</p>
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			<p><b>2007 AR:</b> According to the Government: The Ministry of Social Development and Human Security has taken the following steps:</p> <ul style="list-style-type: none"> <li>• Drafting the Bill of “Promoting Equal Opportunity” to eliminate discrimination against women. The Bill aims to protect not only women, but also all target groups specified in the Constitutional Law of Thailand B.E.2540 (1997), who suffer from inequality of opportunity at work, education, training and access to public facilities or services. Moreover, it defines the word “discrimination” and sets up a procedure of legal complaint, an authority of concerned agencies and discrimination remedy fund. As a result, active discrimination against women and other target groups will be eliminated and they will have equal opportunity to obtain the necessary development and live with human dignity. At the moment, the Draft Bill is undergoing the legislative procedure; and</li> <li>• Drafting the Women Development Plan in accordance with the 10<sup>th</sup> National Economic and Social Development Plan (2007-2011) to create social equality and eliminate all unequal treatment, including employment, for women. Consequently, women and men will be treated equally. For instance, women will be able to have access to available benefits and developments to the same extent as men and with the same human dignity. This Draft Plan is also undergoing the legislative procedure.</li> </ul> <p>The Ministry of Labour and Social Welfare and the Offices of Women’s Affairs and Family Development are the institutions responsible for the promotion of the PR in the country.</p>
		<p><b>Other activities:</b></p>	<p><b>2011 AR:</b> According to the Government: Various government trainings have been conducted for officials, civil society, and specific target groups on equal rights, gender and integrating gender into their work. In addition, the promotion of employment for people in all sectors and vulnerable groups, including woman and disabled, has been developed.</p> <p><b>2010 AR:</b> According to the Government: The Office of Women’s Affairs and Family Development of the Ministry of Social development and Human Security has taken the following steps: (i) 2009 Restructuring of the National Commission to promote gender equality; (ii) 2007 and 2008: Formulation of Strategic Plans for Women’s Development under the Tenth National Economic and Social development Plan (2007-2011). These plans focus on changing attitudes of Thai society towards gender equality, while continuing to strengthen women’s capacity so as to enable them to develop their full potentials as actors and beneficiaries of national development. They aim at mobilize all stakeholders in: (i) achieving better respect for human integrity and gender equality among children, youth, women and men; (ii) increasing the number of women in administration and politics; (iii) improving women’s participation in health policy formulation and promoting access to quality health care and reproductive health services; (iv) decreasing significantly the cases of violence against women, while improving access to resources and services when such cases occur; and (v) creating enabling conditions for improved participation of women in the economy and benefit sharing.</p> <p>The NCTL mentioned that it has provided lawyers for workers who are discriminated in their working places, and had brought cases to labour courts.</p>



			<p><b>2009 AR:</b> According to the Government: (i) companies are encouraged to employ preferentially individuals with special needs; and (ii) migrant workers are encouraged to develop their skills using the education system that is free and reflects their labour needs.</p> <p><b>2008 AR:</b> According to the NCTL: It has launched a campaign to claim an equal remuneration of both wages and allowances between workers employed in contracting enterprises and workers operating in sub-contracting enterprises. It also indicates that several activities were organized in each of the 76 provinces of the country and that labour inspections are carried out on a regular basis.</p> <p><b>2007 AR:</b> According to the ECOT: Some training courses have been developed on the PR in Thailand.</p> <p><b>2003-2005 ARs:</b> According to the Government: The Ministry of Labour and Social Welfare undertakes labour education programmes to create awareness among employers and to enforce the legal provisions in relation to the PR. The Offices of Women's Affairs and Family Development is responsible of the gender aspects of discrimination in employment and occupation.</p> <p>According to the ECOT: The PR applies to all categories of workers, including migrant workers. The Commission on Women's Affairs (NCWA) is responsible for promoting gender equality.</p> <p><b>2002 AR:</b> According to the Government: The Department of Labour Protection and Welfare (DLPW) aims at promoting equal treatment between men and women in the field of remuneration and strives to empower women.</p> <p><b>2001 AR:</b> According to Government: The Ministry of Labour and Social Welfare had a range of programmes and services as regards promoting employment, labour inspection and welfare of women workers.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: The Department of Skill Development of the Ministry of Labour, in collaboration with the East Asian Department of the Ministry of Foreign Affairs, recently launched a Project on Skill Development and Occupation for migrant workers from Myanmar, Cambodia and Lao P.D.R. with a total budget of 15 million Baht (about 460,000 US dollars). The objective was to train migrant workers in Thai establishments located in border areas so as to enhance the competitiveness of the Thai entrepreneurs involved and to prepare for the free flow of labour in the future. As far as Persons with Disabilities are concerned, the Department also took several measures and practices to promote the elimination of discrimination in respect of employment and occupation for persons with disabilities as follows: (i) setting up of a skill training manual for persons with disabilities to use in training centres of the Department nationwide. The trainers involved in teaching the target group also participated in the pilot training course to learn how to train them with a view to aiming to expand the capacity to various types of people with disabilities to receive training, (ii) establishment of a Division of Labour and Entrepreneur Potential Development to handle promotion of and skill development for women, persons with disabilities, the elderly and young people, and (iii) organization of a National Skill Contest for persons with disabilities to take place every two years so that they can participate in the International Abilitylympics every four years. This could give the people involved a chance to upgrade their vocational skills and to demonstrate their ability to the public, which should enhance their employment opportunities.</p> <p><b>2014 AR:</b> The Government mentioned that it has organized meetings for the officers of the Operation Center for Providing Assistance to Women and Child Labour in every province to determine the operational guidelines for the prevention and combating discrimination against women, among others.</p> <p><b>2011 AR:</b> According to the Government: The line ministries and the Office of Women’s Affairs and Family Development (OWAFD) have combined their effort to strengthen for the capacity building of their officials in terms of knowledge on reproductive gender, women’s rights and reproductive health so as to prohibit and eliminate unfair treatment. Moreover, the Fund for the Empowerment of Persons With Disabilities has been established to serve as a fund for expenditure on protection and empowerment of persons with disabilities and promotion of welfare services. Self-employed persons with disabilities or those who would like to become an entrepreneur are entitled to an interest-free loan of up to 40,000 baht (i.e. US\$1,310 as of 15/01/2011)/person with a five-year payback period. In 2010, the total budget of 185,570,562 baht (i.e. US\$6,086,400 as of 15/01/2011) was allocated from the Fund to support 6,722 disabled clients.</p> <p><b>2010 AR:</b> According to the Government: Since 2004, focal points are being established for gender equality together with monitoring mechanisms to measure progress in implementation and capacity building for gender mainstreaming. In this regard, Chiefs for Gender Equality Promotion (CGEP) at the ministerial level and Gender Focal Points (GFPs) at the departmental level have been created in all line ministries in Thailand, in accordance with a Cabinet Resolution of 31<sup>st</sup> July 2009. At present, 131 CGEPs and GFPs have been appointed to promote gender equality in the public sector by means of developing a relevant master plan, while the Office for Women’s Affairs and Family Development (OWAFD) of the Ministry of Social development and Human Security functions as the focal point to promote coordination within the implementation of the Plan. Success in the in gender equality has been achieved by means of promoting sound knowledge for CGEPs and GFPs, especially in respect of gender analysis, gender integration, collection of aggregated data on sex, and promoting women’s participation and new issues such as gender budgeting.</p> <p><b>2005 AR:</b> According to the Government: The adoption of the practical guidelines on the Prevention and Management of AIDS in the establishments in 2004.</p> <p><b>2004 AR:</b> According to the Government: The introduction of “Advisers for Woman Employees at the Workplace” in the Thai Labour Standard (Voluntary Measure) in April 2003.</p>
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<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2012 AR:</b> According to the ECOT: Ratification of C.111 has been off the table during a period of time, and there are currently no ongoing discussions on a national level about the ratification.</p> <p><b>2010 AR:</b> The CTIE mentioned the lack of skilled and educated workers in the country.</p> <p><b>2008 AR:</b> The ECONTHAI indicated that discrimination can only be observed in small enterprises.</p> <p><b>2007 AR:</b> According to the ECOT: There is a lack of data on the PR.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2013 AR:</b> According to the AEROTHAI: In terms of discrimination, migrant workers are the worst off in terms of discrimination and equal remuneration for work of equal value in Thailand. They are also subject to police repression, including confiscation of their salaries. Moreover, private sector workers are generally working under less favourable conditions as compared to those in the public sector.</p> <p><b>2012 AR:</b> The NCTL, the SERC, the CTL and the TTUC jointly expressed a lack of adequate knowledge about the content of the C.111, hampering them to move ahead with the ratification process.</p> <p><b>2011 AR:</b> According to the NCTL: The problem of migrant workers should be solved, especially as regards the issues of unfair treatment and discrimination. Also, further research needs to be carried out on gender equality, sexual harassment, disability, and aging society, with government support under budget year 2011.</p> <p><b>2010 AR:</b> The NFLUC and the SEWFOT also mentioned the lack of skilled and educated workers in the country.</p> <p>According to the NCTL: More cases of discrimination are noted at the workplace, especially on sexual harassment, and there are no official experts from the Government to handle the cases.</p> <p><b>2008 AR:</b> The NCTL indicated that the issue of discrimination in employment and occupation is not a serious matter in Thailand. Some cases can be found in small enterprises (less than 50 workers) or in family enterprises.</p> <p><b>2007 AR:</b> According to the NCTL: Sex discrimination still exists as far as retirement age and promotion are concerned. Furthermore, sexual harassment is still present in the private and public sectors.</p> <p><b>2002 AR:</b> According to the NCTL: Gender inequalities persist in the labour market.</p> <p><b>2001 AR:</b> According to the WCL: (i) discriminatory barriers; (ii) large proportion of less educated; (iii) large concentration in lower qualified and under-paid jobs; (iv) lack of legal protection; (v) outsourcing as a means to avoid the provisions of minimum wage; (vi) absence of sanctions in case of violation of the right to maternity leave.</p>



	<p><b>According to the Government</b></p>	<p><b>2014 AR:</b> According to the Government, a challenge is to change the attitude of concerned personnel in order to raise awareness on the PR.</p> <p><b>2013 AR:</b> According to the Government: Changing attitudes and raising awareness on the PR is a challenge to the Government.</p> <p><b>2011 AR:</b> According to the Government: Lack of public awareness is main challenge to realizing the PR in the country, in particular with attitudes and stereotype towards women. Even though, women are more welcome and face less difficulty in employment and occupation, the number of women in high position is still low. Therefore, Thailand has made a serious attempt to change attitude and promote gender equality such as the objectives of the Tenth Women’s Development Plan. Charity based attitudes are still experienced in some sectors in Thailand, which is reflected in some policies and measures in respect of employment and occupation for persons with disabilities. Thus, campaigns to raise public awareness should be conducted to promote active participation of persons with disabilities and facilitate paradigm shift towards a rights-based approach.</p> <p><b>2010 AR:</b> According to the Government: The challenge for the Government of Thailand is a better understanding of the PR and the interpretation of the different articles of the C.111.</p> <p><b>2004 AR:</b> According to the Government: (i) lack of public awareness and/or support; (ii) lack of information and data; (iii) social values, cultural traditions; (iv) social and economic circumstances; (v) political situation; (vi) legal provisions; (vii) prevailing employment practices; (viii) lack of capacity of responsible government institutions; (ix) lack of capacity of employers' and workers' organizations; and (x) lack of social dialogue on this PR.</p> <p><b>2002 AR:</b> In response to the NCTL's observations, the Government indicated that national laws and regulations should be endorsed in order to achieve equality in employment and occupation in accordance with the Constitution of 1997 and the 1998 Labour Relations Act.</p>
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<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2014 AR:</b> The Government expressed need for operational guidelines for equal employment opportunities, and for equality among children, youth, women and men.</p> <p><b>2013 AR:</b> The Government: requested ILO technical support in preparing operational guidelines on equal employment opportunities and on equality among children, youth, women and men.</p> <p><b>2012 AR:</b> The ECOT expressed the need for sensitization on the PR and sharing of experiences across countries/regions to better foresee the impact of the ratification of C.111 might have on the Thai labour market and labour relations.</p> <p>The NCTL, the SERC, the CTL and the TTUC jointly requested ILO technical cooperation in: (i) strengthening the capacity building of the tripartite partners; and (ii) organize workshops to help tripartite partners to better understand the principle and right and its ratification process.</p> <p><b>2011 AR:</b> According to the Government: ILO assistance is needed in: (i) Conducting research on the implementation of C.111 including the analysis on the strength and weakness of the country; and (ii) Providing technical support in the area of gender integration into labour policies, plans and practices.</p> <p><b>2010 AR:</b> The Government indicated that needs for technical cooperation to facilitate the realization of the PR in Thailand exist in the following area: (i) strengthening capacity of workers' organizations; (ii) strengthening tripartite social dialogue; (iii) legal reform (labour law and other relevant legislation); (iv) comparative study of Thailand's law and the ILS to know what kind of changes to be made; (v) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; and (vi) training of trainers.</p> <p>The NCTL requested ILO training on sexual harassment issues.</p> <p>According to the NFLUC and the SEWFOT: ILO's technical assistance is needed to help the country to organize the training of unskilled workers and increase economic efficiency.</p> <p><b>2009 AR:</b> The Government indicated that the ILO's cooperation was needed on reporting procedures and obligations.</p> <p><b>2008 AR:</b> The NCTL requested ILO technical support for the elaboration of training and awareness-raising programmes on the PR for workers.</p> <p><b>2007 AR:</b> According to the ECOT: ILO technical and material support is needed for training on non-discrimination at the workplace.</p> <p><b>2005 AR:</b> According to the Government: A need for ILO technical cooperation to facilitate the realization of the PR in Thailand exists in the following priority areas: (1) sharing of experiences across countries/regions; (2) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the principle; awareness-raising, legal literacy and advocacy; strengthening data collection and capacity for statistical collection and analysis; legal reform (labour law and other relevant legislation); capacity building of responsible government institutions; training of other officials (e.g. police, judiciary, social workers, teachers); strengthening capacity of employers' organizations; strengthening capacity of workers' organizations; developing labour market policies that promote equality of opportunity; developing policies regarding equal remuneration; establishing or strengthening specialized institutional machinery; coordination between institutions (e.g. various ministries and relevant commissions).</p> <p>According to the NCTL: ILO cooperation would be needed in order to strengthen the capacity of workers' organizations at both enterprise and national levels.</p> <p><b>2003 AR:</b> According to the ECOT: Technical cooperation is needed, especially in strengthening capacity of employers' organizations and developing fair labour market policies.</p>
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	<b>Offer</b>	ILO (labour law review).
<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted the intentions expressed by most governments, including the Government of Thailand, to ratify or consider ratification of Conventions Nos. 100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification. Given that many countries have requested ILO technical cooperation in the ratification process (on the content of Conventions Nos. 100 and 111, labour law review, ratification process, etc.), the IDEAs requested the Office to strengthen its assistance in this regard (cf. paragraphs 66 and 67 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs complimented Thailand for its efforts in terms of research, advocacy activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms, and/or ratification, but in having (along with other four governments) given special attention to specific categories of workers or enterprises and encouraged the country to enhance its efforts in reducing and eliminating this type of discrimination (cf. paragraphs 13 and 270 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs noted that despite receiving very late reports or observations, it had been possible to compile them so as to allow Thailand to be taken into account in this annual review. They nevertheless urged the country to send reports within the prescribed time frame, so as to ensure the smooth running of the annual review process (cf. paragraph 21 of the 2008 Annual Review Introduction – ILO: GB.289/4).</p> <p><b>2001 AR:</b> The IDEAs appreciated efforts that Thailand made, compared to the previous year’s review, with regard to the provision of more factual information, particularly in respect to sex-based discrimination (cf. paragraph 114 of the 2001 Annual Review Introduction – ILO: GB.280/3/1).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>	



**INTERNATIONAL LABOUR  
CONFERENCE RESOLUTION**

**2013 AR:** In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.

**2011 AR:** Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_143164.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf).



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2004-2015)**<sup>107</sup> : **TIMOR-LESTE**

*THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)*

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	<b>YES</b> , since the 2006 Annual Review (AR), except under the 2007 AR. Timor-Leste joined the ILO in 2003.
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of Chamber of Commerce and Industry of Timor-Leste (CCI-TL), the Fórum dos Empresários/Câmara do Comércio de Timor-Leste (Employer's Forum/Chamber of Commerce of Timor-Leste, Employer's Organization – resulted of the fusion of the main organizations in the country), Timor-Leste Trade Unions Confederation (TLTUC) (Konfederasaun Sindikatu Timor-Leste (KSTL) the Trade Union of Timor-Leste (TUTL) by means of consultation and communication of a copy of Government's reports.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2014 AR:</b> Observations made by the CCI-TL. <b>2013 AR:</b> Observations made by the CCI-TL.
	<b>Workers' organizations</b>	<b>2014 AR:</b> Observations by the TLTUC. <b>2013 AR:</b> Observations by the TUTL.

<sup>107</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Timor-Leste has ratified neither the Equal Remuneration Convention, 1951 (No. 100) (C.100) nor the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111).</b> However, It ratified the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in December 2002.
		<b>Ratification intention</b>	<b>YES, in process since 2008 for both C.100 and C.111.</b>  <b>2014-2015 ARs:</b> According to the Government: Ratification of C.100 and C.111 is close to finalization and is expected in the course of 2014-2015; however the political debate will determine the timeframe.  CCI-TL reiterated its support for the ratification of C.100 and C.111, and stated that the Conventions were already embedded in the Constitution and being reviewed by the Council of Ministers for possible ratification before end of 2013.  TLTUC also reiterated its strong supports to the ratification of C.100 and C.111 and indicated that, according to the tripartite understanding, the instruments of ratification should have initially been presented to the ILO Conference in June 2013. TLTUC further confirmed that C.100 and C. 111 will be ratified soon.  <b>2013 AR:</b> The CCI-TL expressed its support toward ratification of C.100 and C.111 and indicated that there is a joint tripartite commitment for the ratification of all ILO core Conventions.  The TUTL expressed its full support for the ratification of all core Conventions including C.100 and C.111, and emphasized that the existing protective national legislation enforces the PR in the country. +  <b>2012 AR:</b> According to the Government: ILO technical support would be needed to develop the ratification process for C.100 and C.111.  <b>2011 AR:</b> The Government stated that it would pursue the initialization of the process for ratification of C.100 and C.111. However, it is likely to need the ILO technical support in this process.  <b>2010 AR:</b> The Government reiterated that it had developed a Plan for the ratification of the ILO fundamental Conventions, including C.100 and C.111.  <b>2008-2009 ARs:</b> According to the Government: ILO technical assistance is needed in order to understand better international labour standards (ILS) and the Declaration and a labour law review before the process of ratification of C.100 and C.111 can be initiated in Timor-Leste. However, a plan for ratification of the Core ILO Convention within the next 5 years has been developed.  <b>2006 AR:</b> There are no indications in the Government’s report.



