



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2009)¹: AFGHANISTAN

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

REPORTING	Fulfillment of Government's reporting obligations	YES, since the 2005 Annual Review (AR).	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, 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) and the All Afghanistan Federation of Trade Unions (AAFTU) through consultations or communication of the Government's reports.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2009 AR: Observations by CCK. 2007 AR: Observations by the CCA.	
	Workers' organizations	2009 AR: Observations by NUAE. 2007 AR: Observations by the AAFTU. 2006 AR: Observations by the AWA.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	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)
		Ratification intention	YES, since 2005, for C.29. 2009 AR: The Government indicated that the ratification of C.29 was still being considered. The CCK and the NUAE expressed their support to the ratification of C.29 by Afghanistan. 2008 AR: 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. 2007 AR: According to the Government: C.29 has been integrated into national laws and will be submitted to Parliament for ratification. The CCA supported ratification of C.105 by Afghanistan. The AAFTU supported ratification of C.105 by Afghanistan, and hoped that the Government would accelerate this process. 2005-2006 ARs: According to the Government: C.29 is in the process of ratification.
	Recognition of the principle and right (prospect(s), means of action, main legal	Constitution	YES According to the Government: Article 41 of the new Constitution (2004) defines forced labour as a compulsion for anyone to work without his/her consent or under a threat. It also prohibits all forms of forced or compulsory labour.

¹ 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

	provisions)	Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy: 2005 AR: 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. • Legislation 2006 AR: According to the Government: Section 11 of the 1987 Labour Code prohibits all forms of forced or compulsory labour.
		Basic legal provisions	(i) Constitution (article 41); (ii) Labour Code (1987), section 11.
		Definition of forced or compulsory labour	2005 AR: According to the Government: Forced or compulsory labour is defined in its various forms in national legislation and or judicial decision.
		Judicial decisions	NIL
	Exercise of the principle and right	Special attention to particular situations and human trafficking	2005 AR: According to the Government: Special attention is given to the situation of young boys and girls.
		Information/Data collection and dissemination	2005 AR: According to the Government: Statistics are not collected but the Government intends to do so.
	Monitoring, enforcement and sanctions mechanisms	2005 AR: 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.	
	Involvement of the social partners	2005 AR: According to the Government: There is a tripartite examination of related issues to realize the PR.	
	Promotional activities	<p>2007 AR: According to the Government: A national tripartite workshop on international labour standards, the Declaration and social dialogue was organized in 2006 in cooperation with the ILO. The CCA stated that it participated in this workshop and in the labour law review process. The AAFTU confirmed that it participated in this workshop.</p> <p>2005 AR: 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. A national commission on children's rights is responsible for the identification, emancipation and/or rehabilitation of people subject to forced labour.</p>	
	Special initiatives/Progress	<p>2007 AR: 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>2006 AR: According to the Government: A national tripartite seminar on International Labour Standards was organized in May 2005 with ILO technical assistance.</p> <p>2005 AR: According to the Government: As a successful example, a national project has been designed for the rehabilitation of street children and child soldiers.</p>	
CHALLENGES IN REALIZING THE	According to the social partners	Employers' organizations	2009 AR: 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.

PRINCIPLE AND RIGHT		Workers' organizations	<p>2008 AR: 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>2007 AR: The AAFTU mentioned that the Government did not consult with it in the labour law review process.</p>
	According to the Government		<p>2008 AR: 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>2005 AR: 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. Difficulties also include the rehabilitation of repatriated Afghan children who have been subject to trafficking in various countries.</p>

TECHNICAL COOPERATION	Request	<p>2009 AR: 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. The CCK and the NUAE supported this request.</p> <p>2008 AR: 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>2007 AR: 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. 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 a case study on the FPRW in Afghanistan. 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>2005-2006 ARs: 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). 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>2006 AR: The AWA requested ILO technical cooperation to promote the PR among its members.</p>
	Offer	ILO (awareness raising activities)

<p>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2008 AR: 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>2007 AR: 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 in a daunting but essential task (Cf. Paragraphs 40 and 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p>2006 AR: 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>2005 AR: 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 had established a national tripartite commission in this respect (Cf. Paragraphs 8 and 187 of the 2005 AR Introduction – ILO: GB.292/4).</p>
<p>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>	<p>NIL</p>



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2009)¹: BRUNEI DARUSSALAM

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

REPORTING	Fulfillment of Government's reporting obligations	YES, under the 2008 Annual Review (AR).		
	Involvement of Employers' and Workers' organizations in the reporting process	YES, 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.		
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2008 AR: Observations by the NCCI and its three affiliates.		
	Workers' organizations	2008 AR: Observations by the BOWU		
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	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).	
		Ratification intention	Under consideration for both C.29 and C.105. 2009 AR: The Government indicated that it is still reviewing the possibility to ratify C.29 and C.105 in consultation with the employers' and workers' organizations. 2008 AR: 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.	
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	NO	
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Legislation (i) The Penal Code (CAP 22); (ii) The Women and Girls Protection Act (CAP 120); (iii) The Children Order, 2000; (iv) The Trafficking and Smuggling of Persons Order, 2004; (v) Employment Agencies Order, 2004; and (vi) The Children and Young Persons Order, 2006 (will repeal the Children's Order, 2000 once it is in force). 	
	Basic legal provisions	(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)..		

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		Judicial decisions	NIL
		Definition of forced or compulsory labour	AR 2008: 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).
		Judicial decisions	NIL
	Exercise of the principle and right	Special attention to particular situations and human trafficking	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 (which will repeal Children Order once it is in force) and the Trafficking and Smuggling of Persons Order, 2004.
		Information/Data collection and dissemination	NIL
	Monitoring, enforcement and sanctions mechanisms	2008 AR: 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.	

	Involvement of the social partners	2009 AR: According to the Government, the employers' and workers' organizations are being involved in the ratification process of the ILO fundamental Conventions.	
	Promotional activities	<p>2009 AR: 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>2008 AR: 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, ILO fundamental Conventions and reporting issues. The NCCI stated that it promotes the fundamental principles and rights at work, decent work and sustainable enterprises through discussions among its members and with the Government. The BOWU stated that it organizes a monthly meeting to develop the knowledge on ILO and fundamental principles and rights at work among its members.</p>	
	Special initiatives/Progress	<p>2009 AR: 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>2008 AR: 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>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	2008 AR: According to the NCCI: No problems of forced or compulsory labour are being encountered in the country.
		Workers' organizations	2008 AR: 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.
	According to the Government	2008-2009 ARs: 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.	
TECHNICAL COOPERATION	Request	<p>2008-2009 ARs: 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 fundamental principles and rights at work in Brunei Darussalam, in consultation with the employers' and workers' organizations.</p> <p>2008 AR: 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 realise the fundamental principles and rights at work in Brunei Darussalam, in consultation with the employers' and workers' organizations.</p>	

	Offer	ILO (consultations on Decent Work Country Programme and assistance in reporting under the AR); ASEAN; INTERPOL.
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	2008 AR: 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 forward 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).	
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	NIL	



COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2009)¹: CANADA

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

REPORTING	Fulfillment of Government's reporting obligations	YES, since the start of the Annual Review (AR) in 2000. But no change report for the 2001 and 2004 ARs.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the Canadian Employers' Council (CEC), the Canadian Labour Congress (CLC) and the Confederation of National Trade Unions (Confédération des syndicats nationaux- CSN), through communication of the Government's report.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	NIL	
	Workers' organizations	2001 AR: International Confederation of Free Trade Unions (ICFTU)'s observations.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Canada ratified in 1959 of 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).
		Ratification intention	<p>2009 AR: According to the Government: Ratification of C.29 is being reviewed by the federal Government in consultation with the provinces and territories. Confirmation is being sought from the ILO that work performed by prisoners under public-private partnership arrangements does not constitute forced labour under C.29.</p> <p>2008 AR: According to the Government: Canada's position on ratification of C.29 is being reviewed in the light of information concerning public-private partnerships in prison systems in the 2007 General Survey on Forced Labour.</p> <p>2006 AR: Unable to ratify C.29.</p> <p>Although there is only one privately managed prison in Canada, public-private partnerships that offer prisoners meaningful work experiences are considered an essential element of modern prison policies. As the ILO Committee of Experts has determined that work performed in privately managed prisons or in the context of public-private partnership arrangements constitutes forced labour, Canada is not in a position to ratify C.29 at this time.</p> <p>2004 AR: According to the Government: The Government is continuing to work with all Canadian jurisdictions with a view to completing the procedures for the ratification of C.29.</p> <p>2001-2002 ARs: The Government stated that significant progress had been made towards obtaining the formal agreement of the provinces and territories for ratification of C.29.</p> <p>2000 AR: According to the Government: Canada expresses a favourable opinion on the ratification of C.29 and is reviewing its legislation and practice in compliance with this Convention. Consultations leading towards ratification were being held.</p>

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Recognition of the principle and right (prospect(s), means of action, main legal provisions)	Constitution	YES The Constitution in its Charter of Rights and Freedoms provides that traffic in human beings, slavery, serfdom or forced labour in any form is prohibited, with the exception of compulsory service required by the State for public benefit/purpose.
	Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy <p>2003-2006 ARs: According to the Government: Since forced labour does not exist or is rare in Canada, the Government has not considered it necessary to adopt a national policy for realizing this PR.</p> <p>2005 AR: According to the Government: The federal Government has established an Interdepartmental Working Group (IWG) to coordinate initiatives to combat human trafficking (including for forced or compulsory labour) and for the development of a federal strategy.</p> <ul style="list-style-type: none"> • Legislation <p>2008 AR: According to the Government: The Bill C-57, introduced on 16th, 2007, proposes amendments to the <i>Immigration and Refugee Protection Act</i> to allow immigration officers to refuse to authorize foreign nationals to work in the country if they are judged to be at risk of exploitation. The Bill was introduced to preclude situations in which temporary workers, particularly exotic dancers, may be exploited or become victims of human trafficking. Ministerial instructions will aim to protect foreign nationals who are at risk of being subjected to humiliating or degrading treatment, including sexual exploitation. A summary of the Bill is available at: http://www.parl.gc.ca/LEGISINFO/index.asp?List=ls&Query=4968&Session=14&Language=e</p> <p>2007 AR: According to the Government: Bill C-49, which is an Act to amend the Criminal Code (trafficking in persons), received Royal Assent on November 25, 2005. The Bill creates new indictable offences related to trafficking in persons: trafficking in persons, the earning of financial or material benefit for the purpose of committing or facilitating the trafficking of a person, and the withholding or destruction of documents for the same above-mentioned purpose. "Exploiting a person" under the proposed amendments would mean to cause someone to provide, or offer to provide, labour or service by engaging in conduct that leads the victim to fear, on reasonable grounds, for their safety or that of someone known to them if they fail to comply. The Criminal Code and the Immigration and Refugee Protection Act (2002) relate to the principle and right (PR).</p> <p>2002 AR: In December 2002, Canada signed the UN Convention against Transnational Organized Crime and its Supplemental Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.</p>
	Basic legal provisions	(i) Constitution (Charter of Rights and Freedoms); (ii) Criminal Code of Canada (iii) Immigration and Refugee Protection Act, 2002.
	Definition of forced or compulsory labour	According to the Government: Forced or compulsory labour (FCL) is not defined in national law, but such practices are prohibited under various Criminal Code provisions. Trafficking in persons, including for forced labour, is prohibited under Canada's Immigration and Refugee Protection Act.
	Judicial decisions	NIL