	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES.</b></p> <p><b>2014 AR:</b> According to the Government: The national Constitution (amended 2012), Part II, includes provisions on discrimination in section 16 (Universality and Equality), section 17 (Equality Between Women and Men), section 20 (Old Age), section 21 (Disabled Citizen), and section 45 (Freedom of Conscience, Religion and Worship). TLTUC affirmed that the Constitution protects fundamental rights of work as stipulated in its Article 50.</p> <p><b>2008-2009 ARs:</b> The Government indicated the Part II of its Constitution entitled “Fundamental Rights, Duties, Freedoms and Guarantees” including the principle of non-discrimination in respect of employment and occupation. In its article 16, paragraphs 1 and 2, is foreseen: <i>“1. All citizens are equal before the law, shall exercise the same rights and shall be subject to the same duties. 2. No one shall be discriminated against on grounds of colour, race, marital status, gender, ethnical origin, language, social or economic status, political or ideological convictions, religion, education and physical or mental condition.”</i> Article 17 of the Timorese Constitution foresees also that <i>“Women and men shall have the same rights and duties in all areas of family, political, economic, social and cultural life.”</i></p>
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		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy:</b> <p><b>2015 AR:</b> According to the Government: Vocational Training and Employment Policy includes provisions concerning non-discrimination, in giving opportunity to women and to people with disabilities to apply for training and employment in some sectors and provide them tools to create their own companies.</p> <p><b>2006 AR:</b> According to the Government: The national policy concerning the principle and right (PR) in Timor-Leste is set out under section 2 of the Labour Code.</p> </li> <li>• <b>Legislation:</b> <p><b>2014 AR:</b> The Government reported that the Labour Code (Law No. 4/2012) had been adopted. Chapter II on Fundamental Principles include provisions on discrimination in section 6 (The equality principle) and section 7 (Harassment). CCI-TL stated that the existing legal framework already covers the issues of the Convention and that there were no changes in laws since last year’s report. TLTUC reported that the labour law was reformed last year and the reform was based on ILO Conventions.</p> <p><b>2013 AR:</b> The CCI-TL indicated that two legal revisions had taken place in 2012; a revised Minimum Wage Law and a revised Social Protection law that would ensure equal remuneration and the elimination of discrimination.</p> <p><b>2012 AR:</b> According to the Government: The draft Labour Code approved by the Government in 2010, is currently before Parliament for a final approval expected in 2012, together with its promulgation by the President of the Republic.</p> <p><b>2011 AR:</b> According to the Government: The draft Labour Code approved by the Government in 2010, contains the main principles and rights foreseen in the C.100 and C.111 and promotes a non-discriminative attitude in respect of employment and occupation. Moreover, following the approval of the Decree-Law 19/2010 that established the General Labour Inspectorate, the Government has reaffirmed its philosophy by introducing the need of gender balance in recruitment of government officials.</p> </li> </ul>
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			<p><b>2009 AR:</b> According to the Government: The Labour Code (Regulation No. 2002/5), section 2, prohibits discrimination in employment and occupation defining that “<i>Discrimination means any distinction, exclusion or preference based on race, colour, national extraction, sex, sexual orientation, maternity, family responsibility, religion, political opinion, social origin, health status including HIV and AIDS, disability, language or age which directly or indirectly nullifies or hinders equality of opportunity or treatment in access to training, access to jobs and terms and conditions of employment, but does not include specific requirements based on the inherent nature of the particular job;</i>”. Section 9.4 states “<i>Discrimination in employment and occupation, in particular as regards equal Remuneration between women and men for work of equal value is hereby prohibited.</i>” However, there is no definition of “equal treatment” in the field of remuneration. Section 11.5 provides that “<i>Discrimination against workers carrying or perceived to be carrying the HIV or affected by AIDS shall be prohibited.</i>” Section 11.18 prescribes that “<i>Special measures may be taken by the Department to overcome discriminatory practices and perceptions that hinder the equal opportunities and treatment in access to training, access to jobs and terms and conditions of employment of any of the above categories of workers. Such measures shall be deemed not to be discriminatory.</i>” Moreover, the Decree-Law 29/2008 on the Employment and Vocational Training Fund (FEFOP) provides for the mandatory gender balance for the composition of the Administrative Council of FEFOP (section 6 (3)), and prohibits any discrimination on the grounds of <i>color, race, marital status gender, national extraction, language, social position or economic capacity, ideological or political opinion, religion and physical or mental condition.</i> And the Decree-Law 08/2008 on the Development of the Labour Force Institute (INDMO) provides for the mandatory gender balance of the composition of the Executive Commission of INDMO (section 4(2)).</p>
		<p><b>Basic legal provisions</b></p>	<p>The Labour Code, (Law No. 4/2012) (sections 6 and 7).</p>
		<p><b>Grounds of discrimination</b></p>	<p><b>2006 AR:</b> According to the Government: Discrimination in respect of employment and occupation is prohibited on grounds of race/colour, sex, religion, political opinion, national extraction, social origin, and others (sexual orientation, maternity, family responsibility, health status – HIV/AIDS and disabled persons – language and age).</p> <p>Moreover, under section 2 of the Labour Code, discrimination means any distinction, exclusion or preference based on race, colour, national extraction, sex, sexual orientation, maternity, family responsibility, religion, political opinion, social origin, health status including HIV/AIDS, disability, language or age which directly or indirectly nullifies or hinders equality of opportunity or treatment in access to training, access to jobs and terms and conditions of employment, but does not include specific requirements based on the inherent nature of the particular job.</p>
		<p><b>Judicial decisions</b></p>	<p><b>NIL.</b></p>

	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<p><b>2008-2009 ARs:</b> Timor-Leste has two ethnic groups known as Lorosa'e (people from the East) and Loromonu (people from the West). The military crisis of 2006 was started due to accusations of discriminative practices against Loromonu people within the army forces. Therefore, since then a special attention has been taken to balance the implementation of programs to benefit both ethnics with job opportunities and participation in workshops and Seminars.</p> <p><b>2006 AR:</b> According to the Government: Specific measures have been implemented or are envisaged to respect, promote and realize this principle and right in Timor-Leste, for the following category of workers: (i) workers in establishments of a certain size; (ii) workers in particular types of employment (for example, part-time, temporary); (iii) agricultural workers; (iv) workers in EPZs; and (v) migrant workers. Further similar measures are envisaged.</p> <p>Correcting the information reported in 2006, the Democratic Republic of Timor-Leste doesn't have any export processing zone (EPZ). Therefore, such information shall not be considered.</p>
		<b>Information/ Data collection and dissemination</b>	<p><b>2015 AR:</b> According to the Government: ILO-TESP is technically assisting the Labour Market Department of the Secretary of State for Vocational Training and Employment Policy (SEPFOP) to prepare a complete database on labour force.</p> <p><b>2013 AR:</b> The Government provided statistical information concerning the total labour force and the number of employed and unemployed workers for the years 2010, 2011 and 2012.</p> <p><b>2006 AR:</b> According to the Government: The Government collects statistics and information on a regular basis relevant to the elimination of discrimination in employment and occupation. Data on remuneration for women and men workers are gathered by labour inspectors from the Ministry of Labour.</p>
	<b>Prevention/monitoring, enforcement and sanction mechanisms</b>	<p><b>2015 AR:</b> According to the Government: SEPFOP is implementing and developing training and awareness actions with the local companies about the legislation and its enforcement. In particular, Labour Inspectorate has been conducting mini-workshops and inspections to workplaces (together with the Immigration Department) to verify labour contracts, working conditions, irregular workers and apply monetary sanctions to employers that do not fulfill with the rules.</p> <p><b>2013 AR:</b> The Government indicated that the Statute of the General Labour Inspection had been established through the Labour Law No.5/2012.</p> <p><b>2011 AR:</b> According to the Government: Decree-Law 19/2010 has established the General Labour Inspectorate that has the mandate to monitor and enforce the application of the Labour Law.</p> <p><b>2006 AR:</b> According to the Government: A National Labour Board has been established. Specific measures are envisaged to respect, promote and realize the PR.</p> <p>The Government has yet to find cases where the principle and right (PR) has not been respected.</p>	

	<p><b>Involvement of the social partners</b></p>	<p><b>YES.</b></p> <p><b>2014 AR:</b> According to the Government: Social dialogue on the ratification of C.100 and C.111 has taken place and there is a tripartite collaboration to end discrimination.</p> <p>CCI-TL underscored that the Government has always involved Employers and Workers' Organizations to solve issues and concerns that require tripartite consultation as well as to create awareness.</p> <p><b>2013 AR:</b> The Government indicated that the implementation of Labour Law No.5/2012 is being carried out through social dialogue in cooperation with ILO.</p> <p>The CCI-TL indicated that tripartite activities had been undertaken to promote the ratification of C.100 and C.111.</p> <p><b>2006 AR:</b> According to the Government: There is a tripartite examination of issues. Employers' and workers' organizations have been involved in the development and implementation of government measures through their participation in the National Labour Board, which is the responsible Government institution for <i>inter alia</i>, policy advice and dispute settlement.</p>	
	<p><b>Promotional activities</b></p>	<p><b>Institutions to promote equality</b></p>	<p><b>2015 AR:</b> According to the Government: Specific local NGO's related to people with disabilities have been promoting their right to training and employment with the Government through their participation in seminars and workshops.</p> <p><b>2013 AR:</b> According the CCI-TL: The Secretariat of State for Equality Promotion have undertaken an active role in realizing the PR. This institution serves as a proof of the Government's commitment to gender equality and elimination of discrimination and has promoted the content of C.100 And C.111 promoted in the Parliament in order to speed up the ratification processes.</p> <p><b>2009 AR:</b> With the establishment of the IV Constitutional Government a Secretariat of State for Equality Promotion was created and many different actions have been taken by that Government Institution to promote equality in every sector of activity.</p>

		<p><b>Other activities</b></p>	<p><b>2014 AR:</b> According to the Government: Promotional activities, including seminars with the participation of social partners and civil society organizations, have taken place over the last year. Activities along with NGOs promoting the rights of women and children are ongoing. Furthermore, in 2012, police and immigration officials were sensitized on the content of C.100 and C.111.</p> <p>TLTUC stated that it had contributed to promoting the principles and rights at work through advocating the importance of the Conventions at various events and meetings especially at the national labour board meetings. TLTUC further indicated that various workshops to facilitate understanding and awareness creation on the PR are supported by ILO.</p> <p><b>2013 AR:</b> The CCI-TL indicated that they, as an employers’ organization, particularly had tried to minimize the differences in pay between men and women, and that tripartite activities had been undertaken to promote the ratification of C.100 and C.111.</p> <p><b>2011 AR:</b> According to the Government: The Government, through the Secretariat of State for Vocational Training and Employment (SEFOPE), has promoted a culture of non-discrimination on labour related legislation. Gender has been the main issue addressed in the legislation and recently, upon approval of the Decree-Law 19/2010 that established the General Labour Inspectorate, the Government has reaffirmed its philosophy by introducing the need of gender balance on recruiting staffs for this new Inspectorate as well as for the recruiting of new labour inspectors.</p> <p><b>2010 AR:</b> According to the Government: A Senior Officer of the Ministry of Labour participated for the first time in the May 2009 ILO/Turin Course on International Labour Standards during which issues concerning the Declaration and its follow-up had been addressed, including those relating to C.100 and C.111.</p> <p><b>2009 AR:</b> According to the Government: With Assistance of the ILO, a Seminar on “International Labour Standards” and on the “Declaration of Fundamental Principles and Rights at Work” was carried out in Timor-Leste from 29 to 31 October 2008. The Seminar had a massive participation of Government, Employers and Workers representatives.</p> <p><b>2008 AR:</b> The Government indicated that a government official was trained on International Labour Standards (ILS) and the Declaration Follow-up between May-June 2007 under the sponsorship of the ILO/Turin Centre.</p> <p><b>2007 AR:</b> According to Government: Workshops and conferences were organized for the employers’ and workers’ representatives.</p>
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	<p><b>Special initiatives/Progress</b></p>	<p><b>2012 AR:</b> According to the Government: Special scholarship programmes are in place to support women’s higher education. Moreover, the Government is fighting against the inclusion of specific requirements in job advertisement which could involve indirect discrimination against women (for example, the requirement to wear pants at workplace).</p> <p><b>2011 AR:</b> According to the Government: As mentioned above, the establishment of the new General Labour Inspectorate has resulted in an increase from 12.5 per cent to 22.22 per cent of women working as labour inspectors as a result of government initiative to promote gender balance in its departments and institutions.</p> <p><b>2010 AR:</b> The Government stated that it had seriously tackled gender issues within the legal framework approved by the Council of Ministers and the National Parliament, and in particular through: (i) Decree-Law 29/2008 on the Employment and Vocational Training Fund (FEFOP) which provides for the mandatory gender balance for the composition of the Administrative Council of FEFOP (section 6 (3)), and prohibits any discrimination on the grounds of <i>color, race, marital status gender, national extraction, language, social position or economic capacity, ideological or political opinion, religion and physical or mental condition</i>; and (ii) Decree-Law 08/2008 on the Development of the Labour Force Institute (INDMO) which provides for the mandatory gender balance of the composition of the Executive Commission of INDMO (section 4(2)).</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>2014 AR:</b> According to CCI-TL: There is no problem in terms of the ratification of the conventions. However, CCI-TL is concerned that it has not received any formal document from the government regarding reports to the ILO, and emphasized that the lack of such communication creates challenges in terms of follow-up and implementation. Moreover, Timor-Leste is home for many migrant workers who enjoy much better working conditions and salary than local workers. Even having been trained by local workers, foreign workers enjoy better conditions than local workers. This attitude of discrimination is practiced by foreign investors and this is one of the reasons why they are pushing for the ratification of the Conventions on discrimination.</p> <p><b>2013 AR:</b> According to the CCI-TL: Challenges related to equal remuneration and discrimination in respect of employment and occupation mainly persist in the rural areas. In larger industries in the urban areas employers’ and workers’ organizations collaborate to eliminate the occurrence of discrimination. An additional challenge in respect to discrimination is cultural differences creating discrimination against certain ethnic groups. Ethnic discrimination mainly occurs in rural areas. Social change is also crucial for gender equality in the rural areas, where women often depend on their husbands for livelihood.</p>
		<p><b>Workers’ organizations</b></p>	<p><b>2014 AR:</b> According to the TLTUC: There is lack of comprehensive good will for ratification on the part of the Government and this is partly driven by the fear that implementation might be a problem. TLTUC also supports the CCI-TL statement that foreign workers enjoy better conditions than local workers.</p> <p><b>2013 AR:</b> THE TUTL indicated that no major challenge to the ratification of C.100 and C.111 but only enforcement capacity for responsible government institutions is needed.</p>

	<p><b>According to the Government</b></p>	<p><b>2014 AR:</b> According to the Government: No cases of discrimination between men and women have been reported to the Government, and neither Workers nor Employers' Organizations have raised any complaints as regards to discrimination.</p> <p><b>2012 AR:</b> The recent national labour forces survey of 2011 has shown disparities in the high number of male workers as compared to female workers.</p> <p><b>2011 AR:</b> According to the Government: Low training skills, human resources development and facilities are for the time being the main challenges faced in realization the PR in the country.</p> <p><b>2010 AR:</b> According to the Government: There is a general weakness of national labour laws in relation to all the Declaration's principles and rights.</p> <p><b>2008 AR:</b> The Government indicated the following challenges: (i) legal provisions; (ii) lack of public awareness; (iii) capacity building; and (iv) labour inspection services are weak.</p> <p><b>2007 AR:</b> According to the Government: The military crisis has affected the country in the last few months.</p> <p><b>2006 AR:</b> The main difficulties encountered in realizing the PR are as follows: (i) lack of information and data; (ii) social values, cultural traditions; (iii) social and economic circumstances; (iv) legal provisions; (v) lack of capacity of responsible government institutions (labour inspection, in particular); (vi) lack of capacity of employers' organizations; (vii) lack of capacity of workers' organizations prevailing employment practices; (viii) lack of social dialogue.</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2014 AR:</b> According to the Government: ILO technical cooperation is crucial to strengthen the reporting capacity of the Government and train labour inspectors to enable them to identify discrimination.</p> <p>CCI-TL required support for promoting labour relations and developing a database of employers.</p> <p>TLTUC identified the need for providing knowledge to the tripartite bodies about the conventions they want to ratify, and specific training for officials of the government, in particular for those in the labour relations and inspection since they are the ones who have the primary duty to understand the Conventions.</p> <p><b>2013 AR:</b> The CCI-TL requested support in strengthening the social partners' organizations.</p> <p>According to the TUTL: ILO technical assistance are needed to strengthen the capacity of the Government and enhance the reporting capacity of tripartite partners.</p> <p><b>2012 AR:</b> According to the Government: ILO technical support would be needed in the ratification for C.100 and C.111.</p>

		<p><b>2011 AR:</b> According to the Government: The Government would very much welcome any ILO support to the newly established General Labour Inspectorate so that it better monitor and enforce the application of labour laws.</p> <p><b>2010 AR:</b> According to the Government: More training and policy advice to tripartite partners concerning the PR, with specific capacity building for the National Division of Labour Relations and the National Division of Labour Inspection so that they can better help promote and realize the Fundamental Principles and Rights at Work (FPRW) in the country. Moreover, ILO technical support would be instrumental in the revision process of national labour laws that include these PRs. Finally, ILO technical cooperation is requested in the process of ratification of other fundamental Conventions and for the development of an Action Plan for the implementation of ratified Conventions, in particular through tripartite workshops/seminars.</p> <p><b>2008 AR:</b> The Government request ILO assistance to carry out a country assessment to be validated by a national tripartite workshop on the FPRW.</p> <p><b>2007 AR:</b> According to the Government: There is a need for ILO advice and training for the officials and staff on the PR.</p> <p><b>2006 AR:</b> According to Government: There is a need for ILO technical cooperation to facilitate the realization of this principle and right (PR) in Timor-Leste, in particular in the following areas, in order of priority: (1) Capacity building of responsible government institutions; (2) strengthening capacity of employers' organizations; (3) strengthening capacity of workers' organizations; (4) legal reform (labour law and other relevant legislation); (5) strengthening data collection and capacity for statistical analysis; (6) awareness-raising, legal literacy and advocacy; (7) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; (8) developing labour market policies that promote equality of opportunity; (9) training of other officials (police, judiciary, social workers, teachers); (10) developing policies regarding equal remuneration; (11) establishing or strengthening specialized institutional machinery; (12) cooperation between institutions (e.g. various ministries and relevant commissions); and (13) sharing of experiences across countries/regions.</p>
	<p><b>Offer</b></p>	<p>ILO (including labour law reform and assistance in reporting under the 2006 AR). The Government also works with multilateral agencies, donors bilaterally and/or non-governmental organizations at the multilateral level in relation to the elimination of discrimination in employment and occupation. With the Assistance of the ILO the Government implemented the Serbisu ba Dame (Work for Peace) a project creating 45.569 employment opportunities and 606.300 working days of employment in all 13 Districts of Timor-Leste balanced between the two ethnics groups Lorosa'e (Eastern regions) and Loromonu (Western regions).</p>
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted the intentions expressed by most governments, including the Government of Timor-Leste, to ratify or consider ratification of Conventions Nos100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification. Given that many countries have requested ILO technical cooperation in the ratification process (on the content of Conventions Nos. 100 and 111, labour law review, ratification process, etc.), the IDEAs requested the Office to strengthen its assistance in this regard (cf. paragraphs 66 and 67 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs looked forward to receiving a first reply from Timor-Leste (and few other countries) that had never reported under the Declaration Annual Review (cf. paragraph 8 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	





<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2009-2015)**<sup>108</sup>: TUVALU

***THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , for the first time under the 2012 Annual Review (AR), but not under the previous reviews (i.e. 2009-2011 ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the employers' organizations (the Tuvalu National Private Sector Organization, TNPSO) and workers' organizations (the Tuvalu Overseas Seafarers' Union, TOSU) by means of consultation and communication of a copy of the government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> Observations by the TNPSO.	
	<b>Workers' organizations</b>	<b>2012 AR:</b> Observations by the TOSU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Tuvalu has ratified neither the Equal Remuneration Convention, 1951 (No. 100) (C.100) nor the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111).</b> However, it has ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

<sup>108</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.

		<p><b>Ratification intention</b></p>	<p><b>YES, since 2011, for both C.100 and C.111.</b></p> <p><b>2015 AR:</b> According to the Government: The ratification of C.100 and C.111 would be considered in the near future after the revision of related national laws in line with the requirements of the ILO Conventions.</p> <p><b>2013-14 ARs:</b> The Government reiterated its intention to ratify all eight core Conventions, including C.100 and C.111, under the currently implemented Decent Work Country Programme (DWCP).</p> <p><b>2012 AR:</b> According to the Government: Following consultations with TNPSO and TOSU, the Government has expressed its intention to ratify soon C.100 and C.111 and all other fundamental Conventions under the Decent Work Country Programme (DWCP) 2010-2012 being currently implemented. This intention was subsequently confirmed during the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010, and during the First National Tripartite Workshop on Tuvalu and ILO held in Funafuti, and where a tripartite call was also made for a prompt ratification of these 8 instruments by Tuvalu.</p> <p>The TNPSO expressed its full support for the ratification of all ILO fundamental Conventions by Tuvalu, including C.100 and C.111, taking especially into consideration the maritime and fishing industry which is so globalized and so important in Tuvalu.</p> <p>The TOSU supported the ratification of all the 8 ILO fundamental Conventions by Tuvalu, including C.100 and C.111 for the same reasons expressed by TNPSO. It further recalled that the Government had expressed its wish to ratify these fundamental Conventions on three occasions, at least: (i) in the current DWCP; (ii) during the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010, and (iii) during the First National Tripartite Workshop on Tuvalu and ILO held in Funafuti, and where a tripartite call was also made for a prompt ratification of these 8 instruments by Tuvalu.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES,</b> the Tuvalu Constitution, Cap. 1.02, 1978 (Revised 2008), section 27 (1) defines discrimination as referring to the treatment of different people in different ways wholly or mainly because of their different – (a) races; or (b) places of origin; or (c) political opinions; or (d) colours; or (e) religious beliefs or lack of religious beliefs, in such a way that one such person is for some such reason given more favourable treatment or less favourable treatment than another such person.</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<p><b>2015 AR:</b> According to the Government: The Department of Labour has been reviewing existing labour laws, including the Employment Act of Tuvalu, the Trades Unions Act and the Industrial Relations Code.</p>
		<p><b>Basic legal provisions</b></p>	<p>Tuvalu Constitution, Cap. 1.02, 1978 (Revised 2008), section 27 (1).</p>

		<b>Grounds of discrimination</b>	Under Tuvalu Constitution, Cap. 1.02, 1978 (Revised 2008), section 27 (1): (a) races; or (b) places of origin; or (c) political opinions; or (d) colours; or (e) religious beliefs or lack of religious beliefs.
		<b>Judicial decisions</b>	<b>NIL.</b>
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<b>NIL.</b>
		<b>Information/Data collection and dissemination</b>	<b>NIL.</b> However, the Government requested ILO assistance in this regard.
	<b>Prevention/monitoring, enforcement and sanction mechanisms</b>	<b>2012 AR:</b> According to the Government: The Labour Department is in charge of enforcing discrimination provisions enshrined in Tuvalu Constitution, Cap. 1.02, 1978 (Revised 2008), section 27 (1). No cases of discrimination at workplace have been reported so far to the Labour Department and judicial authorities.	
	<b>Involvement of the social partners</b>	<b>2012 AR:</b> The Government indicated that the TNPSO and the TOSU were involved in the formulation of the DWCP, in cooperation with ILO.	
	<b>Promotional activities</b>	<b>Institutions to promote equality</b>	<b>NO.</b> <b>2012 AR:</b> According to the Government: There is no need for such institutions in Tuvalu for the time being.
		<b>Other activities</b>	<b>2012 AR:</b> According to the Government: The Officer of the Labour Department was trained in the ILO/TURIN May-June 2009 Course on International Labour Standards and the Declaration. Moreover, the Government, the TNPSO and the TOSU participated in the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010 where the fundamental principles and rights have been promoted. Moreover, The new Officer of the Labour Department of the Ministry of Foreign Affairs, Trade, Tourism, Environment and Labour was trained, among others, on the fundamental principles and rights at work and International Labour Standards during ILO's assistance in reporting issues carried out in September 2011. On the same occasion, a first national tripartite workshop on Tuvalu and the ILO was organized where the fundamental principles and rights at work and the Decent Work Country Programme were addressed.  The TNSPO and the TOSU confirmed their participation in such activities and indicated that they had been sensitized on the same issues during this September 2011 ILO Mission.
<b>Special initiatives/Progress</b>	According to the Government, the TNPSO and the TOSU: The reporting exercise and the workshop on Tuvalu and the ILO, supported by the Office were a first successful experience of tripartite activity in Tuvalu. This interesting exercise should continue in the country.		

<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2012 AR:</b> According to the TNPSO: No major problems are encountered concerning discrimination issues in the country.
		<b>Workers' organizations</b>	<b>2012 AR:</b> TOSU supported NTPSO's views in this regard, i.e. no major discrimination problem has been encountered in Tuvalu.
	<b>According to the Government</b>	<p><b>2015 AR:</b> The Government reported that existing labour laws are currently weak and, therefore, employees' rights are easily violated. Furthermore, public awareness on individuals' rights is very limited</p> <p><b>2012 AR:</b> The Government indicated the following challenges: (i) Lack of public awareness and/or support; (ii) Lack of information and data; (iii) legal provisions (no specific sanction provisions); (iv) lack of capacity of responsible government institutions; (v) lack of capacity of employers' and workers' organizations; (vi) lack of social dialogue. Moreover, although the Constitution, section 5, provides that masculine gender includes feminine gender and reciprocally, the wording in many legislative provisions is not gender friendly (ex: "workmen, male worker, boys).</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2015 AR:</b> According to the Government: Technical assistance is required to: i) provide capacity building training for government officials, including for the staff of the Labour Department on the various aspects of the ILO Conventions; and ii) deliver public awareness programmes aimed at public awareness on individuals' rights.</p> <p><b>2013-2014 ARs:</b> The Government requested ILO technical support for the labour inspectors capacity building.</p> <p><b>2011 AR:</b> According to the Government, TNPSO and TOSU: There is a need for ILO technical cooperation to facilitate the realization of this PR in Tuvalu, in particular in the following areas, in order of priority: (1) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; legal reform (labour law and other relevant legislation); (2) strengthening data collection and capacity for statistical analysis;); developing labour market policies that promote equality of opportunity; developing policies regarding equal remuneration, and; (3) sharing of experiences (best-practices) across countries/regions; training of other officials (e.g. police, judiciary, social workers, teachers).</p> <p>In addition, tripartite partners expressed their appreciation regarding the organization of the First National Tripartite Workshop on Tuvalu and ILO, in September 2011, in cooperation with ILO, but also their hope that this first very interesting and fruitful experience of tripartism and social dialogue in Tuvalu would continue, with ILO support.</p>	
	<b>Offer</b>	(i) ILO: Decent Work Country Programme; Assistance in reporting under the AR; First National Tripartite on Tuvalu and the ILO; and (ii) The United Nations (CEDAW).	
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	NIL.		



<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office’s resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2015)<sup>109</sup>: UNITED STATES**

***THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)***

<b>REPORTING</b>	<b>Fulfilment of government's reporting obligations</b>	<b>YES</b> , but no change to reports for the 2001, 2002, 2004, 2005 and 2006 Annual Reviews (ARs).	
	<b>Involvement of employers' and workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the United States Council for International Business (USCIB), the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and the Change to Win Federation, by means of consultation and communication of the government's reports. In addition, in keeping with longstanding practice, as well as US obligations under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), the draft report was reviewed by members of the Tripartite Advisory Panel on International Labor Standards, a subgroup of the President's Committee on the ILO.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	No separate observations have been made by the employers' organizations.	
	<b>Workers' organizations</b>	<b>2005 AR:</b> Observations by the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO). Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2004 AR:</b> Observations by the AFL-CIO.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>The United States has ratified neither the Equal Remuneration Convention, 1951 (No. 100) (C.100) nor the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111).</b>
		<b>Ratification intention</b>	<b>Yes, for, since 2010, for C.111. However, there are no immediate plans to address the ratification of C.100.</b>  <b>2015 AR:</b> According the the Government: C.111 remains with the U.S. Senate and on the State Department's Treaty Priority List for ratification. In a set of conclusions following the President's Committee (PC) that met on May 2014, the PC/ILO pledged to redouble its efforts toward the early and successful completion of the ratification process for C.111 and called on the Tripartite Advisory Panel on International Labor Standards (TAPILS) to intensify its work of reviewing the legal feasibility of U.S. ratification of selected ILO Conventions, including C.100.

<sup>109</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex).



			<p><b>2013-2014 ARs:</b> According to the Government: Convention No. 111 remains on the State Department’s Treaty Priority List. There are no current efforts to pursue ratification of Convention No. 100 or to further analyze impediments to ratification.</p> <p><b>2012 AR:</b> According to the Government: As noted in last year’s report, the President Committee on the ILO met in May 2010 and pledge to work toward the successful completion of the ratification process for C.111. At the present time, through the Committee’s Tripartite Advisory on International Labor standards, work is proceeding on updating the previous statement of law and practice with regard to C.111 to ensure that it remains up to date. Moreover, there is no corresponding plan concerning the potential ratification of C.100.</p> <p><b>2011 AR:</b> According to the Government: On May 4, 2010, Secretary of Labor Hilda Solis convened and chaired the first meeting of the President’s Committee on the ILO (PC/ILO) in ten years. The main purpose of the May 4 meeting was to formally reactivate the PC/ILO. The focus of the discussion was overwhelmingly on ratification of ILO Conventions and approval of a plan of work for the Tripartite Advisory Panel on International Labor Standards (TAPILS), which had ultimately been unable to function while the PC/ILO was inactive. The outcome of the meeting was a set of conclusions, drafted on the basis of tripartite consensus and endorsed unanimously by the PC/ILO, which will serve to guide US policy on ILO issues. One of the Committee conclusions was a pledge to work toward the successful completion of the ratification process for C.111. A little more than two weeks after the PC/ILO meeting, on May 20, 2010, TAPILS was convened for the first time since 2005. Taking as its point of departure the conclusions of the PC/ILO, TAPILS held a preliminary discussion aimed at initiating work on the tasks with which it was charged. First among these tasks is to review the original statement of US law and practice, with regard to C.111 to ensure that it is up to date. As a consequence of this meeting, work is proceeding to update the law and practice report for US Senate consideration in the ratification process.</p> <p>There are no immediate plans to address the ratification of C.100.</p> <p><b>2007-2010 ARs:</b> According the Government: No change</p> <p><b>2006 AR:</b> C.111 was submitted to the Senate in 1998 for its advice and consent for ratification. Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government is not actively considering ratification of C.100.</p>
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES,</b> The US Constitution recognizes the principle and right of non-discrimination in the Equal Protection Clause of the Fourteenth Amendment and the Due Process Clause of the Fifth Amendment.</p> <p>Additionally, the Equal Protection Clause precludes any state from denying its citizens “the equal protection of the laws”.</p>
		<p><b>Policy, legislation and/or regulations</b></p>	<p>• <b>Policy:</b></p> <p><b>2015 AR:</b> According to the Government: There have been some changes in federal law and practice bearing upon workplace discrimination. Federal agencies continue to provide guidance</p>





and training to employers, workers, and various interested groups, including labor organizations and employer associations, concerning the federal laws relating to workplace discrimination.

**2014 AR:** On December 17, 2012, the Equal Employment Opportunity Commission (EEOC)<sup>110</sup> approved a new Strategic Enforcement Plan to guide the agency's enforcement efforts through Fiscal Year (FY) 2016. The agency invited public comments on the plan prior to its approval, and held several public meetings to gather information about prevailing discrimination problems and how the EEOC could approach them. The plan identifies six areas for EEOC focus: 1) eliminating barriers in recruitment and hiring such as the use of exclusionary screening practices; 2) protecting immigrant, migrant, and other vulnerable workers; 3) addressing emerging and developing issue areas such as pregnancy discrimination, and lesbian, gay, bisexual, and transgender workers' protections; 4) strengthening enforcement of equal pay laws to address compensation discrimination based on sex; 5) preserving access to the legal system by targeting employer policies and practices that discourage or prohibit individuals from exercising their rights or impede EEOC investigation or enforcement efforts; and 6) preventing harassment through systemic enforcement and targeted outreach. The plan is available at <http://www.eeoc.gov/eeoc/plan/sep.cfm>.

**2013 AR:** According to the Government: On August 18, 2011, President Obama signed Executive Order (EO) 13583, "Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Workforce."<sup>111</sup> The EO requires the U.S. Office of Personnel Management (OPM) to coordinate with the President's Management Council and the Equal Employment Opportunity Commission (EEOC) to establish a government-wide initiative, develop a strategic plan and guidance for agency specific plans, and establish a system for reporting on agency processes' for implementation, among other requirements. In November 2011, OPM released Guidance on implementation of the Government-Wide Diversity and Inclusion Strategic Plan. The guidance provides agencies with direction to enable them to fulfill the goals identified in EO 13583 and coordinate their diversity and inclusion efforts in a collaborative and integrated manner.<sup>112</sup> Federal agencies submitted their agency-specific Diversity and Inclusion Strategic Plans by March 2012 to OPM for review and began implementing their plans upon submission.<sup>113</sup>

During the reporting period, EEOC has taken a number of additional steps to address discrimination in employment. For instance, on July 24, 2012, EEOC issued a final rule modifying

<sup>110</sup>The EEOC enforces federal laws that prohibit employment discrimination by private employers with 15 or more employees. The EEOC also is involved in enforcement of the EEO laws for federal agencies and state and local governments (by providing administrative investigations). The EEOC-enforced laws prohibit employment discrimination on the bases of race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. See <http://eeoc.gov/eeoc/>.

<sup>111</sup><http://www.whitehouse.gov/the-press-office/2011/08/18/executive-order-establishing-coordinated-government-wide-initiative-prom>

<sup>112</sup><http://www.opm.gov/diversityandinclusion/reports/DIAgencySpecificStrategicPlanGuidance.pdf>.

<sup>113</sup><http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=4644>



the complaint process used by federal sector employees and job applicants who believe they have been subjected to employment discrimination by federal agencies.<sup>114</sup> The rule implements the recommendations of the Federal Sector Workgroup, and takes into account public comments in response to the proposed rule in 2009. Among other things, the changes require agencies that have not completed an investigation in a timely manner to send a notice to the complainant indicating that the investigation is not complete, providing the date by which it will be completed, and explaining that the complainant has the right to request a hearing or file a lawsuit. The final rule is part of an ongoing review by EEOC of the federal sector equal employment opportunity complaint process.

In January 2012, EEOC settled a case it had brought against a major soft drink company for \$3.13 million to resolve charges of race discrimination stemming from a criminal background check policy that EEOC claimed disproportionately excluded black applicants from permanent employment in violation of Title VII of the Civil Rights Act of 1964.<sup>115</sup> The company's background check policy prevented job applicants who had been arrested but not convicted from getting hired for a permanent job, and had also denied employment to applicants who had been arrested or convicted of certain minor offenses. The company subsequently adopted a new background check policy. Under the agreement, the employer will offer employment opportunities to qualified victims of the former criminal background check policy, provide Title VII training to its managers and hiring personnel, supply EEOC with regular reports on its hiring practices, and pay out part of the total sum to the more than 300 victims adversely affected by the previous policy.

In March 2012, EEOC settled a lawsuit against a distributor and retailer of automobile parts involving a Sikh who was not allowed to wear his religiously mandated turban or *kara* bracelet, was referred to as "Bin Laden" and a terrorist, and ultimately was terminated after he complained.<sup>116</sup> In addition to substantial monetary relief for the employee, the settlement requires the employer to adopt and distribute a policy prohibiting religious discrimination; train its managers and human resource employees on religious discrimination and the new policy; report to EEOC on its handling of all requests for religious accommodation; and inform all 65,000 employees at its 4,500 U.S. stores about the terms of the consent decree.

In June 2012, EEOC settled a case it had brought against a major transportation company for \$11 million to resolve charges of racial discrimination.<sup>117</sup> EEOC had alleged that the company subjected African-American employees to a racially hostile working environment, including

<sup>114</sup> 77 Fed. Reg. 43506; <https://www.federalregister.gov/articles/2012/07/25/2012-18134/federal-sector-equal-employment-opportunity#p-11>.

<sup>115</sup> <http://www.eeoc.gov/eeoc/newsroom/release/1-11-12a.cfm>.

<sup>116</sup> <http://www.eeoc.gov/eeoc/newsroom/release/3-30-12a.cfm>.

<sup>117</sup> <http://www.eeoc.gov/eeoc/newsroom/release/6-29-12a.cfm>.



incidents of hangman’s nooses and racist graffiti, comments and cartoons, as well as to discriminatory terms and conditions of employment. The consent decree provides monetary relief to the 324 discrimination victims and requires the company to retain consultants to examine the company’s discipline and work assignment procedures and to recommend changes to prevent racial disparities. An independent monitor will oversee the company’s response and will report semi-annually to the court and to EEOC on the company’s compliance with the decree.

OthersignificantrecentenforcementdecisionsanddecreesobtainedbyEEOCmaybeaccessedonlineat <http://www.eeoc.gov/eeoc/newsroom/index.cfm>.

Similarly, during the reporting period, the Department of Labor (DOL) has taken actions to address discrimination in employment. For example, in March 2012, DOL’s Office of Federal Contract Compliance Programs (“OFCCP”)<sup>118</sup> reached an agreement with a major shipping company to resolve allegations of hiring discrimination against specific groups of workers identified at 23 facilities in 15 states.<sup>119</sup> The agreement is the largest single financial settlement negotiated by OFCCP since 2004. Under the terms of the conciliation agreement, the companies will pay \$3 million in back wages and interest to 21,635 applicants who were rejected for entry-level package handler and parcel assistant positions. The company also has agreed to extend job offers to 1,703 of the affected workers as positions become available. The 21,635 rejected job seekers represent one of the largest classes of victims of any case in OFCCP’s history.

On July 19, 2012, OFCCP entered into a consent decree with a major food producer to resolve charges of systemic hiring discrimination. OFCCP discovered that a pre-employment test to select hires for on-call laborer positions was not job-related and had an adverse impact on minority job applicants.<sup>120</sup>The company agreed to pay \$550,000 in back wages, interest and benefits to 253 minority workers who were rejected for on-call laborer positions, discontinue use of the discriminatory test for this purpose, hire at least 13 of the original class members, undertake extensive self-monitoring measures and immediately correct any discriminatory practices.

Information about other significant recent OFCCP settlements is available at [www.dol.gov/ofccp/OFCCPNews/more\\_news.htm](http://www.dol.gov/ofccp/OFCCPNews/more_news.htm)

**2003 AR:** According to the Government: the United States has a clear national policy supporting the elimination of discrimination in employment and occupation, expressed in the US Constitution, numerous federal and state laws and regulations, and Executive Orders (EO). The general principle of this national policy is reflected in Title VII of the Civil Rights Act of 1964. EO 11478 states that “it is the policy of the Government of the United States to provide equal opportunity in Federal

<sup>118</sup> OFCCP enforces Executive Order 11246, which prohibits companies that do business with the federal government from discriminating in employment practices on the basis of sex, race, color, national origin or religion. See <http://www.dol.gov/ofccp/aboutof.html>.

<sup>119</sup> <http://www.dol.gov/ofccp/OFCCPNews/march12.htm#1>.

<sup>120</sup> <http://www.dol.gov/opa/media/press/ofccp/OFCCP20121443.htm>.



employment for all persons,” and requires that all executive agencies “establish and maintain an affirmative program of equal employment opportunity for all civilian employees and applicants for employment” in accordance with the equal opportunity policy”.

- **Legislation:**

**2015 AR:** The Government stated that, in July 2014, President Obama signed into law the Workforce Innovation and Opportunity Act (WIOA), which emphasizes the need for, and increased access to high-quality workforce services for individuals with disabilities throughout the workforce development system. It further provides that youth with disabilities receive extensive pre-employment transition services to obtain and retain competitive integrated employment and creates an Advisory Committee on strategies to increase competitive integrated employment for individuals with disabilities.

**2003 AR:** According to the Government: According to the Government: several legislative acts protect citizens against discrimination, primarily Title VII of the Civil Rights Act of 1964 and the Equal Pay Act of 1963.