	<p>Exercise of the principle and right</p>	<p>Special attention to particular situations and human trafficking</p>	<p>2009 AR: According to the Government: Canada continues to implement measures to strengthen its ability to protect foreign national victims through the establishment of the Royal Canadian Mounted Police (RCMP)'s Human Trafficking National Coordination Center and the development of a tool kit for law enforcement agencies which includes a training video, a fact sheet on trafficking in persons (TIP), a wallet-size card on how to identify Victims of TIP. Awareness-raising activities have included the development of an education booklet on TIP for the public, as well as anti-trafficking awareness projects in Thailand, Lao People's Democratic Republic, Viet Nam and Cambodia, undertaken by the International Organization for Migration (IOM).</p> <p>2008 AR: The RCMP Human Trafficking National Coordination Center received increased staffing and resources in 2006, and in November 2006, the RCMP organized anti-trafficking training in Eastern Canada for law enforcement, victim service providers, and NGOs. In May 2006, victim protections were strengthened by providing foreign trafficking victims with temporary resident permits and immediate access to medical and social counselling assistance and other health service benefits. Canada funds anti-trafficking programs domestically and around the world, contributes funds to international organizations such as UNODC, and hosts and participates in international anti-trafficking conferences, where best practices are shared.</p> <p>2007 AR: According to the Government: The Government of Canada's Interdepartmental Working Group on Trafficking in Persons (IWGTIP) is developing a broad-based prevention strategy focussing on public awareness activities, enhancing efforts to reduce the factors that make persons vulnerable to trafficking and enhancing the government's ability to respond to the factors that fuel the demand for exploitative labour/services.</p> <p>2005 AR: According to the Government: Women and children, migrants, racialized or racial/ethnic minorities, Aboriginal communities.</p>
		<p>Information and data collection</p>	<p>2008 AR: According to the Government: In July 2006, the Library of Parliament released a report entitled "Trafficking in Persons" that analyses the current situation in the country. The report is available at: http://www.parl.gc.ca/information/library/PRBpubs/prb0624-f.htm</p> <p>2004 AR: The Government mentioned that it does not collect statistics or other information on the elimination of all forms of forced or compulsory labour, but plans to enhance data collection on human trafficking in Canada, including trafficking for forced labour.</p>

	Monitoring, enforcement and sanctions mechanisms	<p>2006 AR: According to the Government: Although there are no specific legislative prohibitions with respect to forced or compulsory labour, such practices, if they were to occur, would be subject to prosecution under the Criminal Code of Canada which prohibits crimes such as forcible confinement, kidnapping, assault, sexual assault, robbery, extortion, criminal interest rate, fraud, criminal breach of contract, intimidation uttering threats, and bribery. All Canadian jurisdictions have legislation establishing minimum labour standards and minimum wage rates. Trafficking in persons, including for forced labour, is prohibited under Canada's Immigration and Refugee Protection Act.</p> <p>2003-2005 ARs: According to the Government: The following measures for the realization of the PR have been implemented: (i) legal reform (such as the enforcement of the New Immigration and Refugee Protection Act on 28 June 2002); (ii) international cooperation programmes or project.</p>
	Involvement of the social partners	<p>2003-2005 ARs: According to the Government: Social partners have not been involved in the development and implementation of government measures.</p>
	Promotional activities	<p>2003-2006 ARs: According to the Government: (i) awareness raising/advocacy activities; (ii) international cooperation programmes/projects have been implemented. Such activities have included initiatives aimed at awareness-raising, research and development of good practices, and law enforcement training, and a number of them were specifically targeted at women and aboriginal communities. This includes for example in 2005 the launching of a national plan of action for children including to combat trafficking in persons and other forms of exploitation; the commitment, at various conferences, to work domestically and internationally to combat trafficking in persons; the organization by the Royal Canadian Mounted Police of a training seminar on international human trafficking and the release of a guide book for law enforcement officials; the support of action by women's organizations working with sex trade workers or working with live-in caregivers and on the issue of trafficking in women; and the funding of various counter-trafficking in persons projects.</p>

	Special initiatives/Progress	<p>2009 AR: According to the Government: An additional \$6 million per year has been allocated to strengthen existing federal efforts to combat sexual exploitation and trafficking of children and to enhance current enforcement responses. The new Women’s Community Fund (\$12.3 million) and Women’s Partnership Fund (\$3 million) will support community and collaborative projects that address the economic, social and cultural situation of women, with violence against women being one of the two priority issues identified for 2007–08. As highlighted in the Government’s response to the Standing Committee on the Status of Women’s report, <i>Turning Outrage into Action to Address Trafficking for the Purpose of Sexual exploitation in Canada</i>, the Government of Canada will continue to focus prevention, protection, prosecution and partnerships in tracking TIP. To view the Government’s response, see http://cmte.parl.gc.ca/cmte/CommitteePublication.aspx?COM=10477&Lang=1&SourceId=212908</p> <p>2007 AR: According to the Government: One of Canada’s privately managed prisons will be returned to the public sector when the current contract expires in the fall of 2006. The Canadian International Development Agency is continuing to support global cooperation in combating the trafficking of persons through the funding of specific projects and initiatives.</p> <p>2006 AR: According to the Government: Bill C-49, An Act to amend the Criminal Code (trafficking in persons), was introduced in parliament in May 2005. The Bill would create new indictable offences related to trafficking in persons: trafficking in persons, the earning of financial or material benefit for the purpose of committing or facilitating the trafficking of a person, and the withholding or destruction of documents for the same above-mentioned purpose. “Exploiting a person” under the proposed amendments would mean to cause someone to provide, or offer to provide, labour or service by engaging in conduct that leads the victim to fear, on reasonable grounds, for their safety or that of someone known to them if they fail to comply.</p> <p>2003 AR: According to the Government: The major change regarding the PR concerns Bill C-11, the Immigration and Refugee Protection Act, which entered into force on 28 June 2002. This Act creates a new offence covering “trafficking in persons”. Penalties against human traffickers include fines of up to Canadian \$1 million and imprisonment up to life sentence.</p>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers’ organizations	NIL
		Workers’ organizations	2001 AR: The ICFTU stated that forced labour was against the law in Canada and there was no known case of forced labour. It raised the following challenge: under the Canada Shipping Act, imprisonment, including forced labour, may be imposed for breaches of discipline, even when the safety of the ship is not endangered.
	According to the Government	<p>2003-2005 ARs: The most difficult aspect of combating trafficking for forced labour is that organized crime is international. Recipient and transit countries like Canada must work with other countries, in particular those of origin, to stop what is a global problem.</p> <p>2002 AR: In response to the ICFTU’s observations, the Government stated that the provisions of the Canada Shipping Act, which had been commented on by the ILO Committee of Experts over the years, are archaic and not applied and that several amendments have already been made that respond to the Committee’s concerns. The Canada Shipping Act is being overhauled and proposed legislation does not include the provisions referred to by the ICFTU.</p>	
TECHNICAL COOPERATION	Request	NIL	
	Offer	NIL	