			<ul style="list-style-type: none"><li>• <b>Regulations:</b> <b>2015: AR:</b> According the Government: In 2014, the President took two major steps to address sex discrimination in employment. First, in April 2014 he issued Executive Order 13665, “Non-Retaliation for Disclosure of Compensation Information,” which prohibits federal contractors from discharging or otherwise discriminating against employees who discuss their pay and compensation. The order contains an exception for employees who have access to the compensation information of other employees as part of their essential job function and who disclose that information outside of responding to a formal complaint or charge, investigation, or other such proceeding.<sup>121</sup> The President also issued a Presidential Memorandum directing DOL to issue a regulation requiring federal contractors to submit data on compensation provided to employees, including data disaggregated by sex and race.<sup>122</sup> Accordingly, on August 6, 2014, DOL announced a proposed rule requiring federal contractors and subcontractors to submit an annual Equal Pay Report on employee compensation, including data disaggregated by sex and race, to the Department of Labor (DOL)’s Office of Federal Contract Compliance Programs (OFCCP).<sup>123</sup> Secondly, in July, 2014, the President issued Executive Order 13672, which prohibits federal contractors from discriminating against employees based upon sexual orientation and gender identity and broadly prohibiting discrimination based on gender identity across all federal employment. It amends Executive Orders 11246 and 11479 and requires OFCCP to prepare new implementing regulations, which would expand OFCCP’s civil rights enforcement authority by adding lesbian, gay, bisexual and transgender people to the categories of workers protected by the agency’s nondiscrimination program.<sup>124</sup> On August 19, 2014, OFCCP issued Directive 2014-02 on gender identity and sex discrimination to clarify that existing agency guidance on sex discrimination under Executive Order 11246 includes discrimination on the bases of gender identity and transgender status.<sup>125</sup> In July 2014, the Equal Employment Opportunity Commission (EEOC)<sup>126</sup> issued an Enforcement Guidance on Pregnancy Discrimination and Related Issues, along with a question and answer document about the guidance and a Fact Sheet for Small Businesses. The guidance explains that the Pregnancy Discrimination Act prohibits employers from discriminating against an employee on the basis of past, present, or potential pregnancy, childbirth,</li></ul>
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<sup>121</sup><http://www.whitehouse.gov/the-press-office/2014/04/08/executive-order-non-retaliation-disclosure-compensation-information>

<sup>122</sup><http://www.whitehouse.gov/the-press-office/2014/04/08/presidential-memorandum-advancing-pay-equality-through-compensation-data>

<sup>123</sup><https://www.federalregister.gov/articles/2014/08/08/2014-18557/requirement-to-report-summary-data-on-employee-compensation-government-contractors>. OFCCP enforces Executive Order 11246, which prohibits companies that do business with the federal government from discriminating in employment practices on the basis of sex, race, color, national origin or religion. See <http://www.dol.gov/ofccp/aboutof.html>.

<sup>124</sup><http://www.whitehouse.gov/the-press-office/2014/07/21/executive-order-further-amendments-executive-order-11478-equal-employment>

<sup>125</sup>[http://www.dol.gov/ofccp/regs/compliance/directives/dir2014\\_02.html](http://www.dol.gov/ofccp/regs/compliance/directives/dir2014_02.html)

<sup>126</sup>The EEOC enforces federal laws that prohibit employment discrimination by private employers with 15 or more employees. The EEOC also is involved in enforcement of the EEO laws for federal agencies and state and local governments (by providing administrative investigations). The EEOC-enforced laws prohibit employment discrimination on the bases of race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. See <http://eeoc.gov/eeoc/>.



		<p>or related medical conditions; and that women affected by pregnancy, childbirth or related medical conditions must be treated the same as other persons similar in their ability or inability to work. The guidance also explains how the Americans with Disabilities Act's (ADA) definition of "disability" might apply to workers with impairments related to pregnancy.<sup>127</sup> In May 2014, EEOC issued a technical assistance publication, entitled "Notice of Rights Under the ADA Amendments Act of 2008 (ADAAA)," that provides an overview for charging parties and their counsel of the basic legal and evidentiary issues related to establishing disability coverage under the ADA, as amended.<sup>128</sup> In March 2014, new regulations that the OFCCP had issued in September 2013 on Section 503 of the Rehabilitation Act (which prohibits federal contractors from discriminating against individuals with disabilities and requires them to take affirmative action to hire, promote, and retain individuals with disabilities) and on the Viet Nam Era Veterans' Readjustment Assistance Act (which prohibits federal contractors from discriminating against veterans and requires them to take affirmative action to hire, promote, and retain these veterans) came into effect. The new Section 503 regulations contain an aspirational goal that 7% of federal contractors' workforce should be individuals with disabilities.<sup>129</sup> The new Viet Nam Era Veterans' Readjustment Assistance Act (VEVRAA) regulations require that contractors establish their own annual hiring benchmarks for veterans based on a number of variables.<sup>130</sup> To facilitate implementation, of both of the regulations, OFCCP published online a variety of resources related to the new regulations, including information on reasonable accommodations, tax incentives and other funding, community resources, and much more.<sup>131</sup> In March 2014, EEOC jointly published with the U.S. Federal Trade Commission two technical assistance documents for employers, employees, and job applicants that explain how the agencies' respective laws apply to background checks performed for employment purposes, including considerations of criminal records.<sup>132</sup> Also in March 2014, EEOC issued two technical assistance publications addressing workplace rights and responsibilities with respect to religious dress and grooming under Title VII of the Civil Rights Act of 1964. The question-and-answer guide, entitled "Religious Garb and Grooming in the Workplace: Rights and Responsibilities," and an accompanying fact sheet provide a user-friendly discussion of the applicable law, practical advice for employers and employees, and numerous case examples based on EEOC's litigation.<sup>133</sup></p>
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<sup>127</sup> [http://www.eeoc.gov/laws/types/pregnancy\\_guidance.cfm](http://www.eeoc.gov/laws/types/pregnancy_guidance.cfm).

<sup>128</sup> [http://www.eeoc.gov/laws/types/adaaa\\_notice\\_of\\_rights.cfm](http://www.eeoc.gov/laws/types/adaaa_notice_of_rights.cfm)

<sup>129</sup> <http://www.dol.gov/ofccp/regs/compliance/section503.htm>

<sup>130</sup> <http://www.dol.gov/ofccp/regs/compliance/vevraa.htm>

<sup>131</sup> <http://www.dol.gov/ofccp/regs/compliance/Resources.htm>

<sup>132</sup> [http://www.eeoc.gov/eeoc/publications/background\\_checks\\_employers.cfm](http://www.eeoc.gov/eeoc/publications/background_checks_employers.cfm); [http://www.eeoc.gov/eeoc/publications/background\\_checks\\_employees.cfm](http://www.eeoc.gov/eeoc/publications/background_checks_employees.cfm)

<sup>133</sup> [http://www.eeoc.gov/eeoc/publications/qa\\_religious\\_garb\\_grooming.cfm](http://www.eeoc.gov/eeoc/publications/qa_religious_garb_grooming.cfm); [http://www.eeoc.gov/eeoc/publications/fs\\_religious\\_garb\\_grooming.cfm](http://www.eeoc.gov/eeoc/publications/fs_religious_garb_grooming.cfm)



		<p><b>2014 AR:</b> According to In September 2013, the Department of Labor’s (DOL) Office of Federal Contract Compliance Programs (OFCCP)<sup>134</sup> published a Final Rule that makes changes to the regulations implementing Section 503 of the Rehabilitation Act of 1973. Section 503 prohibits discrimination by covered federal contractors and subcontractors against individuals on the basis of disability, and requires affirmative action on behalf of qualified individuals with disabilities. OFCCP revised the regulations to strengthen the affirmative action provisions by detailing specific actions a contractor must take in the areas of recruitment, training, record keeping and policy dissemination to satisfy its obligations under the Act. The regulations also increase the contractor’s data collection obligations, and establish a utilization goal for individuals with disabilities (seven percent in each job group) to assist in measuring the effectiveness of the contractor’s affirmative action efforts.<sup>135</sup></p> <p>Also in September 2013, OFCCP published a Final Rule that updates the regulations implementing the Viet Nam Era Veterans’ Readjustment Assistance Act, which prohibits federal contractors and subcontractors from discriminating in employment against protected veterans, and requires these employers to take affirmative action to recruit, hire, promote, and retain veterans. The Final Rule strengthens the affirmative action provisions of the regulations by requiring contractors to annually adopt a hiring benchmark either based on the national percentage of veterans in the workforce (currently eight percent), or their own benchmark based on the best available data. The rule strengthens accountability and record-keeping requirements, enabling contractors to assess the effectiveness of their recruitment efforts. It also clarifies job listing and subcontract requirements to facilitate compliance.<sup>136</sup></p> <p>In February 2013, OFCCP replaced its guidance regarding pay discrimination. The new guidance reflects OFCCP’s new, more flexible approach towards conducting compensation discrimination investigations. Previously, OFCCP was required to use the same formula and follow the same analytical model to review all contractor pay practices, regardless of the industry, type of job, or issues presented.<sup>137</sup></p> <p><b>2013 AR:</b> According to the Government:On December 9, 2011, OFCCP published a Notice of Proposed Rulemaking (NPRM), seeking public comment on revising the regulations implementing the non-discrimination and affirmative action regulations of section 503 of the Rehabilitation Act of 1973, as amended.<sup>138</sup> Comments on the NPRM have been received and are currently under review. Section 503 prohibits discrimination by covered Federal contractors and subcontractors against individuals on the basis of disability, and requires affirmative action on behalf of qualified</p>
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<sup>134</sup> OFCCP enforces Executive Order 11246, which prohibits companies that do business with the federal government from discriminating in employment practices on the basis of sex, race, color, national origin or religion. See <http://www.dol.gov/ofccp/aboutof.html>.

<sup>135</sup> <http://www.dol.gov/ofccp/OFCCPNews/LatestNews.htm>

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> [www.gpo.gov/fdsys/pkg/FR-2011-12-09/pdf/2011-31371.pdf](http://www.gpo.gov/fdsys/pkg/FR-2011-12-09/pdf/2011-31371.pdf).



individuals with disabilities. OFCCP is proposing to revise the regulations to strengthen the affirmative action provisions by detailing specific actions a contractor must take to satisfy its obligations. The proposed regulations would also increase the contractor's data collection obligations, and establish a utilization goal for individuals with disabilities to assist in measuring the effectiveness of the contractor's affirmative action efforts. Revision of the non-discrimination provisions to implement changes necessitated by the passage of the Americans with Disabilities Act (ADA) Amendments Act of 2008 is also proposed in the NPRM.

**2012 AR:** According to the Government: On March 25, 2011, the Equal Employment Opportunity Commission (EEOC) issued a Final Rule (effective May 24, 2011) revising its Americans with Disabilities Act (ADA) regulations, 29 CFR Part 1630, to reflect the changes made by the ADA Amendments Act of 2008. The revised regulations implement Congress's intent to set forth predictable, consistent, and workable standards by adopting "rules of construction" to use when determining if an individual is substantially limited in performing a major life activity. These changes will make it easier for an individual seeking protection under the ADA to establish that he or she has a disability within the meaning of the law. On April 12, 2011, S.788, the Fair Pay Act of 2011, was introduced in the U.S. Senate. The Bill would prohibit wage discrimination by covered employers on the basis of sex, race, or national origin, for work performed in equivalent jobs.

**2011 AR:** According to the Government: On November 9, 2010, the Equal Employment Opportunity Commission issued final regulations implementing Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff, et seq. (Title II of GINA). The purposes of the final rule are to: (1) prohibit use of genetic information in employment decision-making; (2) restrict employers and other entities subject to Title II of GINA from requesting, requiring, or purchasing genetic information; (3) require that genetic information be maintained as a confidential medical record, and place strict limits on disclosure of genetic information; and (4) provide remedies for individuals whose genetic information is acquired, used, or disclosed in violation of its protections.

See: <http://www.federalregister.gov/articles/2010/11/09/2010-28011/regulations-under-the-genetic-information-nondiscrimination-act-of-2008>.

On July 26, 2010, the President signed E.O. 13548, entitled Increasing Federal Employment of Individuals with Disabilities. The E.O. requires key agencies to design model recruitment and hiring strategies for all agencies seeking to increase their employment of people with disabilities and develop mandatory training programs for both human resources personnel and hiring managers on the employment of individuals with disabilities. The E.O. also requires federal agencies to implement strategies for retaining federal workers with disabilities in federal employment including, but not limited to, training, using centralized funds to provide reasonable accommodations, increasing access to appropriate accessible technologies, and ensuring the accessibility of physical and virtual workspaces.





		<p><b>Basic legal provisions</b></p>	<p>(i) US Constitution; (ii) the Civil Rights Act, 1964; (iii) the Equal Pay Act, 1963; (iv) the Civil Rights Act of 1991; (v) the Civil Service Reform Act of 1978; (vi) the Women's Educational Equity Act of 2001; (vii) EO 11478; (viii) EO 11590; (ix) the Classification Act; (x) the Wagner-Peyser Act; (xi) the Workforce Investment Act; (xii) the Carl D. Perkins Vocational and Technical Education Act; (xiii) the Age Discrimination in Employment Act (ADEA), 1967; (xiv) the Americans with Disabilities Act (ADA); (xv) the Americans with Disabilities Amendments Act (ADAAA), 2008, Pub. L. No. 110-325; (xvi) the Genetic Information Non-discrimination Act of 2008 (GINA), May 2008, Pub. L. No. 110-233, codified at 42 U.S.C. 2000ff <i>et seq.</i>; and (xvii) the Lilly Ledbetter Fair Pay Act, January 2009, Pub. L. No. 111-2.</p>
		<p><b>Grounds of discrimination</b></p>	<p><b>2000-2005 ARs:</b> According to the Government: Discrimination with respect to employment and occupation is prohibited on grounds of race, color, religion, sex, national origin, political opinion, social origin, age and disability.</p>
		<p><b>Judicial decisions</b></p>	<p><b>2015 AR:</b> Accordng to the Governement: In June 2014, the U.S. Court of Appeals for the Seventh Circuit held that failure to state an end date for unpaid leave taken under the Family and Medical Leave Act (FMLA) does not eliminate protections under the Act. The plaintiff had a daughter suffering from thyroid cancer, whom she was to care for starting in January 2011. She submitted the appropriate form to her employer, but left the date of her return blank. On the form, a physician noted that the daughter's recovery time was uncertain, but that she would need care through July 2011. The employer inferred from this statement that the plaintiff would not return until then, which would be longer than the 12 weeks granted under FMLA, and hired a replacement for her position. When the plaintiff returned to work at the end of 12 weeks, she was told she no longer had a job. The district court granted summary judgment for the employer, and the Seventh Circuit reversed, granting summary judgment for the employee, arguing that the employer could not simply assume that the employee would take leave longer than permitted and had an obligation to clarify the leave situation with the employee.<sup>139</sup></p> <p>In January 2014, EEOC's revised Interpretive Guidance on Title I of the ADA came into effect. The guidance establishes that the definition of disability under the ADA, as amended in 2008, is to be construed to extend broad coverage of individuals. The guidance also elaborates more fully on the definition of "disability," providing examples of what is a disability and what is not. Further, the guidance recommends shifting judicial focus to the question of whether or not the employer has complied with the ADA, not whether an individual meets the definition of disability.<sup>140</sup> Also, in January 2014, the U.S. Court of Appeals for the Fourth Circuit, in the first appellate decision to interpret the expanded definition of "disability" under the ADAAA, ruled that "an impairment is not categorically excluded from being a disability simply because it is temporary." The plaintiff badly injured both legs when he fell from a commuter train.</p>

<sup>139</sup>Suzan Gienapp v. Harbor Crest, et al, 2014 WL 2854816 (7th Cir. 2014)

<sup>140</sup>Appendix to Part 1630 –Interpretive Guidance on Title I of the Americans with Disabilities Act, Effective Jan. 29, 2014; see[http://www.ecfr.gov/cgi-bin/text-idx?SID=a33b3cdcbd00ce17f58f83508f52d1dc&node=ap29.4.1630\\_116.1&rgn=div9](http://www.ecfr.gov/cgi-bin/text-idx?SID=a33b3cdcbd00ce17f58f83508f52d1dc&node=ap29.4.1630_116.1&rgn=div9)



**2014 AR:** According to the Government: In May 2013, United States Court of Appeals for the Fifth Circuit held that firing a woman for lactating is unlawful sex discrimination under Title VII of the Civil Rights Act, as amended by the Pregnancy Discrimination Act. The plaintiff claimed she was fired after asking her employer whether she would be able to pump breast milk at work. The district court had dismissed the lawsuit deciding that lactation is not sex discrimination because it is not pregnancy, childbirth, or a related medical condition, but on appeal the Fifth Circuit overturned the district court's decision and sent the case back to be decided on the merits.<sup>141</sup>

**2013 AR:** According to the Government: U.S. courts have addressed a broad array of issues relating to discrimination in employment during the reporting period. On December 6, 2011, the U.S. Court of Appeals for the Eleventh Circuit affirmed a district court's summary judgment ruling in favor of a woman who announced at work that she was transitioning from male to female, holding that discriminating against an individual based on gender nonconformity amounts to sex discrimination under the 14th Amendment's equal protection clause.<sup>142</sup> Also on December 6, 2011, a California district court found that six employees of a major beverage company were wrongfully discriminated against on the basis of age in violation of California's Fair Employment and Housing Act, and ordered backpay and punitive damages.<sup>143</sup> The men alleged that they had been specifically targeted as part of a scheme to get older workers to quit by means of heavier workloads, unwarranted write-ups, and downgraded reviews.

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<sup>141</sup> <http://www.eeoc.gov/eeoc/newsroom/release/5-31-13a.cfm>

<sup>142</sup> *Glenn v. Brumby*, 663 F.3d 1312 (11th Cir. 2011).

<sup>143</sup> *Ward v. Cadbury Schweppes Bottling Grp.*, 2:09-CV-03279, (C.D. Cal., Dec. 6, 2011).



			<p><b>2012 AR:</b> According to the Government: A decision issued by the U.S. Supreme Court on January 24, 2011, advances employees’ rights under Title VII by holding that third-parties may pursue retaliation claims under the law. <i>Thompson v. North American Stainless LP</i>, 131 S.Ct. 863 (2011). Specifically, a male employee who claims he was fired because his fiancée filed a sex discrimination charge against their mutual employer may pursue a retaliation claim under Title VII of the 1964 Civil Rights Act. Moreover, on March 1, 2011, the U.S. Supreme Court issued a decision concerning employer liability under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. § 4301et seq. <i>Staub v. Proctor Hosp.</i>, 131 S.Ct. 1186 (2011). USERRA prohibits employer denial of “employment, reemployment, retention in employment, promotion, or any benefit of employment” based on a person’s “membership” in or “obligation to perform service in a uniformed service,” 38 U.S.C. § 4311(a), and provides that liability is established “if the person’s membership... is a motivating factor in the employer’s action,” 38 U.S.C. § 4311(c). In <i>Staub</i>, the Supreme Court held that if “a supervisor performs an act motivated by antimilitary animus that is intended by the supervisor to cause an adverse employment action, and if that act is a proximate cause of the ultimate employment action, then the employer is liable under USERRA.”</p> <p><b>2010 AR:</b> According to the Government: A series of recent Supreme Court decisions affected the rights of parties alleging employment discrimination. In <i>Ricci, et al. v. DeStefano, et al.</i>, 556 U.S. ___, 129 S.Ct. 2658 (2009), the Court held that the City of New Haven violated Title VII of the Civil Rights Act by throwing out the results of a promotion examination after white candidates scored significantly better than minority candidates. According to the Court, the City’s decision to discard the test results, even if well-intentioned, constituted intentional race discrimination because it was clearly based on the racial breakdown of the test results. In <i>Gross v. FBL Financial Services</i>, 556 U.S. ___, 129 S.Ct. 2343 (2009), the Court held that “mixed motive” jury instructions applicable to cases under Title VII may not be given in discrimination cases brought under the ADEA. In <i>Crawford v. Metro Gov’t of Nashville &amp; Davidson County, Tenn.</i>, 555 U.S. ___, 129 S.Ct. 846 (2009), the Court unanimously ruled that Title VII prohibits retaliation against an employee for disclosing a supervisor’s alleged sexual harassment in response to the employer’s internal investigation. In <i>14 Penn Plaza LLC v. Pyett</i>, 556 U.S. ___, 129 S.Ct. 1456 (2009), the Court held that a collective bargaining agreement that clearly and unmistakably requires union members to arbitrate claims arising under the ADEA is enforceable. Finally, in <i>AT&amp;T Corp. v. Hulteen</i>, 556 U.S. ___, 129 S.Ct. 1962 (2009), the Court ruled that AT&amp;T did not violate the Pregnancy Discrimination Act (PDA) by giving less credit for maternity leave taken before the PDA took effect than for other medical leave, in calculating pension benefits.</p>
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			<p><b>2009 AR:</b> According to the Government: The United States Supreme Court issued two decisions interpreting key anti-discrimination laws – 42 USC § 1981, which bars racial discrimination in employment, and 29 USC § 633a(a), the section of the Age Discrimination in Employment Act that protects federal sector employees – to include protection against employer retaliation. <i>CBOCS West Inc. v. Humphries</i>, 128 S.Ct. 1951 (U.S. May 27, 2008) (No. 06-1431); <i>Gómez-Pérez v. Potter</i>, 128 S.Ct. 1931 (U.S. May 27, 2008) (No. 06-1321). The Supreme Court also ruled that if an employer claims that a “reasonable factor other than age” accounts for the disproportionately negative impact that a layoff or other action has on older workers, it is up to the employer to prove it, rather than up to the employees to disprove the validity of the defence. <i>Meacham v. Knolls Atomic Power Laboratory</i>, 128 S.Ct. 2895 (U.S. June 19, 2008) (No. 06-1505). The Supreme Court also ruled that a worker’s allegations that co-workers had suffered discriminatory treatment by different managers could be admitted as evidence in an appropriate case. <i>Sprint/United Management Company v. Mendelsohn</i>, 128 S.Ct. 1140 (U.S. Feb. 26, 2008) (No. 06-1221).</p> <p><b>2008 AR:</b> According to the Government: The United States Supreme Court, in the decision of <i>Burlington Northern &amp; Santa Fe Railway v. White</i>, 126 S.Ct. 2405 (2006), announced a broad reading of the anti-retaliation provision of Title VII, 42 U.S.C. § 2000e-3(a), the principal employment discrimination law. Under the decision, a cause of action for retaliatory employer conduct can be sustained for harms suffered that are not workplace or employment-related, if the harm is such that a reasonable person would be dissuaded from bringing a charge of employer discrimination.</p> <p><b>2000 AR:</b> <i>Equal Pay Act cases -Brennan v. Prince William Hospital Corp.</i>, 503 F.2d 282, 285, 291 (4<sup>th</sup> Cir. 1974), cert. denied, 420 U.S. 972 (1975); <i>Shultz v. Wheaton Glass Co.</i>, 421 F.2d 259 (3rd. Cir.), cert. denied, 398 U.S. 905 (1970).</p>
	<p><b>Exercise of the principle and right</b></p>	<p><b>Special attention to particular situations</b></p>	<p><b>2015 AR:</b> According the Government: During the reporting period, DOL has also taken actions to address discrimination in employment. OFCCP sought legal action against federal contractors for claims of noncompliance with anti-discrimination requirements: In January 2014, OFCCP reached a settlement with a meat distributor over allegations that the company’s hiring processes and selection procedures discriminated on the basis of sex and race. The company agreed to pay \$2,236,218 to 2,959 applicants, extend job offers to 354 applicants, and undertake self-monitoring procedures to ensure hiring practices comply with the law.<sup>144</sup> In June 2014, OFCCP reached a settlement with a manufacturer of welding, cutting, and joining products in a race discrimination case. OFCCP had determined that the company’s paper and online application systems created multiple barriers for African Americans to advance in the selection process, and that the company’s application test was not properly validated. The company agreed to pay \$1 million in back pay to 5,557 applicants, offer entry level positions to 48 applicants, and revise its policies, including changing its application test, to ensure equal employment opportunity for all applicants.<sup>145</sup></p>

<sup>144</sup><http://www.dol.gov/opa/media/press/ofccp/OFCCP20140010.htm>

<sup>145</sup><http://www.dol.gov/opa/media/press/ofccp/OFCCP20140506.htm>



The Department of Justice (DOJ)<sup>146</sup> has also taken actions to address discrimination in employment: In May 2014, DOJ settled a sex discrimination case against Queen Anne’s County, Maryland, involving allegations of sexual harassment by supervisors, including unwanted touching and explicit commentary, as well as derogatory comments against women, and termination of an employee who complained about this discrimination. The County agreed to pay \$620,000 to the employee who was terminated.<sup>147</sup> In December 2013, DOJ reached a settlement in a national origin discrimination case against Reading Parking Authority, a municipal authority, involving allegations that Hispanic employees were subjected to racial slurs, offensive comments, and threats related to their ethnicity and national origin from co-workers and supervisors, and that the company did not respond to complaints and even terminated an employee in retaliation. The Authority agreed to pay \$77,500 to the plaintiffs.<sup>148</sup>

**2014 AR:** According to the Government: The ADA prohibits employment discrimination on the basis of disability and requires employers to provide reasonable accommodations that allow people with disabilities to perform the essential functions of their work. It was amended in 2008 to strengthen coverage under the law. Recent technical assistance from EEOC on the ADA includes the following:

- On May 1, 2013, EEOC issued a fact sheet on The Mental Health Provider’s Role in a Client’s Request for a Reasonable Accommodation at Work. The document explains the ADA’s provision for reasonable accommodations, details how health providers may help those with disabilities obtain a reasonable accommodation, and provides information about what types of supporting information from health care providers may support an employee’s reasonable accommodation request. It is available at [http://www.eeoc.gov/eeoc/publications/ada\\_mental\\_health\\_provider.cfm](http://www.eeoc.gov/eeoc/publications/ada_mental_health_provider.cfm).
- On May 15, 2013, EEOC issued four revised documents addressing how the ADA applies to applicants and employees with cancer, diabetes, epilepsy, and intellectual disabilities. The documents explain how the expanded definition of a disability under the 2008 ADA amendments applies to individuals with those impairments. The documents also address employers’ obligations, what types of reasonable accommodations individuals with these particular disabilities may need, possible safety concerns, and how to prevent harassment. These documents are available at <http://www.eeoc.gov/laws/types/disability.cfm> under “The Question and Answer Series.”
- In November 2012, EEOC issued a Question and Answer document concerning the Application of Title VII and the ADA to Applicants or Employees Who Experience Domestic or Dating Violence, Sexual Assault, or Stalking. The publication explains how potential employment discrimination and retaliation against these individuals may be

<sup>146</sup> DOJ litigates claims against state or local governments on the bases of race, color, religion, sex (including pregnancy), national origin, or disability. See <http://www.justice.gov/crt/about/emp/>

<sup>147</sup> <http://www.justice.gov/opa/pr/2013/February/13-crt-184.html>

<sup>148</sup> <http://www.justice.gov/opa/pr/2013/December/13-crt-1355.html>



mistakenly overlooked, and provides numerous examples to help stakeholders understand how Title VII and the ADA may apply. It is available at [http://www.eeoc.gov/eeoc/publications/qa\\_domestic\\_violence.cfm](http://www.eeoc.gov/eeoc/publications/qa_domestic_violence.cfm).

- Also during the reporting period, DOJ, OFCCP, and EEOC undertook efforts to address sex discrimination. DOJ focused on cases that open non-traditional positions – such as 35 police and correctional officer jobs – to women, and OFCCP has renewed its focus on increasing opportunities for women in the construction industry. OFCCP’s new pay discrimination guidance also is intended to broaden the agency’s focus on practices such as channeling and glass ceilings that exclude women from higher paying job opportunities. EEOC always has been a leader in addressing systemic discrimination against women in employment through administrative enforcement and litigation efforts.<sup>149</sup>
- In April 2013, in collaboration with DOL’s OFCCP and Office of the Chief Economist, the Department’s Women’s Bureau hosted an equal pay web chat. Experts from each of the sub-agencies discussed wage inequality and ongoing policy initiatives, and directed participants to resources designed to help workers. More than 350 people participated in the chat and received immediate responses to their many questions.<sup>150</sup>
- In April 2012, DOL’s Office of Disability Employment Policy (ODEP) launched the Employment First State Leadership Mentor Program (EFSLMP). Employment First is a concept to facilitate the full inclusion of people with the most significant disabilities in the workplace and community. Under the Employment First approach, community-based, integrated employment is the first option for employment services for youth and adults with significant disabilities. This program helps states align policies, regulations and funding priorities to encourage integrated employment as the primary outcome for individuals with significant disabilities. Integrated employment refers to jobs held by people with disabilities in typical workplace settings where the majority of persons employed are not persons with disabilities, they earn at least minimum wage, and they are paid directly by the employer. Through the initiative, ODEP is providing support and informational resources for four states (Iowa, Oregon, Tennessee, and Washington), that desire systems change reflecting the Employment First approach but have struggled to fully implement it as the primary service delivery system for people with disabilities. In addition, states participating in EFSLMP, along with 28 additional interested states, participate in a Community of Practice through which they will share ideas and strategies for adopting state policies and practices that lead to increased integrated employment outcomes for individuals with significant disabilities.
- ODEP oversees the Campaign for Disability Employment (CDE), which is a collaborative effort between several disability and business organizations that seeks to promote positive employment outcomes for people with disabilities. The CDE encourages employers and others to recognize the value and talent people with disabilities bring to the workplace as

<sup>149</sup>[http://www.whitehouse.gov/sites/default/files/equalpay/equal\\_pay\\_task\\_force\\_progress\\_report\\_june\\_2013\\_new.pdf](http://www.whitehouse.gov/sites/default/files/equalpay/equal_pay_task_force_progress_report_june_2013_new.pdf)

<sup>150</sup>*Id.*



well as the dividend to be realized by fully including people with disabilities at work. In January 2013, the CDE issued its latest video public service announcement (PSA) entitled “Because” that challenges assumptions about people with disabilities and employment and highlights the importance of mentors in the careers and lives of young people, including those with disabilities. The “Because” PSA has been among the top two percent most aired PSAs nationwide this past year, with more than a thousand placements a week. Additional information about the CDE is available at: <http://www.whatcanyoudocampaign.org>.

- On September 13, 2013, OFCCP, ODEP and DOL’s Veterans’ Employment and Training Service (VETS) hosted a Twitter chat on the final rule updating the regulations implementing Section 503 of the Rehabilitation Act and the Viet Nam Era Veterans’ Readjustment Assistance Act. The Twitter chat produced 1,153 tweets, and 421,104 people were reached. On September 25, 2013, ODEP, OFCCP, and EEOC hosted a Twitter chat on the 40th anniversary of the Rehabilitation Act. The chat produced 288 tweets and 11,879 people were reached.
- On July 13, 2013, DOJ announced the launch of a new educational video to assist employers in avoiding discriminating against individuals in the employment eligibility verification I-9 form process and in the E-Verify processes.<sup>151</sup>

**2013 AR:** According to the Government: A number of initiatives have been undertaken that focus special attention on groups that may be subject to discrimination in employment. For instance, in 2011, the EEOC created an Immigrant Worker Team (IWT) to implement a comprehensive plan to address the intersection of national origin, race, gender, and religious discrimination issues affecting workers of foreign national origin, including issues related to human trafficking, migrant workers, and immigrant workers. The IWT continues to use a collaborative model to bring together staff with expertise and interest in these issues to enhance EEOC’s enforcement, litigation, and outreach.

- In addition to the efforts to implement EO 13548 discussed above, the Secretary of Labor, in September 2011, announced an additional \$2.2 million in funding, through DOL’s “Add Us In” initiative, to address employment disparities for people with disabilities.<sup>152</sup> The initiative aims to identify and develop strategies to increase the capacity of small businesses and communities, particularly underserved and historically excluded communities, to employ youth and adults with disabilities. DOL’s Bureau of Labor Statistics showed that the unemployment rate for individuals with disabilities was significantly higher than for individuals without disabilities.
- On November 16, 2011, EEOC held a public meeting with a panel of experts from DOL and other agencies to discuss effective ways to remove barriers to employment for disabled veterans. EEOC subsequently, in February 2012, issued two revised publications addressing the unique needs of veterans with disabilities transitioning to civilian

<sup>151</sup><http://www.justice.gov/opa/pr/2013/July/13-crt-777.html>

<sup>152</sup><http://www.dol.gov/opa/media/press/odep/odep20111435.htm>.





employment: “Veterans and the Americans with Disabilities Act (ADA): A Guide for Employers;” and “Understanding Your Employment Rights Under the ADA: A Guide for Veterans.” 153

- In August 2011, OPM and EEOC issued a joint memorandum stating their commitment to ensure equal pay for equal work in the federal government and explaining the obligations of the federal government under the Equal Pay Act, pursuant to the recommendations of the President’s National Equal Pay Task Force. 154 The task force, which brings together EEOC, DOL, DOJ, and OPM, coordinates an integrated, interagency civil rights agenda to address gender equality and equal pay at work. The task force released a report in April 2012 detailing its accomplishments over the past two years, including EEOC’s recovery of more than \$62.5 million through administrative enforcement for victims of sex-based discrimination, and OFCCP’s recovery of more than \$24 million in back wages and 5,500 job opportunities on behalf of more than 50,000 victims of gender discrimination.155
- EEOC has conducted outreach with particular emphasis on gender discrimination, including its Youth@Work Initiative to inform teens about their rights and responsibilities in the workplace and the Fair Pay Initiative to coordinate and highlight fair pay protections available to women. EEOC has also litigated sex-based wage discrimination claims, recovering almost \$900,000 for female victims of pay discrimination. For example, in May 2012, EEOC resolved a lawsuit against a healthcare company alleging that the company paid two female managers less than a male who performed substantially equal work.156 The company agreed to pay \$260,000 in monetary relief, provide all employees with training on their obligations under the Equal Pay Act and Title VII, post an anti-discrimination notice, revamp its non-discrimination policies, implement complaint processing procedures, maintain complaint records, promote management accountability regarding anti-discrimination policies, and provide EEOC with annual reports on its compliance with the consent decree.
- EEOC has also filed a number of lawsuits on behalf of female farm workers who were subjected to severe sexual harassment. In at least six of these cases, EEOC obtained not only significant monetary relief, but also changes to employers’ internal procedures, accountability of supervisors, and monitoring by EEOC. In July 2012, EEOC settled a lawsuit against a large farm alleging that a 17-year old female migrant worker was sexually harassed and others were subjected to retaliation at work. The farm agreed to implement comprehensive and sweeping changes of company procedures for dealing with

<sup>153</sup><http://www.eeoc.gov/eeoc/newsroom/release/2-28-12.cfm>.

<sup>154</sup><http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=4218>.

<sup>155</sup>[www.whitehouse.gov/sites/default/files/equal\\_pay\\_task\\_force.pdf](http://www.whitehouse.gov/sites/default/files/equal_pay_task_force.pdf).

<sup>156</sup><http://www.eeoc.gov/eeoc/newsroom/release/5-7-12a.cfm>.





discrimination and retaliation, affecting up to 3,000 employees, and to expend a total of \$350,000 to resolve the case.<sup>157</sup> In November 2011, a large orchid farm and a former owner agreed to pay \$240,000 to settle a suit alleging that a class of Latina greenhouse workers was subjected to pervasive sexual harassment, discrimination, and retaliation due to their sex and national origin.<sup>158</sup> The parties entered into a consent decree requiring the company to provide staff with EEO training, track future complaints by creating a centralized tracking system, and hold employees accountable for addressing complaints.

- In addition, EEOC has investigated and litigated cases of systemic gender discrimination. For example, in July 2012, EEOC settled a lawsuit against a fast food restaurant owner, which alleged that the owner permitted male employees to create a hostile work environment by sexually harassing female co-workers, some of whom were teenagers, and by retaliating against those who complained.<sup>159</sup> Under the terms of the four-year consent decree, the owner will pay \$1 million in compensatory damages; create an ombudsperson to monitor, solicit, and resolve discrimination complaints; establish a hotline to report discrimination; evaluate management performance based in part on compliance with anti-discrimination policies; track and maintain records of complaints; implement a comprehensive training program; post notices; and provide periodic reports to EEOC showing compliance with the terms of the Decree.
- In September 2011, OFCCP entered into consent decrees with one of the world's largest processors of beef and pork to settle allegations of sex discrimination. The company will pay a total of \$2.25 million, to be divided among more than 1,650 qualified female job applicants who were rejected for employment at various facilities in violation of EO 11246, which prohibits federal contractors from discriminating on the basis of sex.<sup>160</sup>

**2012 AR:** According to the Government: On April 26, 2011, the Office of Federal Contract Compliance (OFCCP) published a Notice of Proposed Rulemaking (NPRM) seeking public comment on a proposal to strengthen affirmative action requirements of federal contractors and subcontractors for veterans protected under the Viet Nam Era Veterans' Readjustment Assistance Act (VEVRAA) of 1974. The OFCCP issued the proposal because increasing numbers of veterans are returning from duty in Iraq, Afghanistan and elsewhere around the world and face substantial obstacles in finding employment. On July 23, 2010 the OFCCP also published an Advance Notice

<sup>157</sup> <http://www.eeoc.gov/eeoc/newsroom/release/7-2-12a.cfm>.

<sup>158</sup> <http://www.eeoc.gov/eeoc/newsroom/release/11-29-11b.cfm>.

<sup>159</sup> <http://www.eeoc.gov/eeoc/newsroom/release/7-18-12a.cfm>.

<sup>160</sup> <http://www.dol.gov/opa/media/press/ofccp/OFCCP20110799.htm>.



of Proposed Rulemaking (ANPRM) seeking public comment on a series of questions intended to identify potential ways to strengthen the affirmative action regulations that apply to federal contractors and subcontractors pursuant to section 503 of the Rehabilitation Act. The framework articulating contractors' section 503 responsibilities has been in place since the 1970's. However, both the unemployment rate of working age individuals with disabilities and the percentage of working age individuals with disabilities that are not in the labor force remain significantly higher than for those without disabilities. Strengthening section 503 regulations is an important step toward reducing barriers to equal employment opportunity for individuals with disabilities. Furthermore, OFCCP proposes revising these regulations to incorporate changes to the law made by the ADA Amendments Act of 2008 (ADAAA). On October 28, 2010, DOL announced the availability of a new online toolkit to guide employers through the process for hiring veterans. The free toolkit is designed to assist and educate employers who have made the proactive decision to include veterans and wounded warriors in their recruitment and hiring initiatives. Developed as part of the Department's "America's Heroes at Work" initiative, the Veterans Hiring Toolkit features a straightforward six-step process pinpointing helpful tools for a business to design a veterans hiring initiative. These steps include creating an educated and welcoming environment for veteran employees; actively recruiting veterans, wounded warriors and military spouses; learning how to accommodate qualified veterans and wounded warriors in the workplace; and promoting an inclusive workplace to help retain veteran employees.

**2011 AR:** According to the Government: On October 19, 2010, the settlement was announced of a class action lawsuit brought by Native American farmers and ranchers against the US Department of Agriculture (USDA) for unfair treatment in the Department's farm loan program. As a result of the settlement the class plaintiffs will receive \$760 million in monetary relief, and reforms will be instituted in the Department's farm loan program. The case was originally filed in 1999 by Native American farmers alleging discrimination in access to and participation in USDA's farm loan programs. The settlement provides a broad range of programmatic relief, including creation of a new Federal Advisory Council for Native American farmers and ranchers that will include Native American representation from around the country and senior USDA officials. A new ombudsman position will be created to address farm program issues relating to Native American farmers and ranchers, as well as all other socially disadvantaged farmers and ranchers. The USDA will also offer Native American farmers enhanced technical assistance services.