<p>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2008 AR: The ILO Declaration Experts-Advisers (IDEAs) 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 Canada and another State had taken certain positive measures, and encouraged them to engage in the ratification process of C. 29 (Cf. Paragraph 49 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAs welcomed the significant increase in the reports of action to combat forced labour in several countries, including Canada, 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>2005 AR: The IDEAs listed Canada 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. Furthermore, they noted with interest that even though forced labour appeared to be rare in the country, the Government was taking active steps to eradicate forced labour, including the organization of various sensitisation activities (Cf. Paragraphs 13 and 187 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>
<p>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>	<p>NIL</p>



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2009)¹: CHINA

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

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2001 Annual Review (AR).	
	Involvement of Employers' and Workers organizations in the reporting process	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.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2009 AR: Observations by the CEC. 2008 AR: Observations by the CEC. 2007 AR: Observations by the CEC.	
	Workers' organizations	2009 AR: Observations by the ACFTU. 2008 AR: Observations by the ACFTU. 2001 AR: Observations by the International Confederation of Free Trade Unions (ICFTU).	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	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).
		Ratification intention	NIL
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	YES 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.

¹ 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

		<p>Policy, legislation and/or regulations</p>	<ul style="list-style-type: none"> • Policy <p>2005 AR: 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> <ul style="list-style-type: none"> • Legislation <p>(i) The Labour Law (sections 32 and 96); (ii) the Criminal Law (sections 240-244); (iii) the Law on the Protection of Rights and Interests of Women (sections 37-39).</p> <p>2008 AR: The Government indicated that the Labour Contract Law was adopted at the 28th Session of the Standing Committee of the 10th National People's Congress on 29th June 2007, which will enter into force on 1st January 2008. Article 38 provides that <i>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.</i> 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 harm to the physical or mental health of employees, it shall be subjected to administrative punishment; if the said conduct constitutes a criminal offense, criminal liability shall be pursued according to the law; if the employee suffers harm as a result of the said conduct on the part of the employer, he will be liable for damages.</p> <ul style="list-style-type: none"> • Regulation <p>The Regulation Forbidding The Use of Child Labour (section 11).</p>
		<p>Basic legal provisions</p>	<p>(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).</p>
		<p>Definition of forced or compulsory labour</p>	<p>2007 AR: 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>2003 AR: 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>
		<p>Judicial decisions</p>	<p>Judicial Explanation of the Supreme Court, 2001 (section 15).</p>

	Exercise of the principle and right	Special attention to particular situations and human trafficking	2003 AR: According to the Government: Special attention is given to the situation of women and girls.
		Information/Data collection and dissemination	2004-2005 ARs: The Government indicated that it was planning to collect statistics or other relevant information on the PR.
	Monitoring, enforcement and sanctions mechanisms	<p>2009 AR.: 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>2008 AR: 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>2007 AR: 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>2005 AR: According to the Government: In instances where the Government finds that the PR has not been respected, the Labour Law provides that the offender shall be taken into custody for a maximum of 15 days, or fined, or given a warning by a public security organ. In addition, criminal responsibilities against the offender shall be investigated if the action constitutes a crime (section 96 of the Labour Law). Under the Criminal Law (section 244), employers who are directly exacting forced labour on workers in violation of labour management laws and regulations are subject to a fine, a maximum of a three-year imprisonment, or criminal detention.</p> <p>2003-2004 ARs: 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>2000 AR: According to the Government: Labour inspections have increased to detect and deal with cases of forced labour.</p>	
	Involvement of the social partners	<p>2005 AR: 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>2003-2005 ARs: According to the Government: The ACFTU has been involved in the development and implementation of Government measures.</p>	

	<p>Promotional activities</p>	<p>2009 AR: According to the Government: Research and training activities on C.29 and C.105 were carried out in various provinces in 2007.</p> <p>2008 AR: 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. 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. 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 4th China Employment Forum in October 2006.</p> <p>2007 AR: 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>2006 AR: 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>2005 AR: According to the Government: In January 2004, a seminar was held in Beijing on C.29 and C.105.</p> <p>2003-2004 AR: 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>2003 AR: 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>2000 AR: 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. The ILO has held many seminars in China on international labour standards in which it promotes the PR.</p>
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	Special initiatives/Progress	<p>2009 AR: 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>2008 AR: 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>2007 AR: According to the Government: In order to reform rehabilitation through Labour mechanism (Laojiao), the 19th Meeting of the Standing Committee of the 10th National People's Congress held on 29th 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>2005 AR: 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>2003 AR: 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>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	2008 AR: 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.
		Workers' organizations	2001 AR: 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.

	According to the Government	<p>2009 AR: The Government indicated that time was needed to adapt national legislation to the PR.</p> <p>2008 AR: 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>2005 AR: 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>
TECHNICAL COOPERATION	Request	<p>2009 AR: The Government indicated that ILO technical cooperation on the PR was needed in the fields of legal reform, awareness raising, training and labour inspection. The CEC requested the ILO's assistance to organize more training workshops on the PR for employers.</p> <p>2008 AR: The Government indicated that ILO assistance is needed for the capacity building of the labour inspection Department. The CEC requested ILO assistance on awareness raising projects.</p> <p>2007 AR: The Government reiterated its previous request for continuing ILO technical cooperation (i.e., legal reform, awareness raising, training, etc.)</p> <p>2005 AR: 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>2003-2004 ARs: The Government expressed its intention to adopt a national policy to realize the PR and requested ILO assistance in this regard.</p>
	Offer	ILO and ILO/SAP-FL (policy advice, awareness raising activities and case studies).

EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	<p>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 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>2007 AR: 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 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. Paragraph 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p>2005 AR: 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>2004 AR: 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>2003 AR: 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>
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	NIL



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2009)¹: JAPAN

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

REPORTING	Fulfillment of Government's reporting obligations	YES , since the start of the Annual Review (AR) in 2000. No-change report under the 2009 AR.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to the Government: Involvement of the Japan Business Federation (NIKKEIREN, then NIPPON KEIDANREN) and the Japanese Trade Union Confederation (JTUC-RENGO) through communication of the Government's report.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2001 AR: Observations by the NIKKEIREN.	
	Workers' organizations	2008 AR: Observations by the JTUC-RENGO. Observations by the International Trade Union Confederation (ITUC). 2007 AR: Observations by the JTUC-RENGO. 2006 AR: Observations by the JTUC-RENGO and by the International Confederation of Free Trade Unions (ICFTU). 2005 AR: Observations by the JTUC-RENGO. 2004 AR: Observations by the JTUC-RENGO. 2003 AR: Observations by the JTUC-RENGO and by the ICFTU. 2002 AR: Observations by the JTUC-RENGO. 2001 AR: Observations by the JTUC-RENGO and by the ICFTU. 2000 AR: Observations by the JTUC-RENGO.	
EFFORTS AND PROGRESS MADE IN REALIZING THE	Ratification	Ratification status	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).

¹ 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.

PRINCIPLE AND RIGHT		Ratification intention	<p>Under consideration for C.105</p> <p>2009 AR: 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.</p> <p>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 a core Convention No. 105 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>2008 AR: According to the JTUC-RENGO: The Government should ratify C.105.</p> <p>2000-2004 and 2006 ARs: The Government indicated that further 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>2001 AR: NIKKEIREN encouraged Japan in examining the issue in view of ratifying C.105.</p> <p>2000-2005 ARs: The JTUC-RENGO supported ratification of C.105 by Japan.</p>
	Recognition of the principle and right (prospect(s), means of action, main legal provisions)	Constitution	<p>YES</p> <p>The Constitution of Japan in Article 18 provides: that "No person shall be held in bondage of any kind. Involuntary servitude, except punishment for crime, is prohibited".</p>
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy <p>2004 AR: 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"> • Regulations <p>2000-2006 ARs: 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 and Transport 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>
		Basic legal provisions	<p>2007 AR: According to the Government:</p> <ul style="list-style-type: none"> (i) The Constitution of Japan, articles 14, 18-21, 28, 31, 32, 34 and 36; (ii) The Penal Code (Law No. 45 of 1907), sections 193-196; (iii) The Labour Standards Law (Law No.49 of 1947) sections 5 and 117; (iv) The Mariners Law (Law No. 100 of 1947), section 6; (v) The National Public Service Law (Law No. 120 of 1947), sections 98,102 and 110; (vi) The Rule of National Personnel Authority 14-7 (1949), sections 1-8; (vii) The Mail Law (Law No. 165 of 1947), section 79; (viii) The Trade Union Law (Law No. 174 of 1949), section 1; (ix) The Local Public Service Law (Law No. 261 of 1950), sections 37 and 61; (x) The Gas Undertakings Law (Law No. 51 of 1954), section 53; (xi) The Electric Undertakings Law (Law No.170 of 1964), section 115; and (xii) The Telecommunications Business Law (Law No. 86 of 1984), sections 108.

		Definition of forced or compulsory labour	NIL
		Judicial decisions	NIL
	Exercise of the principle and right	Special attention to particular situations and human trafficking	NIL
		Information/Data collection and dissemination	<p>2008 AR: 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>2004-2006 ARs: 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, Ministry of Land, Infrastructure and Transport.</p>
	Prevention/Monitoring, enforcement and sanctions mechanisms	<p>2004 AR: 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>2000-2004 ARs: 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>	
	Involvement of the social partners	2004-2005 ARs: According to the Government: Employers’ and workers’ organizations and other stakeholders have been involved in the Labour Policies Commission.	
	Promotional activities	2004 AR: According to the JTUC-RENGO: A tripartite consultation was held on 10 th April 2007 and the ratification of C.105 was argued.	
	Special initiatives/Progress	NIL	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers’ organizations	2001 AR: 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>Workers' organizations</p>	<p>2009 AR: 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>2008 AR: 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> <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>
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			<p>2007 AR: 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) NPSL (section 110): “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.”; and LPSL (section 61) : “A person who conspires to effect, instigates or incites the illegal action defined in the first part of paragraph 2 of section 98 or attempts such action shall be sentenced to penal servitude not to exceed three years or fined not to exceed one hundred million yen.”</p> <p>2006 AR: 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>2000-2005 ARs: 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 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>According to the Government</p>		<p>2009 AR: 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 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. Thus, also 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 shall 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 a statutory penalty of Kidnapping of Minors is raised. 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</p>

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TECHNICAL COOPERATION	Request	<p>2009 AR: 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 Convention to the members of Diet, the situation toward ratification will be very much improved.</p> <p>2008 AR: 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>2004-2007 ARs: 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>
	Offer	NIL
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS		<p>2008 AR: 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>2007 AR: 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. Paragraph 40 and 41 of the 2007 Annual Review Introduction – ILO: GB298/3).</p> <p>2005 AR: 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>2004 AR: 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>
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS		NIL