			<p><b>2003 AR:</b> According to the Government: (i) workers in the public service; (ii) workers in establishments of a certain size; (iii) workers in particular types of employment (part-time, full-time, temporary, and contingent); (iv) agricultural workers; (v) workers engaged in domestic work; (vi) migrant workers; and (vii) workers in the informal economy are provided with statutory protections against discrimination in employment.</p>
		<p><b>Information/ Data collection and dissemination</b></p>	<p><b>2012 AR:</b> According to the Government: On August 10, 2011, the U.S. Department of Labor's (DOL) OFCCP issued an Advance Notice of Proposed Rulemaking (ANPRM) seeking public comment on the development of a new data tool to collect information on salaries, wages and other benefits paid to employees of federal contractors and subcontractors. The tool would improve OFCCP's ability to gather data that could be analyzed for indicators of discrimination, such as disparities faced by female and minority workers. In addition to providing the OFCCP investigators with insight into potential pay discrimination warranting further review, the proposed tool would provide a self-assessment element to help employers evaluate the effects of their compensation practices. Moreover, the U.S. Census Bureau maintains the Census 2000 Special EEO file for the use of Federal agencies responsible for monitoring employment practices and enforcing civil rights laws in the workforce, and for all employers so they can measure their compliance under equal employment opportunity laws. The Census 2000 Special EEO Tabulation serves as the primary benchmark for conducting comparisons between the racial, ethnic, and sex composition of each employer's workforce to its available labor market. The datasets on the Census 2000 Special EEO Tabulation provide data on race and ethnicity cross-tabulated by other variables such as detailed occupations, occupational groups, sex, worksite geography, residence geography, education, age, and industry.</p> <p><b>2003-2011 ARs:</b> According to the Government: Statistics concerning lawsuits filed by the EEOC, monetary benefits for employees and unlawful employment discriminations are available on the EEOC's website at <a href="http://www.eeoc.gov/stats/enforcement.html">www.eeoc.gov/stats/enforcement.html</a> and the OFCCP's website at <a href="http://www.dol.gov/esa/ofccp/enforc08.pdf">http://www.dol.gov/esa/ofccp/enforc08.pdf</a>.</p> <p><b>2000 AR:</b> The Government stated that the Department of Labor, Women's Bureau had conducted a series of studies concerning the impact of various federal employment laws on working women.</p>



**Prevention/monitoring, enforcement and/or sanction mechanisms**

**2015 AR:** According to the Government: To facilitate and coordinate the investigation of multiple charges against the same employer, EEOC established the Systemic Watch List. This software application issues an automatic alert to staff working on an ongoing investigation or lawsuit when another new charge is filed that matches their current case, facilitating agency action, particularly on systemic cases

In 2014, OFCCP, along with EEOC, conducted over 100 outreach events. EEOC also became a partner in DOL’s Consular Partnership Program, along with DOL’s Bureau of International Labor Affairs, Wage & Hour Division, the Occupational Health and Safety Administration, and the National Labor Relations Board. In 2014, the EEOC offices in San Francisco (California)<sup>161</sup> and Charlotte (North Carolina)<sup>162</sup> signed Memoranda of Understanding with Mexican consulates in their regions to assist with outreach to Mexican nationals in those areas regarding the federal laws that protect workers from discrimination regardless of immigration status, joining the 11 other regional offices that did so in 2013.

**2014 AR:** According to the Government: In FY 2012, EEOC received 99,412 new charges of discrimination against private employers, state and local governments, resolved 111,139 pending charges, and recovered a record \$365.4 million in monetary benefits for charging parties.

EEOC continued to focus its efforts on systemic discrimination, defined as “pattern or practice, policy and/or class cases where the alleged discrimination has a broad impact on an industry, profession, company, or geographic location.” EEOC resolved 240 systemic investigations in FY 2012, resulting in a monetary recovery of \$36.2 million for 3,813 individuals, four times the amount recovered in FY 2011.

During FY 2012, EEOC field legal units filed 122 merits lawsuits (direct suits and interventions alleging violations of the substantive provisions of the statutes enforced by the Commission and suits to enforce administrative settlements) consisting of 66 Title VII claims, 45 Americans with Disabilities Act (ADA) claims, 12 Age Discrimination in Employment Act claims, and 2 Equal Pay Act claims. EEOC’s legal staff resolved 254 merits lawsuits, resulting in \$44.2 million in monetary recovery. Examples of significant litigation activity during FY 2012 and 2013 include the following:

- In May 2013, EEOC obtained an historic \$240 million jury verdict (later reduced to comply with statutory maximums) against a turkey processing plant in Iowa for severely discriminating against 32 men with intellectual disabilities by restricting their movement, requiring them to live in deplorable conditions, subjecting them to physical and verbal abuse, and otherwise treating them inhumanely. This result was in addition to a September 2012 damages verdict of \$1.3 million, which EEOC obtained for the employer’s practice of paying these men with intellectual disabilities lower wages than non-disabled employees for the same work.<sup>163</sup>
- In November 2012, EEOC settled a nationwide class action alleging disability discrimination against a trucking firm for \$4.85 million for the class members, as well as changes to the employer’s policies for providing reasonable accommodations to workers. The agency alleged that the employer violated the ADA by automatically firing workers who took 12 weeks of leave without considering additional leave as a reasonable accommodation, and also by refusing to allow workers to return to work who had any work restrictions or required job modifications.<sup>164</sup>
- In September 2012, EEOC settled a case against a hospital for \$975,000 to be distributed among around 70 victims. EEOC had alleged that the hospital subjected Filipino employees to harassment, scrutiny and discipline,

<sup>161</sup><http://www.eeoc.gov/eeoc/newsroom/release/3-13-14a.cfm>

<sup>162</sup><http://www.eeoc.gov/eeoc/newsroom/release/1-21-14.cfm>

<sup>163</sup><http://www.eeoc.gov/eeoc/newsroom/release/5-1-13b.cfm>

<sup>164</sup><http://www.eeoc.gov/eeoc/newsroom/release/11-9-12.cfm>



		<p>particularly for speaking with a Filipino accent or in Filipino languages like Tagalog or Ilocano. The consent decree required the hospital to develop strong protocols for handling harassment and discrimination, to adopt a language policy that complies with Title VII, and to hire an EEO monitor.<sup>165</sup></p> <ul style="list-style-type: none"><li>• On August 30, 2012, EEOC filed a consent decree that includes a \$2.3 million settlement with a national electronics retailer after EEOC charged the company with sexually harassing a salesperson and firing a supervisor for standing up for her. The consent decree includes preventative measures that must be taken by the company, in addition to court-ordered sanctions and fines. This was one of the largest per-claimant settlements in EEOC history, and signals strongly to employers that sexual harassment in the workplace is a serious issue.<sup>166</sup></li></ul> <p>While EEOC lacks authority to impose fines on employers, it attempts to conciliate charges of discrimination between the employer and charging party before filing a lawsuit or giving the charging party a right to file a suit on her own. Several examples of significant conciliations during FY 2012 include the following:</p> <ul style="list-style-type: none"><li>• In a case against a federal contractor that involved cooperation between EEOC and DOL's OFCCP, a defense contractor that denied employment to women, after instituting a heavy lifting test, paid \$2.23 million to the victims and agreed to provide job offers to a class of 36 women.<sup>167</sup></li><li>• A large employer agreed to revise its leave policies, which had negatively affected approximately 2,000 individuals who were denied additional leave as a reasonable accommodation for a disability. It also agreed to pay \$1.6 million to those affected; post a notice about the case for all employees to view; train all managers, supervisors, and human resource officials on disability law requirements; review its internal complaint procedures; and allow EEOC to monitor any revisions or changes to its leave policy.<sup>168</sup></li><li>• During FY 2012, EEOC continued to encourage resolution of charges through its mediation program, resulting in resolution of 8,714 employment disputes and over \$153.2 million in benefits.</li><li>• EEOC oversees administrative complaints of employment discrimination for most of the federal government. In this complaint process, individuals who believe that they were discriminated against by a federal government employer first must file discrimination complaints with the relevant agency or department. After an investigation is conducted, the employee has an opportunity to select either an immediate decision from the agency, or seek a hearing with an EEOC Administrative Judge. All decisions are subject to a second level appeal to EEOC at the end of the administrative process. In FY 2012, EEOC Administrative Judges resolved 7,538 complaints, securing more than \$61.9 million for individuals with complaints about discrimination within the federal government. The agency also resolved 4,265 administrative appeals.</li></ul> <p>Similarly, during the reporting period, DOL has also taken actions to address discrimination in employment:</p> <ul style="list-style-type: none"><li>• In July 2013, OFCCP settled a case against a construction company alleged to have permitted sexual harassment at the work place, retaliated against workers who complained about a hostile work environment, and interfered with an investigation by terminating workers to prevent them from being interviewed, resulting in \$112,573 in back pay to terminated workers.<sup>169</sup></li></ul>
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<sup>165</sup> <http://www.eeoc.gov/eeoc/newsroom/release/9-17-12a.cfm>

<sup>166</sup> <http://www.eeoc.gov/eeoc/newsroom/release/8-30-12.cfm>

<sup>167</sup> [http://www.eeoc.gov/eeoc/plan/2012par\\_performance.cfm](http://www.eeoc.gov/eeoc/plan/2012par_performance.cfm)

<sup>168</sup> *Id.*

<sup>169</sup> <http://www.dol.gov/opa/media/press/ofccp/OFCCP20131460.htm>



		<ul style="list-style-type: none"><li>• In July 2013, OFCCP settled a case against a health insurance company involving 12 minority customer service representatives who were retaliated against after settling a hiring discrimination case, resulting in \$372,739 in back pay.<sup>170</sup></li><li>• In September 2013, OFCCP settled a case against a supplier of medical and surgical equipment involving allegations regarding involving compensation discrimination against Hispanic employees, resulting in \$290,000 in back pay.<sup>171</sup></li></ul> <p>The Department of Justice (DOJ)<sup>172</sup> has also taken actions to address discrimination in employment:</p> <ul style="list-style-type: none"><li>• In September 2012, DOJ settled a case against the city of Corpus Christi, Texas involving allegations that the city violated Title VII of the Civil Rights Act by discriminating against women when hiring entry-level police officers. The complaint alleges that the city used a physical abilities test that was not related to job requirements when hiring entry-level police officers that screened out more women than men. The city agreed to pay \$700,000 to female applicants who took and failed the test. <sup>173</sup></li><li>• In January 2013, DOJ settled a case against a food service provider alleging a pattern or practice of treating non-U.S. citizens differently from U.S. citizens during the employment eligibility verification process for \$250,000 in civil penalties, the third highest amount paid through settlement since the enactment of the Immigration Nationality Act's (INA) anti-discrimination provision in 1986. The company has also agreed to fully compensate any victims who lost wages as a result of the activities, undergo DOJ training on the anti-discrimination provision of the INA, and be subject to monitoring of its employment eligibility verification practices for a period of three years.<sup>174</sup></li><li>• In April 2013, DOJ settled a case against Lee County, Florida, regarding allegations that the county discriminated against three Hispanic employees on the basis of race and national origin by failing to take meaningful action to stop co-workers from harassing the employees of the facilities management by mocking their accents, making false accusations against the employees to have them terminated, and using racial and ethnic slurs. The county is to pay the employees \$295,500, revise its anti-discrimination policies, and provide mandatory equal employment training to all employees.<sup>175</sup></li></ul> <p><b>2013 AR:</b> According to the Government: On the enforcement side, during FY 2011, EEOC field legal units filed 261 merits lawsuits in federal courts, consisting of 162 Title VII claims, 80 ADA claims, 26 Age Discrimination in Employment Act claims and two Equal Pay Act claims. EEOC legal staff resolved 277 merits lawsuits, resulting in \$90.9 million in monetary recovery. EEOC continued with its efforts to combat systemic investigations, defined as “pattern or practice, policy and/or class cases where the alleged discrimination has a broad impact on an industry, profession, company, or geographic location.” EEOC was involved in 580 systemic investigations at the end of FY 2011, involving 2,067 separate charges. There were 39 subpoena enforcement actions filed in FY 2011, which typically involve systemic investigations, up from 21 in FY 2010.</p>
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<sup>170</sup><http://www.dol.gov/opa/media/press/ofccp/OFCCP20130901.htm>

<sup>171</sup><http://www.dol.gov/opa/media/press/ofccp/OFCCP20131811.htm>

<sup>172</sup>The DOJ litigates claims against state or local governments on the bases of race, color, religion, sex (including pregnancy), national origin, or disability. <http://www.justice.gov/crt/about/emp/>.

<sup>173</sup><http://www.justice.gov/opa/pr/2012/September/12-crt-1132.html>

<sup>174</sup><http://www.justice.gov/opa/pr/2013/January/13-crt-026.html>

<sup>175</sup><http://www.justice.gov/opa/pr/2013/April/13-crt-411.html>



		<ul style="list-style-type: none"><li>• EEOC also conducted 6,264 no-cost educational, training, and outreach events concerning the federal anti-discrimination laws enforced by the agency, which reached over 511,000 stakeholders, in FY 2011. EEOC has provided outreach, education, and technical assistance to focus on increasing voluntary compliance with federal equal employment opportunity laws and on improving employee and employer awareness of rights and responsibilities under these laws. EEOC has previously conducted outreach with a variety of outside partners, including the Mexican Consulates in Atlanta and San Diego, the Hawaii Coalition Against Human Trafficking, the Arizona Interagency Farm Workers Coalition, the Council on American-Islamic Relations, and United Sikhs. Technical assistance is provided through EEOC's Training Institute, Technical Assistance Program Seminars, customer specific seminars/courses, webinars, and conferences.</li><li>• In July 2012, EEOC held a public meeting with academics, civil rights representatives, business and federal sector communities, as well as former and current EEOC leaders and employers, to discuss its proposed Strategic Enforcement Plan for 2012-2016.<sup>176</sup> EEOC sought viewpoints on identifying national priorities that would have the greatest effect in combating discrimination in the workplace over the next three years. Participants highlighted the need for consistent practices and procedures across field offices, and requested that EEOC devote more resources to enhance efficient charge processing and new outreach and education initiatives using social media.</li><li>• In December 2011, EEOC launched an internal Small Business Task Force to develop recommendations on how EEOC can provide improved outreach and technical assistance to small businesses to ensure compliance with federal anti-discrimination laws.<sup>177</sup></li><li>• EEOC continued its practice of examining federal agencies' annual reports on the demographics of their workforces. In situations where there are disparities between the demographics of the available civilian workforce and the agency's demographics, EEOC instructs the agencies to conduct a self-assessment to identify barriers that may exclude certain minority groups and to evaluate solutions for eliminating such barriers.</li><li>• EEOC has increased its interagency coordination with sister civil rights agencies sharing similar missions during FY 2011. For example, EEOC and the Department of Justice (DOJ) have engaged in a pilot project to increase coordination between EEOC investigators and DOJ attorneys in cases that can only be litigated by DOJ, such as those involving state or local government respondents. EEOC and OFCCP revised their Memorandum of Understanding (MOU), effective November 7, 2011, thereby reinvigorating their partnership. The agencies first entered into this MOU on May 20, 1970 and revised it in 1974, 1981 and most recently in 1999. This MOU sets out procedures for OFCCP and EEOC to coordinate investigation of Title VII and Executive Order 11246 complaints. The revised MOU promotes greater coordination, reduces duplication and maximizes efficiency across agencies.</li></ul> <p><b>2012 AR:</b> According to the Government: The EEOC hired nearly 200 new investigators, trial attorneys, and support staff to enhance its ability to enforce federal anti-discrimination laws. This hiring initiative built upon previous efforts begun in 2009, including the hiring of additional front-line staff, a significant agency-wide training initiative, and a renewed emphasis on pre-charge counseling, and identifying, sharing, and implementing best practices in charge handling. As a consequence of these efforts, the EEOC's private sector national mediation program secured 9,370 resolutions, the highest number in the history of the program. On the enforcement side, the EEOC field legal units filed 250 merits lawsuits in federal courts challenging a wide variety of discriminatory practices, as well as 21 subpoena enforcements and other actions. Of the new merit filings, 154</p>
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<sup>176</sup> <http://www.eeoc.gov/eeoc/newsroom/release/7-18-12.cfm>.

<sup>177</sup> <http://www.eeoc.gov/eeoc/newsroom/release/12-15-11.cfm>.





		<p>were individual suits, 96 were multiple victim suits and 20 were systemic cases expected to directly impact large numbers of individuals. The EEOC legal staff resolved 285 merits lawsuits for a total monetary recovery of over \$85 million, achieving a favorable outcome in 92 per cent of all lawsuit resolutions. In Fiscal Year (FY) 2010, the EEOC continued its effort to build a strong national systemic enforcement program. At the end of the FY, 465 systemic investigations, involving more than 2,000 charges, were being undertaken, and the EEOC field offices completed work on 165 systemic investigations resulting in 29 settlements or conciliation agreements, recovering \$6.7 million. Additionally, by participating in 3,766 training and outreach events, the Agency educated approximately 250,000 persons in FY 2010. Moreover, the Employment Litigation Section of the U.S. Department of Justice's Civil Rights Division also enforces laws prohibiting discrimination in the workplace, including discrimination on the basis of race, color, national origin, sex, pregnancy, and military status. Further, the section enforces laws prohibiting an employer from retaliating against a person because he or she has opposed a discriminatory employment practice (e.g., race discrimination, military status discrimination), has complained about discrimination, or has assisted in the investigation of a complaint of discrimination. A summary of major enforcement actions undertaken in 2010 by the section is available at <a href="http://www.justice.gov/crt/about/emp/">http://www.justice.gov/crt/about/emp/</a>. Furthermore, in FY 2011, the OFCCP conducted over 4,000 compliance reviews, completed 144 complaint investigations alleging discrimination, recovered more than \$12 million in back pay and obtained job opportunities for 1,446 victims of discrimination. The OFCCP reached financial settlements in 134 discrimination cases in FY 2011 alone, an increase of 38 per cent compared to the financial settlements reach in FY 2010 (97) and 43 per cent compared to 2009 (94). In addition, the OFCCP successfully debarred a non-compliant federal contractor for the first time in 8 years; resolved a multi-establishment corporate-wide case resulting in \$2.25 million in back wages, interest and benefits to 1,650 qualified female job applicants; and successfully resolved a difficult and protracted compensation case resulting in \$250,938 to 124 women subjected to pay discrimination.</p> <p><b>2010 AR:</b> According to the Government: The OFCCP administers and ensures compliance with one EO and two equal employment opportunity laws that prohibit Federal contractors and subcontractors from discriminating on the basis of race, color, religion, sex, national origin, disability, and protected veterans' status. In FY 2008, OFCCP completed 4,333 compliance evaluations, of which 78 were classified as having systemic violations. Further, OFCCP conducted 949 compliance assistance events for small contractors, mega-projects and construction contractors, Industrial Liaison Group events, and linkage meetings. In FY 2008, the EEOC filed 325 lawsuits and obtained a total of \$376.4 million in monetary benefits for employees. These statistics are available on the EEOC's website at <a href="http://www.eeoc.gov/stats/enforcement.html">www.eeoc.gov/stats/enforcement.html</a>. In FY 2008, the OFCCP recovered a record \$67,510,982 for a record 24,508 American workers who had been subjected to unlawful employment discrimination. Of that record recovery, 99 per cent were collected in cases of systemic discrimination – those involving a significant number of workers or applicants subjected to discrimination because of an unlawful employment practice or policy. The recovery amount reflects a 133 per cent increase over financial remedies obtained in FY 2001. These statistics are on OFCCP's website at <a href="http://www.dol.gov/esa/ofccp/enforc08.pdf">http://www.dol.gov/esa/ofccp/enforc08.pdf</a>.</p> <ul style="list-style-type: none"><li>• 2008 AR: According to the Government: The OFCCP annually recognizes federal contractor employers who have implemented exemplary programs to eliminate discrimination in the workplace. In fiscal year 2005, legal staff from the Equal Employment Opportunity Commission participated in almost 900 outreach events educating more than 60,000 individuals about the laws prohibiting employment discrimination.</li></ul>
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	<p><b>Involvement of the social partners</b></p>	<p><b>2003-2005 ARs:</b> According to the Government: In FY 2001, the EEOC directed the development of a National Enforcement Plan identifying priority issues and setting out a plan for administrative enforcement. This necessitated a broad range of consultations with dozens of employers and workers organizations.</p> <ul style="list-style-type: none"> <li>– Numerous federal agencies, including the EEOC, have undertaken to seek the cooperation of employers’ and workers’ organizations to realize the elimination of discrimination in employment and occupation.</li> <li>– The United States Department of Justice involves workers’ and employers’ organizations in the development and implementation of measures regarding the elimination of discrimination by educating such organizations.</li> <li>– The OSC involves government employees, employee representatives and other interested parties in the development and implementation of governmental measures regarding the elimination of discrimination in employment and occupation through outreach programs.</li> </ul>		
	<p><b>Promotional activities</b></p>	<table border="1" style="width: 100%;"> <tr> <td data-bbox="853 911 1115 1257"> <p><b>Institutions to promote equality</b></p> </td> <td data-bbox="1115 911 2101 1257"> <p><b>2013 AR:</b> According to the Government: In Fiscal Year (FY) 2011, EEOC resolved 112,499 private sector discrimination charges and recovered a record \$364.6 million in monetary benefits for charging parties.<sup>178</sup> EEOC resolved 82,980 charges under Title VII, 26,080 under the Age Discrimination in Employment Act, 1,101 under the Equal Pay Act, 27,873 under the Americans with Disabilities Act, and 211 under the Genetic Information Nondiscrimination Act. EEOC secured more than \$58 million in relief for parties who requested hearings in the federal sector process.<sup>179</sup></p> <p>During FY 2011, EEOC placed a strong emphasis on its mediation program, resulting in resolution of a record number of 9,831 employment disputes through its national private sector mediation program and over \$170 million in benefits, an increase of 469 resolutions and \$29 million from FY 2010.</p> <p><b>2012 AR:</b> According to the Government: During FY 2010, the EEOC was achieving a consent</p> </td> </tr> </table>	<p><b>Institutions to promote equality</b></p>	<p><b>2013 AR:</b> According to the Government: In Fiscal Year (FY) 2011, EEOC resolved 112,499 private sector discrimination charges and recovered a record \$364.6 million in monetary benefits for charging parties.<sup>178</sup> EEOC resolved 82,980 charges under Title VII, 26,080 under the Age Discrimination in Employment Act, 1,101 under the Equal Pay Act, 27,873 under the Americans with Disabilities Act, and 211 under the Genetic Information Nondiscrimination Act. EEOC secured more than \$58 million in relief for parties who requested hearings in the federal sector process.<sup>179</sup></p> <p>During FY 2011, EEOC placed a strong emphasis on its mediation program, resulting in resolution of a record number of 9,831 employment disputes through its national private sector mediation program and over \$170 million in benefits, an increase of 469 resolutions and \$29 million from FY 2010.</p> <p><b>2012 AR:</b> According to the Government: During FY 2010, the EEOC was achieving a consent</p>
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<sup>178</sup> <http://www.eeoc.gov/eeoc/plan/upload/2011par.pdf>.

<sup>179</sup> <http://www.eeoc.gov/eeoc/statistics/enforcement/index.cfm>.



			<p>decree resolving a case against a nationwide restaurant chain in which the Agency had alleged that the company engaged in a pattern or practice of discrimination against women by failing to hire and promote them into management positions and by providing them inferior job assignments, fewer training opportunities, and less opportunity for advancement. The consent decree provides a \$19 million settlement fund for approximately 3,000 class members, and requires the company to adopt objective promotion procedures to ensure that selections for the positions are gender neutral. The EEOC also successfully resolved three Title VII lawsuits against a national grocery chain, involving discrimination on the bases of race, color, national origin, and retaliation at the company's distribution center in Colorado. The parties entered into a four-year consent decree resolving the cases for \$8.9 million, to be distributed to 168 eligible class members. Other significant recent enforcement decisions and decrees obtained by the EEOC may be accessed online at <a href="http://www.eeoc.gov/eeoc/initiatives/e-race/caselist.cfm">http://www.eeoc.gov/eeoc/initiatives/e-race/caselist.cfm</a>.</p> <p><b>2011 AR:</b> According to the Government: On February 18, 2010, the EEOC published a Notice of Proposed Rulemaking (NPRM) on the definition of "reasonable factors other than age" (RFOA) under the Age Discrimination in Employment Act of 1967 (ADEA). The ADEA prohibits age-based employment discrimination against individuals who are 40 or older. The NPRM follows up on an earlier EEOC NPRM and the Supreme Court decision in <i>Smith v. City of Jackson</i>, 544 U.S. 228 (2005), which held that an employment practice that has a disparate impact on older workers is discriminatory unless the practice is justified by a reasonable factor other than age. The current proposed rule emphasizes the need for an individualized, case-by-case approach to determining whether an employment practice is based on reasonable factors other than age, and clarifies that the employer bears the burden of proving the RFOA defense. Also in February 2010, the President announced the establishment of a National Equal Pay Enforcement Task Force "to improve compliance, public education, and enforcement of equal pay laws." The Task Force, consisting of the EEOC, the Department of Justice Civil Rights Division, the Department of Labor, and the Office of Personnel Management, are tasked with enhancing the enforcement of federal equal pay laws, improving public education on wage discrimination, and gathering statistics to better understand the scope of the gender pay gap and target enforcement efforts.</p>
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**2010 AR:** According to the Government: In September 2008, the Americans with Disabilities Amendments Act (ADA), Pub. L. No. 110-325, was signed into law, overturning a series of Supreme Court decisions that interpreted the Americans with Disabilities of 1990 (ADA) in a way that made it difficult to prove that an impairment is a “disability.” The new law emphasizes that the definition of disability should be construed in favour of broad coverage of individuals to the maximum extent permitted by the terms of the ADA. It also greatly enhances legal protections in employment for persons with disabilities by: broadening the definition of “disability” and prohibiting consideration of the ameliorative effects of “mitigating measures” when assessing whether an impairment substantially limits a person’s major life activities. In other legislative developments, the Genetic Information Non-discrimination Act of 2008 (GINA) was signed into law in May 2008. Pub. L. No. 110-233, codified at 42 U.S.C. 2000ff *et seq.* GINA includes two titles. Title I addresses the use of genetic information in health insurance, generally prohibits discrimination in group premiums based on genetic information and the use of genetic information as a basis for determining eligibility or setting premiums in the individual and Medigap insurance markets, and places limitations on genetic testing and the collection of genetic information in group health plan coverage, the individual insurance market, and the Medigap insurance market. The Departments of Health and Human Services, Labor and Treasury issued interim and proposed rules implementing Title I on October 7, 2009. *See* 74 Fed. Reg. 51664. Title II prohibits the use of genetic information in employment, prohibits the intentional acquisition of genetic information about applicants and employees, and imposes strict confidentiality requirements. GINA requires the Equal Employment Opportunity Commission (EEOC) to issue regulations implementing Title II of the Act, and a Notice of Proposed Rulemaking (NPRM) has been published under that authority. *See* 74 Fed.Reg. 9056-01 (Mar. 2, 2009). In addition, the Lilly Ledbetter Fair Pay Act of 2009, Pub. L. No. 111-2, was signed into law in January 2009. The law amends the civil rights laws by providing that the 180-day statute of limitations for filing an equal pay lawsuit regarding pay discrimination resets with the issuance of each new discriminatory paycheck. The law was a response to *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007), a Supreme Court decision holding that the statute of limitations for presenting an equal pay lawsuit begins at the date the pay was agreed upon, not at the date of the most recent paycheck, as a lower court had ruled.

The new law restores the pre-*Ledbetter* position of the EEOC that each paycheck that delivers discriminatory compensation is a wrong, actionable under the federal EEO statutes regardless of when the discrimination began. Under the law, an individual subjected to compensation discrimination under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), or the ADA may file a charge within 180 days (or 300 days, if the discrimination occurred in a place that has a state or local anti-discrimination law) of any of the following: when a discriminatory compensation decision or other discriminatory practice affecting compensation is adopted; when the individual becomes subject to a discriminatory compensation decision or other discriminatory practice affecting compensation; or, when the individual’s compensation is affected by the application of a discriminatory compensation decision or other discriminatory practice, including each time the individual receives compensation that is based in



		<p>whole or part on such compensation decision or other practice.</p> <p><b>2009 AR:</b> According to the Government: The US Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) annually recognizes federal contractor employers who have implemented exemplary programs to eliminate discrimination in the workplace. In Fiscal Year 2007, the OFCCP implemented new policy initiatives and directives to provide clearer guidance for employers and more enforceable standards for OFCCP, including by clarifying the standards for investigating potential systemic compensation discrimination and expanding the categories of veterans protected by the affirmative action provisions of the Viet Nam Era Veteran’s Readjustment Assistance Act of 1974. In July 2008 the US EEOC issued a new compliance manual section about workplace discrimination on the basis of religion. The new section includes a comprehensive review of the relevant provisions of Title VII of the Civil Rights Act of 1964 and the EEOC’s policies regarding religious discrimination, harassment and accommodation. The EEOC also issued a companion question-and-answer fact sheet and best practices booklet. All three documents are on the EEOC’s website at <a href="http://www.eeoc.gov">www.eeoc.gov</a>.</p> <p><b>2008 AR:</b> According to the Government: The US Department of Labor’s OFCCP annually recognizes federal contractor employers who have implemented exemplary programs to eliminate discrimination in the workplace. In fiscal year 2005, legal staff from the Equal Employment Opportunity Commission participated in almost 900 outreach events educating more than 60,000 individuals about the laws prohibiting employment discrimination. The EEOC, through the operations of 51 field offices nationwide, coordinates all federal equal employment opportunity regulations, practices, and policies. The Justice Department’s Community Relations Service is a vital component of the agency’s mission to eradicate employment and occupation discrimination. The OSC protects federal employees and applicants from prohibited personnel practices, which include employment discrimination.</p>
	<p><b>Other activities</b></p>	<p><b>2012 AR:</b> On April 26, 2011, the OFCCP published a Notice of Proposed Rulemaking (NPRM) seeking public comment on a proposal to strengthen affirmative action requirements of federal contractors and subcontractors for veterans protected under the Viet Nam Era Veterans.</p> <p><b>2011 AR:</b> According to the Government: In December 2010, the Women’s Bureau (WB) of the Department of Labor (DOL) hosted an Equal Pay Research Summit bringing together some of the foremost experts to discuss the best approaches to data collection to better understand the scope of the pay gap and to improve enforcement efforts.</p>



		<p><b>2000-2005 ARs:</b> According to the Government: To promote the principle regarding the elimination of discrimination in employment and occupation, the EEOC directed the development of a National Enforcement Plan identifying priority issues and setting out a plan for administrative enforcement and litigation of the laws within its jurisdiction. EO 11246 requires any employer who has a contract with the federal Government to take affirmative action to ensure that applicants are employed, and employees are treated during their employment, without regard to race, color, religion, sex, or national origin. The Government, consistent with the ADA, has introduced the New Freedom Initiative, as part of a nationwide effort to remove barriers to community living for people with disabilities. In an effort to move toward full integration of individuals with disabilities into the workforce, the New Freedom Initiative promotes compliance with the ADA by small businesses and provides resources annually for technical assistance to help small business to comply with the Act.</p>
	<p><b>Special initiatives/Progress</b></p>	<p><b>2015 AR:</b> According to the Government: In September 2013, the Senate Committee on Health, Education, Labor, and Pensions published a report: “High Expectations: Transforming the American Workforce as the ADA Generation Comes of Age.” The report assesses the employment status and needs of young people with disabilities (16-34 years) and provides guidance on continuing to improve their employment situation and thereby meet the goal established in April 2011 of increasing the work force participation of disabled persons to six million by 2015.<sup>180</sup> EEOC also worked to ensure the employment rights of people with disabilities. In addition to previously mentioned actions, such as litigating 51 ADA claims and developing new Interpretive Guidance for the ADA, EEOC hosted a public symposium on disability rights in September 2013.<sup>181</sup> EEOC and DOL also collaborated to host a live Twitter chat, where experts answered the public’s questions on disability and employment in the federal government.<sup>182</sup> In May 2014, ODEP announced the availability of \$15 million in grants to state workforce agencies to develop and implement new strategies to increase the participation of people with disabilities in existing career pathways programs in the public workforce system. The grants represent the fifth round of funding through the Disability Employment Initiative, a program designed to improve the employment opportunities of youths and adults with disabilities who are unemployed, underemployed, and/or receiving Social Security Disability assistance. Since 2010, the program has provided over \$81 million to programs in 26 states.<sup>183</sup> In March 2014, through a joint effort by EEOC and DOJ, a plaintiff received \$125,000 in a settlement of a consolidated Title VII and Equal Pay Act claim. The plaintiff, a female art teacher, had been paid less than a male art teacher employed by the same school system even though she had superior credentials. Two weeks after she complained of the discrimination, the employer informed her that her contract would not be renewed. In June 2014, DOL’s Office of Disability Employment Policy (ODEP) announced the availability of \$1.8 million in grants to manage and operate the National Employer Policy, Research and Technical Assistance Center on the Employment of People with Disabilities, which analyzes employer researcher, policies and practices related to disability employment, researches effective employer engagement strategies, and provides outreach and technical assistance to targeted</p>

<sup>180</sup> U.S. Senate Committee on Health, Education, Labor, and Pensions, “High Expectations: Transforming the American Workforce as the ADA Generation Comes of Age”, September 26<sup>th</sup>, 2013. Available at: <http://www.help.senate.gov/newsroom/press/release/?id=8c890e1c-27fd-4599-b040-0e2631a96212&groups=Chair>

<sup>181</sup> <http://www.eeoc.gov/eeoc/newsroom/release/9-19-13.cfm>

<sup>182</sup> <http://www.eeoc.gov/eeoc/newsroom/release/9-18-13.cfm>

<sup>183</sup> <http://www.dol.gov/opa/media/press/odep/ODEP20140834.htm>



employers. In June 2014, DOL's ODEP also announced the availability of \$2 million for two grants to improve post-secondary education and employment opportunities for youth with disabilities through the Pathways to Careers: Communication Colleges for Youth and Young Adults with Disabilities Demonstration Project. The grants would fund a pilot project to build the capacity of community colleges to meet the educational and career development needs of youth with disabilities.

**2014 AR:** According to the Government: In March 2013, EEOC issued a report addressing the obstacles that hinder equal opportunities for African-Americans in the federal workforce. The report reflects dialogues with a variety of stakeholder groups and input from leading academics. The report identified seven obstacles: (1) unconscious biases about African-Americans; (2) lack of mentoring and networking opportunities for higher-level and management positions; (3) insufficient training and development assignments that perpetuate inequalities and skills and opportunities for African-Americans; (4) narrow recruitment methods; (5) perception of widespread inequality among African-Americans; (6) educational requirements; (7) and lack of compliance with EEO regulations by federal agencies.<sup>184</sup>

In January 2010, President Obama formed the National Equal Pay Enforcement Task Force, an inter-agency group dedicated to eliminating pay discrimination consisting of the Departments of Labor and Justice, EEOC, and the Office of Personnel Management. On June 10, 2013, the task force released a report marking the 50th anniversary of the Equal Pay Act. The report stated that from January 2010 through March 2013, EEOC obtained over \$78 million in relief for victims of sex-based wage discrimination, and OFCCP recovered more than \$33 million in back wages and nearly 7,000 job opportunities on behalf of over 60,000 victims of discrimination. Over the same time span, OFCCP also identified and successfully resolved over 80 cases of race- or gender-based pay discrimination, recovering \$2.5 million in back pay and salary adjustments for about 1,200 workers. The report noted that the DOJ concentrated on opening opportunities for women in higher paying law enforcement jobs and entered into settlements with police departments, correctional facilities, and other public employers where women are underrepresented in non-traditional positions.<sup>185</sup>

In FY 2012, EEOC participated in 3,992 no-cost educational, training, and outreach events that reached approximately 318,000 people. Additionally, EEOC's Training Institute, which offers more in-depth programming concerning employment discrimination, trained 23,119 individuals by conducting 473 events.

On September 19, 2012, EEOC released videos and classroom guides for schools to educate working-age students about sexual harassment and other forms of employment discrimination. These materials help youth understand what conduct is illegal and suggest strategies to prevent and, if necessary, respond to unlawful discrimination. The video and guide are available in a free download from [www.youth.eeoc.gov](http://www.youth.eeoc.gov).

In 2013, EEOC Offices in Birmingham (Alabama), Cleveland (Ohio), Dallas (Texas), Denver (Colorado), El Paso (Texas), Jackson (Mississippi), Miami (Florida), New Orleans (Louisiana), New York City (New York), Philadelphia (Pennsylvania), and Phoenix (Arizona) signed Memoranda of Understanding with Mexican Consulates in those cities, whereby EEOC agreed to provide Mexican nationals in the United States with information, guidance, and access to resources on the prevention of discrimination in the workplace, regardless of documentation status. Under these agreements, EEOC provides Spanish-language materials on the laws enforced by EEOC, and provides representatives to participate in outreach events sponsored by the Consulates.

<sup>184</sup> <http://www.eeoc.gov/federal/reports/aawg.cfm>

<sup>185</sup> [http://www.whitehouse.gov/sites/default/files/equalpay/equal\\_pay\\_task\\_force\\_progress\\_report\\_june\\_2013\\_new.pdf](http://www.whitehouse.gov/sites/default/files/equalpay/equal_pay_task_force_progress_report_june_2013_new.pdf).



On March 20, 2012, EEOC established and announced a Spanish-language Twitter account (@EEOCespañol) and YouTube channel to reach more workers in the United States with information on employment discrimination laws, EEOC news, and the rights of workers.

**2013 AR:** According to the Government: In July 2012, OPM submitted to President Obama its “Report on the Employment of Individuals with Disabilities in the Federal Sector,” pursuant to EO 13548 and the President’s goal of hiring 100,000 people with disabilities by 2015. The report noted that at the end of FY 2011, the percentage of Federal Government employees with disabilities was the highest in 20 years.<sup>186</sup> There have been further significant increases in Federal new hires of people with disabilities, including veterans, since the last fiscal year. OPM has been working with other Federal agencies to implement and improve efforts to employ workers with disabilities.

In April 2012, EEOC issued a national enforcement guidance titled “Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964.”<sup>187</sup> The guidance clarifies and updates EEOC’s long-held position that an employer’s use of arrest and conviction records to screen applicants or employees could have a disparate impact, particularly against African-Americans or Hispanics, and may be discriminatory if not justified by a business necessity.

On April 20, 2012, EEOC clarified that federal employees’ claims of discrimination based on transgender status or gender identity, are cognizable Title VII sex discrimination claims that may be adjudicated before EEOC and may give rise to claims under Title VII of the 1964 Civil Rights Act.<sup>188</sup> There are 16 states<sup>189</sup> that currently ban employment discrimination based on gender identity or expression, most recently Connecticut (H. 6599, on June 3, 2012) and Massachusetts (H. 3610, on November 23, 2011).