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2009)¹: REPUBLIC OF KOREA

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

REPORTING	Fulfilment of Government's reporting obligations	YES, except for the 2003 Annual Review (AR).	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the employers' organizations (Korea Employers' Federation (KEF)) and the workers' organizations (Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU)) through communication of Government's report.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2009 AR: Observations by the KEF. 2004 AR: Observations by the KEF.	
	Workers' organizations	2007 AR: Observations by the KCTU. Observations of the International Trade Union Confederation (ITUC). 2004 AR: Observations by the KCTU. 2002 AR: Observations by the KCTU. 2001 AR: Observations by the International Confederation of Free Trade Unions (ICFTU). 2000 AR: Observations by the FK TU.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	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).
		Ratification intention	YES, since 2000. Feasibility of ratification of C.29 and C.105 is being considered in consultation with the employers' and workers' organizations and the ILO, with the intention to ratifying both Conventions. 2009 AR: The Government indicated that it was carrying out inter-ministerial consultations, which is considering possible future changes in the military system. The KEF reiterated that it had no objections to the ratification of C.29 and C .105 by the Republic of Korea. 2007 AR: According to the Government: In an effort to ratify both C. 29 and C.105, the Government held a seminar on forced labour in May 2006 where ILO experts, tripartite representatives, and people from related ministries were invited to discuss the matter. The Government also organized the International Labour Policy Advisory Board to accelerate the ratification process for these instruments. However, discussion is still under way due to divergence of opinions between relevant ministries. The KEF and the KCTU had no objection to the ratification of C.29 and C.105 by the Republic of Korea.

¹ 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

			<p>2006 AR: According to the Government: In 2001, the Government commissioned research to explore the feasibility of ratifying C.29 and C.105 and examine the policy tasks to be fulfilled, with the intention to ratifying both Conventions.</p> <p>2000 AR: According to the Government: In preparing ratification of C.29 and C.105, the Government consulted with the ILO experts on these Conventions on several occasions to seek their advisory assistance on whether the Korean legal system is in compliance with the provisions of both Conventions.</p>
Recognition of the principle and right (prospect(s), means of action, main legal provisions)	Constitution		<p>YES The Constitution:</p> <ul style="list-style-type: none"> - 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”. - 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”. - Article 15 (freedom to choose occupations): “All citizens shall enjoy freedom of occupation”.
	Policy, legislation and/or regulations		<ul style="list-style-type: none"> • Policy <p>2004-2005 ARs: 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> <ul style="list-style-type: none"> • Legislation <p>2000 AR: 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>
	Basic legal provisions		(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.
	Definition of forced or compulsory labour		YES , 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”.
	Judicial decisions		2006 AR: According to the Government: there are no cases of judicial decisions resulting from the violation of the PR (under section 6 of the LSA).
	Exercise of the principle and right	Special attention to particular situations and human trafficking	
Information/Data collection and dissemination			2004 AR: 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>Monitoring, enforcement and sanctions mechanisms</p>	<p>2004-2007 ARs: 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>2001 ARs: 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>2000-2005 ARs: 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"> – 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); – 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 – 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). <p>The responsibilities for taking action against forced labour are assumed by the police, prosecution and courts. 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>Involvement of the social partners</p>	<p>2004-2007 ARs: According to the Government: Tripartite examination of related issues have been implemented in realizing the PR. 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>Promotional activities</p>	<p>2009 AR: 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>2004-2007 ARs: 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>Special initiatives</p>	<p>2008 AR: 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>2007 AR: The Government organized the International Labour Policy Advisory Board with a view to accelerate the ratification process for these instruments.</p>		
<p>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</p>	<p>According to the social partners</p>	<table border="1"> <tr> <td data-bbox="786 1353 1048 1445"> <p>Employers' organizations</p> </td> <td data-bbox="1048 1353 2125 1445"> <p>NIL</p> </td> </tr> </table>	<p>Employers' organizations</p>	<p>NIL</p>
<p>Employers' organizations</p>	<p>NIL</p>			

		Workers' organizations	<p>2004 AR: 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>2001 AR: No particular challenges were raised in the ICFTU's comments.</p> <p>2000 AR: 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>
	According to the Government	<p>2008 AR: 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>2007 AR: 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>2004 AR: 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>2002 AR: 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>	
TECHNICAL COOPERATION	Request	<p>2008 AR: 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>2007 AR: The Government requested the ILO to provide advisory assistance in interpreting special types of military service.</p>	
	Offer	<p>2004 AR: The Government mentioned that it was actively cooperating with ILO and ILO/IPEC.</p>	

<p>EXPERT-ADVISERS' RECOMMENDATIONS</p>	<p>2008 AR: 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>2007 AR: 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 in a daunting but essential task (Cf. Paragraphs 40 and 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p>2005 AR: 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>GOVERNING BODY RECOMMENDATIONS</p>	<p>NIL</p>



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2009)¹: MALAYSIA

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

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2000 Annual Reviews (AR). No-change report for the 2002 AR.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the Malaysian Employers' Federation (MEF) and the Malaysian Trade Union Congress (MTUC), through communication of the Government's report.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2007 AR: Observations by the MEF.	
	Workers' organizations	2007 AR: Observations by the International Confederation of Free Trade Unions (ICFTU) (late observation for the 2006 AR). 2001 AR: Observations by the ICFTU.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	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".
		Ratification intention	NIL 2009 AR: 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. The MEF indicated that it had no objection to the ratification of C.105. 2001 AR: The ICFTU mentioned that the Government should provide legal guarantees for protection against forced labour and again ratify C.105.
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	YES 2001 and 2004 ARs: 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.

¹ 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

		<p>Policy, legislation and/or regulations</p> <ul style="list-style-type: none"> • Policy <p>2007 AR: 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>2001 AR: 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> <ul style="list-style-type: none"> • Legislation <p>2003-2005 ARs: 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>Basic legal provisions</p>	The Federal Constitution of Malaysia (article 6).
		<p>Definition of forced or compulsory labour</p>	NIL
		<p>Judicial decisions</p>	NIL
	Exercise of the principle and right	<p>Special attention to particular situations and human trafficking</p>	NIL
		<p>Information/Data collection and dissemination</p>	2006 AR: According to the Government: the number of cases of abuse reported to the Labour Department has decreased.
	Prevention/Monitoring, enforcement and sanctions mechanisms	<p>2006 AR: The Government stated that the Ministry of Human Resources was responsible for enforcing the labour laws.</p> <p>2003-2005 ARs: According to the Government: The following measures have been implemented to realize the principle and right (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>	
	Involvement of the social partners	<p>2009 AR: 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>	
	Promotional activities	<p>2003-2005 ARs: 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>2001 AR: According to the Government: Rehabilitation programmes are organized for prisoners.</p>	
	Special initiatives/Progress	<p>2003-2005 ARs: 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>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	<p>Employers' organizations</p>	NIL
		<p>Workers' organizations</p>	2001 AR: 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.