**2012 AR:** According to the Government: The Director of the Office of Personnel Management (OPM), in consultation with the Secretary of Labor, the Chair of the EEOC, and the Director of the Office of Management and Budget (OMB), designed model recruitment and hiring strategies for agencies to facilitate employment of people with disabilities. A memorandum issued on November 8, 2010, provides recruitment, hiring, and retention strategies to assist agencies in increasing the number of individuals with disabilities in the Federal workforce through compliance with EO 13163 (issued on July 26, 2010). On May 27, 2011, OPM issued “Guidance Regarding the Employment of Transgender Individuals in the Federal Workplace.” It is the policy of the Federal Government to treat all of its employees with dignity and respect and to provide a workplace that is free from discrimination whether that discrimination is based on race, color, religion, sex (including gender identity or pregnancy), national origin, disability, political affiliation, marital status, membership in an employee organization, age, sexual orientation, or other non-merit factors. The document provides guidance to Federal agencies to help ensure that they afford a non-discriminatory working environment to employees irrespective of their gender identity or perceived gender non-

<sup>186</sup> <http://www.opm.gov/diversityandinclusion/reports/disability/index.aspx>.

<sup>187</sup> [http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm).

<sup>188</sup> *Macy v. Holder*, EEOC, No. 0120120821, 4/20/12; See <http://www.eeoc.gov/decisions/0120120821%20Macy%20v%20DOJ%20ATF.txt>.

<sup>189</sup> California, Colorado, Connecticut, District of Columbia, Hawaii, Illinois, Iowa, Massachusetts, Maine, Minnesota, New Jersey, New Mexico, Nevada, Oregon, Rhode Island, Vermont, and Washington.





conformity.

**2011 AR:** According to the Government: As a consequence of the PC/ILO meeting of May 2010, work is proceeding to update the law and practice report for US Senate consideration in the ratification process.

Moreover, the EEOC continues to implement its five-year E-RACE initiative (Eradicating Racism and Colorism from Employment). The five main goals of E-RACE, to be achieved by FY 2013, are to (1) improve data collection and data analysis in order to identify, track, investigate and prosecute allegations of discrimination; (2) improve quality and consistency in EEOC's charge processing and litigation program, and improve federal sector systems; (3) develop strategies, legal theories, and training modules to address emerging issues of race and color discrimination; (4) enhance visibility of EEOC's enforcement efforts in eradicating race and color discrimination; and (5) engage the public, employers, and stakeholders to promote voluntary compliance to eradicate race and color discrimination. See <http://www.eeoc.gov/eeoc/initiatives/e-race/goals.cfm>. The EEOC also continues to implement a separate initiative to address the declining number of employees with targeted disabilities in the federal workforce. The goal for this initiative is to significantly increase the population of individuals with severe disabilities employed by the federal government, in part by educating federal hiring officials and applicants about how to use special hiring authorities for disabled workers, and increasing awareness of programs that provide assistive technology and services to people with disabilities throughout the federal government. See <http://www.eeoc.gov/eeoc/initiatives/lead/index.cfm>.





		<p>Finally, Green jobs are a key driver for America’s economic recovery and its sustained economic stability. They are mostly in male-dominated occupations where wages are higher than in jobs where women are now clustered. DOL’s WB is working to ensure that women have access to these high-paying, high-demand green jobs. The WB commissioned Why Green Is Your Color: A Woman’s Guide to a Sustainable Career, to give women the information and resources they need to succeed in the developing green economy. In conjunction with the development of the guide, which will become available in early 2011, the WB conducted seven national teleconferences in 2010 to educate organizations and workforce development professionals so they can better assist women to find green jobs training and employment. The WB also funded nine green jobs training projects around the country. Each project was to either increase the number of women in existing green jobs training programs or add a green jobs training component to existing job training programs, and the projects serve as models for preparing women for high-growth and emerging green jobs over the next decade.</p> <p><b>2010 AR:</b> Adoption of new Acts concerning the principle and right (PR), such as: (i) the Americans with Disabilities Amendments Act (ADAAA), 2008; Pub. L. No. 110-325; and (ii) the Genetic Information Non-discrimination Act of 2008 (GINA), May 2008, Pub. L. No. 110-233, codified at 42 U.S.C. 2000ff et seq.; and (xvi) the Lilly Ledbetter Fair Pay Act, January 2009, Pub. L. No. 111-2.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers’ organizations</b></p>	<p><b>NIL.</b></p>
		<p><b>Workers’ organizations</b></p>	<p><b>2002 AR:</b> The ICFTU highlighted the number of sexual harassment cases, the wage gap between sexes and races, and lack of protection for migrant workers.</p> <p><b>2004-2005 ARs:</b> The AFL-CIO strongly disagreed with the draft update to the report on the principle of the elimination of discrimination in employment and occupation.</p> <p><b>2005 AR:</b> According to the ICFTU: discrimination is prohibited by law but does occur in practice: there is still a wage gap between men and women and between different ethnic groups; large differences exist between states with regard to labour legislation and enforcement.</p>



**According to the Government**

**2015 AR:** According to the Government: The United States pursues the elimination of discrimination in respect of employment and occupation through a combination of law enforcement, administrative action, and public outreach. To the extent that challenges persist in practice, these are addressed by means of activities and initiatives such as those described in the answers above

**2014 AR:** According to the Government: The United States pursues the elimination of discrimination in respect of employment and occupation through a combination of law enforcement, administrative action and public outreach. To the extent that challenges persist in practice, these are addressed by means of activities and initiatives such as those described above.

**2013 AR:** According to the Government: The United States pursues the elimination of discrimination in respect of employment and occupation through a combination of law enforcement, administrative action and public outreach. To the extent that challenges persist in practice, these are addressed by means of activities and initiatives.

**2012 AR:** According to the Government: The United States pursues the elimination of discrimination in respect of employment and occupation through a combination of law enforcement, administrative action and public outreach. For example, during Fiscal Year 2010, the EEOC field legal units filed 250 merits lawsuits in federal courts challenging a wide variety of discriminatory practices, as well as 21 subpoena enforcements and other actions. Of the new merit filings, 154 were individual suits, 96 were multiple victim suits and 20 were systemic cases expected to directly impact large numbers of individuals. The EEOC legal staff resolved 285 merits lawsuits for a total monetary recovery of over \$85 million, achieving a favorable outcome in 92 per cent of all lawsuit resolutions. The EEOC's private sector national mediation program secured 9,370 resolutions, the highest number in the history of the program, and a record \$142 million in monetary benefits. Additionally, by participating in 3,766 training and outreach events, the Agency educated approximately 250,000 persons in FY 2010.

**2011 AR:** According to the Government: Discrimination in the workplace is often addressed through agency enforcement actions. For example, in Fiscal Year (FY) 2009, the US Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) recovered \$9,314,978 in back pay, and provided relief from unlawful employment discrimination for more than 21,839 workers. The OFCCP also negotiated settlements that provided 2,249 new job opportunities for affected workers. These statistics are available at <http://www.dol.gov/dol/budget/2011/PDF/CBJ-2011-V2-04.pdf> or [www.ofccp.blogspot.com/2010/02/dol-releases-ofccp-fy-2009-enforcement.html](http://www.ofccp.blogspot.com/2010/02/dol-releases-ofccp-fy-2009-enforcement.html).



		<p>In FY 2010, the EEOC received the highest number of charges in its 45-year history – a total of 99,922 charges. This surge in charge receipts is due in part to the expanded statutory authorities that the EEOC has been given with the ADA Amendments Act (ADAAA) of 2008, the Genetic Information Nondiscrimination Act (GINA) of 2008, and the Lily Ledbetter Fair Pay Act of 2009 (the Ledbetter Act). Also in FY 2010, the EEOC, through its private sector administrative enforcement activities, secured more than \$319.3 million in monetary benefits, the highest level of monetary relief ever obtained by the Commission through the administrative process. Overall, the agency secured both monetary and non-monetary benefits for more than 18,898 people through administrative enforcement activities – mediation, settlements, conciliations and withdrawals with benefits. The EEOC’s private sector national mediation program secured a total of 9,362 resolutions, the highest number of resolutions in the history of the program, obtaining a record \$141.9 million in monetary benefits for complainants from mediation resolutions. In FY 2010, EEOC field legal units filed 250 merits lawsuits including 159 individual suits and 92 multiple-victim suits. (“Merits” lawsuits include direct suits and interventions alleging violations of the substantive provisions of the statutes enforced by the Commission and suits to enforce administrative settlements.) Of these new filings, 192 contained claims under Title VII of the Civil Rights Act of 1964; 40 contained Americans with Disabilities Act claims; 28 contained Age Discrimination in Employment Act claims; and 2 contained Equal Pay Act claims. Legal staff resolved 285 merits lawsuits for a total monetary recovery of \$85 million. Overall, EEOC recovered \$73.9 million in Title VII resolutions, \$5.2 million in ADEA resolutions, \$2.8 million in ADA resolutions, and \$2.9 million in resolutions involving more than one statute. These statistics are available on the agency’s website at <a href="http://www.eeoc.gov/eeoc/plan/2010par.cfm">http://www.eeoc.gov/eeoc/plan/2010par.cfm</a>.</p> <p><b>2008 AR:</b> According to the Government: In Fiscal Year 2006, OFCCP recovered a record \$ 51,525,235 for a record 15,273 American workers who had been subjected to unlawful employment discrimination. Of that record recovery, 88 per cent was collected in cases of systemic discrimination – those involving a significant number of workers or applicants subjected to discrimination because of an unlawful employment practice or policy. The \$51.5 million reflects a 14 per cent increase over recoveries in Fiscal Year 2005 and a 78 per cent increase over Fiscal Year 2001.</p> <p><b>2000-2005 ARs:</b> While immigration laws continue to be enforced, anti-discrimination laws will apply to unauthorized migrant workers. The EEOC has issued new guidance that provides basic remedies to this group, stating that such laws apply to all employees in the United States, regardless of citizenship or work status. Similarly, the National Labor Relations Board (NLRB) continues to treat all statutory employees as protected from unfair labor practices and entitled to vote in NLRB elections, without regard to their immigration status. The Department of Labor has also continued to apply legal protections to employees regardless of immigration status.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<b>NIL.</b>
	<b>Offer</b>	<b>NIL.</b>

<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted the intentions expressed by most governments, including the Government of the United States, to ratify or consider ratification of Conventions No. 100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification. However, the IDEAs noted that the United States was the only country that reports that it was not actively considering ratification of Convention No. 100. Given that many countries have requested ILO technical cooperation in the ratification process (on the content of Conventions Nos. 100 and 111, labour law review, ratification process, etc.), the IDEAs requested the Office to strengthen its assistance in this regard (cf. paragraphs 66 and 67 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs listed the United States among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labor law reform, preventive, enforcement and sanctions mechanisms and/or ratification. They also considered that the example of regular and constructive contributions by AFL-CIO should be expanded upon, in particular among other national workers' organizations, as well as employers' organizations (cf. paragraphs 13 and 190 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p><b>2004 AR:</b> The IDEAs noted that despite receiving very late reports or observations, it had been possible to compile them so as to allow the United States to be taken into account in this annual review. They nevertheless urged the country to send reports within the prescribed time frame, so as to ensure the smooth running of the annual review process (cf. paragraph 21 of the 2008 Annual Review Introduction – ILO: GB.289/4).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2015 AR:</b> At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p><b>2013 AR:</b> At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p><b>2011 AR:</b> At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101<sup>st</sup> Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p><b>2009 AR:</b> During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99<sup>th</sup> Session (2010) of the International Labour Conference.</p>
<p><b>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</b></p>	<p><b>2013 AR:</b> In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316<sup>th</sup> Session in November 2012.</p> <p><b>2011 AR:</b> Following a tripartite debate at the Committee on the 1998 Declaration, the 99<sup>th</sup> Session (2010) of the International Labour Conference adopted a resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link:<a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf</a>.</p>



**GENERAL OBSERVATION BY THE INTERNATIONAL ORGANISATION  
OF EMPLOYERS (IOE) UNDER THE 2015 ANNUAL REVIEW**<sup>190</sup>

As in the 2014 Annual Review, the IOE sent a statement outlining its position and activities with regard to the Declaration and its follow-up, which is reproduced here *in extenso*<sup>191</sup>.

[The IOE] thanks the Office for [the] opportunity to provide comments under the [A]nnual [F]ollow-up concerning [N]on-[R]atified [F]undamental Conventions and to reflect on the relevance of the 1998 ILO Declaration on Fundamental Principles and Rights at Work (the Declaration) for the programmes and activities developed by the International Organisation of Employers (IOE).

This communication intends to give an overview of the most important activities the IOE has undertaken in the past year in its efforts to promote the Declaration and its four principles.

***Promotion of the ILO Declaration on Fundamental Principles and Rights at Work***

At a global level, the IOE has had the opportunity across the range of inter-governmental, UN and multilateral system consultations in which it frequently engaged, to reiterate the commitment of business to the promotion of the Fundamental Principles.

Furthermore, the last Governing Body session discussions on the implementation report for the follow-up to the resolution concerning the recurrent discussion on fundamental principles and rights and work (GB.320\_INS\_3\_1) in March 2014 provided a platform for the Employers to re-energize attention, priority and focus on the fundamental principles and rights set out in the Declaration.

The conclusions of this debate reaffirmed the objectives of [the 1998] Declaration, mutually reinforcing strategic objectives and the fundamental principles and rights at work. Key elements of the ILO action plan continue to be [IOE's] focus of attention, as follows:

- Leading the knowledge agenda, advocacy and information dissemination.
- Supporting regional priorities. Capacity building, strengthening the role of social partners.
- Strengthening partnerships with major international actors.
- Ensuring that technical assistance activities have a focus on formalizing the economy, generating employment with particular emphasis to jobs and skills for youth.

***Corporate Social Responsibility***

The IOE, through its member Employers' Organisations, continues to work to ensure the proper use of the Declaration within CSR activities, recognizing that the Declaration is a call to member States to promote the Principles.

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<sup>190</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers, the ILO Governing Body and the International Labour Conference.

<sup>191</sup> With some light editing by the Office.



The IOE CSR Newsletter series has attracted contributions from many IOE member federations, highlighting concerns, announcing legal developments around the world and showcasing company experiences and best practices. Furthermore, the deliberations of the IOE Policy Working Group on CSR and Business & Human Rights, capturing the business perspective on challenges and company experiences of implementing the UN Guiding Principles, is providing specific guidance to Employers and Business Organisations on how to apply and support the Declaration in this context.

Major debates within the European Union and at the Office of the High Commissioner on Human Rights (OHCHR) have led the IOE to remain focussed on promot[ing] the incorporation of the fundamental principle and rights in the CSR activities of the business community around the world.

The IOE continues to work closely with the UN Human Rights Council in advancing the implementation of the Guiding Principles on Business and Human Rights through the activities of its Working Group and keeps on ensuring the clear identification of the labour rights aspects of the Declaration in conformity with the intent and purpose behind its creation.

### *The effective abolition of child labour*

The IOE has continued to work actively with IPEC/ILO [ILO International Programme on the Elimination of Child Labour] and, together, [it] jointly support[s] a business assessment project with SHIFT to help companies eliminate the risk of child labour in their supply chains. In particular, the IOE/IPEC/SHIFT project has a focus on fundamental labour rights in alignment with the UN “Protect, Respect, and Remedy” Framework and its Guiding Principles and aims to provide guidance to companies seeking to demonstrate a proactive, rights-based approach to preventing child labour. The outcome of this project is a Toolkit for Employers on How to do business with respect for Children’s right to be free from Child Labour which is currently under review and its publication is anticipated before the end of 2015.

The IOE also continues to be actively engaged in the development of the Child Labour Platform, a business network aimed at contributing to the eradication of Child Labour from international production chains as a specific follow-up action from the Hague Conference. Please see section on Global Compact for further information.

### *The elimination of all forms of forced or compulsory labour*

The IOE welcomed the adoption of the new Protocol and Recommendation on supplementing the Forced Labour Convention (C. 29) adopted at the 2014 ILC [International Labour Conference] and fully supports the action framework that these two new instruments will provide to effectively contribute to the elimination of all forms of forced labour and human trafficking. The IOE has produced joint guidance material on the relevance of this new instrument for Business, IOE-ILO Guidance Note on the 2014 Protocol to the Forced Labour Convention, 1930 and supports the ILO 50 for Freedom Campaign as part of the follow-up global initiative.

The Employers look forward to being part of the development of the ILO platform of action for the implementation of these new instruments in alignment with the Principles of the [19]98 Declaration and call on the ILO to assert its unique role as the organisation with the legitimacy and competence to set and deal with [I]nternational [L]abour [S]tandards, and, in doing so, promote policy coherence and collaboration across the multilateral system.

The IOE has continued to strengthen its partnership with the [ILO] Special Action Programme to combat Forced Labour (SAP – FL) and has completed the updating of [the] joint publication: Combating Forced Labour: A Handbook for Employers and Business and [it] continue[s] to target the development of further booklets on critical risk sectors such as agriculture, fishery and manufacturing.

In addition, the IOE supports the ILO’s Fair Migration Agenda, including the Fair Recruitment Initiative which was designed in close consultation with employers to support pilot models of fair recruitment and capacity building of private employment agencies in target countries and in different sectors and industries; and in close cooperation with the International Organisation for Migration (IOM) committing to work at a global level and reducing exploitative recruitment practices in international labour migration.



### ***The elimination of discrimination in respect of employment and occupation***

The IOE is actively involved in addressing various forms of discrimination directly through the activities of [its] policy working groups i.e. Employment; CSR and Business & Human Rights; International Labour Migration, Industrial Relations and Sustainable Development, as well as in cooperation with others as follows:

- With the ILO Bureau for Employers' Activities (ACT/EMP) to provide first-hand support and guidance at country level.
- With the Business and Industry Advisory Committee to the OECD, BIAC, to jointly advance the business case for gender diversity and women's economic empowerment.
- With the International Federation of Business and Professional Women (BPW International) to develop strategies, share networks and promote intercultural understanding to encourage workplace diversity, gender equality and women's empowerment across the business community.
- Through its co-chairing of the B20 Employment Task Force ensuring, for example, the G20 focus on increasing job opportunities for young people, including youth entrepreneurship, and that international organisations support national efforts to this end.
- The IOE has also worked in cooperation with the global trade union movement to jointly identify key priorities for the employment of young people.
- With the support of the ILO, the IOE continues to contribute to the development of the IOE/BIAC Global Apprenticeships Network (GAN), created as a direct outcome of the commitment of the global business community to play its part in addressing the youth employment crisis.

### ***Global Compact***

With Secretary-General Linda Kromjong on the Global Compact Board, the IOE continues to play a crucial role in influencing the future direction and priorities of the Global Compact and its local networks, many of which are co-ordinated by IOE member federations.

In March 2014, the IOE launched a call to members in selected countries, in conjunction with its partner BPW International, to promote the Women's Empowerment Principles of the UN Global Compact/UN Women and we continue to monitor its development.

### ***Freedom of Association and the effective recognition of the right to collective bargaining***

One of the IOE's primary means of promoting and upholding the principle of freedom of association for employers remains ensuring that the Governing Body Committee on Freedom of Association (CFA) and the CEACR [Committee of Experts on the Application of Conventions and Recommendations] are relevant, and responsive to the cases brought by the Employers' Group.

It remains a key responsibility of the IOE to defend the rights and interests of employers' organisations in all regions that do not fully enjoy freedom of association by providing assistance, guidance, support and representation.

Whilst freedom for employers prevails in many countries of the world and is largely taken for granted, developments in other parts of the world continue to threaten those rights, requiring the attention of the Employers' Group and the IOE and providing an on-going role for the promotion of the Declaration supported by targeted technical cooperation.



In partnership with the ILO Bureau for Employers' Activities (ACT/EMP), the IOE continues to help ensure infringements of this principle of employers' rights are strongly denounced in the CFA and in the Governing Body as required.

### **Conclusions**

The Employers continue to be fully engaged in the promotion of the Fundamental Principles and Rights at Work which are the cornerstone of [IOE's] framework of action and policy recommendations.

The Employers reiterate their commitment to cooperate with all relevant actors to further promote the realisation of the Principles in accordance with the different national circumstances of [the IOE] member federations.

The Declaration remains an outstanding example of how the ILO should and can react to pressing social issues through its unique process of consensus building. [The IOE] appreciate[s] this opportunity to provide feedback and remain available to answer any questions arising from this document.