	According to the Government	<p>2006 AR: The Government reiterated that all the workers, local and foreigners were subject to the same laws.</p> <p>2001 AR: 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>
TECHNICAL COOPERATION	Request	NIL
	Offer	NIL
EXPERT-ADVISERS' RECOMMENDATIONS		<p>2008 AR: 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>2007 AR: 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>2006 AR: 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>2005 AR: 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>
GOVERNING BODY RECOMMENDATIONS		NIL



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2009)¹: MYANMAR

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

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2000, 2001 and 2002 Annual Reviews (ARs). No change reports under the 2006 and 2007 ARs.		
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the Myanmar Industrial Association, Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) and the most representative workers' organizations by means of consultations and communication of government reports.		
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2008 AR: Observations by the UMFCCI		
	Workers' organizations	NIL		
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Myanmar ratified in 1932 the Forced Labour Convention, 1930 (No.29) (C.29).	
		Ratification intention	2008 AR: The UMFCCI supports the ratification of C.105.	
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	NIL	
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy 2003-2005 ARs: According to the Government: The principle and right (PR) of the elimination of all forms of forced or compulsory labour is recognized in Myanmar and is supported by a national policy. • Legislation: the Criminal Code, covered by the existing laws. • Regulations: Order No. 1/99 of 14/05/199 and its Supplementing Order of 27/10/2000.. 	
		Basic legal provisions	(i) Criminal Code (section 374); (ii) Order No. 1/99 of 14/05/1999; and (iii) Supplementing Order No. 1/99 of 27/10/2000.	
		Definition of forced or compulsory labour	2005 AR: 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.	
		Judicial decisions	NIL	
	Exercise of the principle and right	Special attention to particular situations and human trafficking	NIL	
Information/Data collection and dissemination		2004 AR: According to the Government: The Department of General Administration collects statistics and other information relevant to the PR.		

¹ 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

	Monitoring, enforcement and sanctions mechanisms	<p>2008 AR: 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>2003-2005 ARs: 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>	
	Involvement of the social partners	2003-2004 ARs: According to the Government: Employers' and workers' organizations have been involved in the development and implementation of government measures.	
	Promotional activities	<p>2009 AR: According to the Government: Several training and awareness-raising activities were organized by the Government and the ILO Liaison Officer in 2008.</p> <p>2008 AR: 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 (Tetaim, Hacha, Matubi, Mintub), and subsequently transmitted to the relevant states and divisions of the country.</p> <p>2003-2004 ARs: According to the Government: Awareness raising/advocacy have been implemented to promote the PR.</p>	
	Special initiatives/Progress	<p>2008 AR: 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.</p> <p>2005 AR: According to the Government: Successful example: field inspections were carried out based on allegations and measures were taken.</p> <p>2004 AR: 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>2003 AR: According to the Government: Successful example: Adoption of Order No. 1/99 and its Supplementing Order (in case of negligence, public nuisance, etc.).</p>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	2008 AR: According to the UMFCCI, the economic conjuncture is very fragile due to the economic embargos and sanctions placed on Myanmar by several western countries.
		Workers' organizations	NIL
	According to the Government	NIL	
TECHNICAL COOPERATION	Request	2005 AR: 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.	
	Offer	ILO	

EXPERT-ADVISERS' RECOMMENDATIONS	<p>2008 AR: 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>2007 AR: 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>
GOVERNING BODY RECOMMENDATIONS	NIL



COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2009)¹: SOLOMON ISLANDS

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

REPORTING	Fulfillment of Government's reporting obligations	YES, under the 2006 and the 2008 Annual Reviews (ARs).	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the employers' organizations (the Solomon Islands Chamber of Commerce and Industry (SICCI); the Solomon Islands Chinese Association (SICA); the Solomon Islands Indigenous Business Association (SIIBA); the Solomon Islands Women in Business Association (SIWIB); the Association of Solomon Islands Manufacturers (ASIM); the Solomon Forestry Association (SFA) and workers' organizations (the Solomon Islands Council of Trade Unions (SICTU); the Solomon Islands Public Employees Union (SIPEU); the Solomon Islands National Union of Workers (SINUW); and the Solomon Islands National Teachers' Association (SINTA) by means of consultation and communication of a copy of Government's reports.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2008 AR: Observations by the SICCI. 2006 AR: Observations by SCCI, SICA, SIIBA, SIWIB, ASIM and SFA.	
	Workers' organizations	2008 AR: Observations by the SICTU and SINUW and its 10 affiliates. 2006 AR: Observations by SICTU, SIPEU, SINUW and SINTA.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Solomon Islands ratified in 1985 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)
		Ratification intention	YES, since 2005, for C.105. 2009 AR: The Government indicated that the ratification of C.105 had received executive approval, but was still pending to be discussed by the Parliament. The ASIM and the SICTU reiterated their support to the ratification of C.105. 2009: According to the Government, it has the intention to ratify C.105. It has received executive approval before being brought before Parliament as required by the ILO. 2008 AR: According to the Government: As a result of ILO technical assistance in 2005 to hold consultations with employer's and worker's organizations, the Cabinet approved on 17 May 2007 the ratification of C.105 together with the remaining non ratified ILO fundamental Conventions. It intends at this moment to bring national legislation into compliance with the ILO fundamental Conventions in consultation with the social partners and in cooperation with the ILO. The SICCI expressed its support to the ratification of C.105. According the SICTU: The Letter of Intent concerning the ratification of the remaining 7 unratified ILO fundamental Conventions was presented by the Government during the Celebration of the 30 th years of ILO Presence in the Pacific in Suva (Fiji). The Government should thus finalize this ratification process in cooperation with the ILO.

¹ 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

			<p>2006 AR: The Government indicated that it had the intention to ratify C.105 and that it was initiating a labour law reform in association with the social partners and the ILO in order to ensure compliance national laws with the principle and right (PR). It also appreciated the employers' and workers' organizations' (ASIM, SFA, SICCI, SIIBA, SIWIB, SICA, SICTU, SINUW, SINTA and SIPEU) support for the ratification of all ILO fundamental Conventions not ratified by Solomon Islands. In this respect, it requested ILO technical assistance on the Declaration and standard-related issues and for capacity building in reporting.</p>
<p>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</p>	<p>Constitution</p>	<p>YES, the Preamble of the National Constitution, 1978, provides <i>inter alia</i> that the People of the Solomon Islands shall respect and enhance human dignity. Furthermore, Article 6 of the National Constitution specifies that no person shall be held in slavery or servitude and that no person shall be required to perform forced labour. In addition, Articles 5 and 7 of the same text provide respectively that "no person shall be deprived of his personal liberty save as may be authorized by law [...]" and that "[n]o person shall be subjected to torture or inhuman treatment or degrading punishment or other."</p>	
	<p>Policy, legislation and/or regulations</p>	<ul style="list-style-type: none"> • Policy <p>2008 AR: The Government has received the draft of the Industrial Relations Law elaborated in consultation with the social partners and the ILO. It intends to organize soon a national tripartite workshop on labour law review in cooperation with the ILO.</p> <p>2006 AR: The Government intended to adopt a policy for the realization of the PR, and requested ILO assistance in this respect.</p>	
	<p>Basic legal provisions</p>	<p>(i) The Preamble of Constitution; and (ii) The Constitution (Articles 5-7 and 17-18).</p>	
	<p>Definition of forced or compulsory labour</p>	<p>NIL</p>	
	<p>Judicial decisions</p>	<p>NIL</p>	
<p>Exercise of the principle and right</p>	<p>Special attention to particular situations and human trafficking</p>	<p>NO</p> <p>2006 AR: According to the Government: The PR applies to all categories of persons or activities.</p>	
	<p>Information/Data collection and dissemination</p>	<p>NO, however:</p> <p>2006 AR: The Government plans to collect statistics or other information relevant to the PR.</p>	
<p>Monitoring, enforcement and sanctions mechanisms</p>	<p>2009 AR: According to the Government: A Principal Labour Officer has just been recruited by the Ministry of Labour. He is in charge of following up the application of international labour standards, including issues pertaining to the PR.</p> <p>2006 AR: According to the Government: No specific government authority is responsible for the identification, emancipation and/or rehabilitation of persons subjected to forced labour. In instances where the Government finds that the PR has not been respected, Articles 17 and 18 of the Constitution provide that any person whose fundamental rights or freedoms have been contravened may apply to the High Court for redress and shall be entitled to compensation for the contravention thereof from the person or authority which contravened it. In this respect, penal sanctions have been implemented in the Solomon Islands. Whereas inspection/monitoring mechanisms and civil or administrative sanctions are envisaged.</p>		
<p>Involvement of the social partners</p>	<p>2006 AR: According to the Government: Employers' and/or workers' organizations have been involved in the development and implementation of government measures as follows: employers' and workers' organizations have been consulted in the framework of the labour law review process. In this regard, the Government is in the process of establishing a National Labour Advisory Board where employers' and workers' organizations shall be equally represented. Tripartite examination of issues is envisaged.</p>		

	<p>Promotional activities</p>	<p>2009 AR: According to the Government: The new Principal Labour Officer has participated in the TURIN Course on International Labour Standards where issues relating to the Declaration and the PR were discussed among others. The SICTU indicated that it was planning to organize a workshop on international labour standards issues, including the PR.</p> <p>2008 AR: The SICCI stated that Labour Day celebrations are organized but more substantial promotional activities should be carried out.</p> <p>2006 AR: According to the Government: In realizing the PR, penal sanctions have been implemented in the Solomon Islands. In addition, the following measures are envisaged: (i) awareness-raising/advocacy; (ii) legal reform; (iii) special institutional machinery; (iv) capacity building; (v) employment creation/income-generation; (vi) educational programmes; (vii) rehabilitation following removal from forced labour; and (viii) international cooperation programmes or projects.</p>
	<p>Special initiatives/Progress</p>	<p>2008 AR: The Government provided financial assistance for the national celebration of Labour Day. These activities included awareness raising programmes on the fundamental principles and right at work (FPRW), including radio broadcasting. Furthermore, a weekly radio programme on the FPRW is organized.</p> <p>2006 AR: According to Government: (i) ratification intention for C.105 and (ii) labour law reform in cooperation with the ILO.</p>
<p>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</p>	<p>According to the social partners</p>	<p>Employers' organizations</p> <p>2009 AR: According to the ASIM: A change in government attitude is needed for an equitable distribution of resources to promote the PR.</p> <p>2008 AR: The SICCI indicated that the Government lacked capacity in the monitoring and enforcement of the law.</p> <p>2006 AR: According to the employers' organizations, the main difficulties encountered in realizing the PR in Solomon Islands are as follows:</p> <p>SFA: lack of social dialogue; (i) inadequate labour laws; and (ii) lack of public awareness on the PR;</p> <p>SICA: (i) lack of adequate legislation; (ii) lack of information and data; (iii) lack of public awareness-raising; and (iv) lack of ILO support and technical cooperation programmes;</p> <p>SIWIB: (i) lack of adequate legislation; (ii) lack of education among employers' and workers' organizations; and (iii) lack of public awareness-raising and support;</p> <p>SICCI: (i) lack of adequate legislation; (ii) lack of information and data; (iii) lack of public awareness raising and support; and (iv) lack of ILO support and technical cooperation programmes;</p> <p>ASIM: (i) inadequate enforcement of the legislation; (ii) lack of expertise, resources and capacity and willpower of the Labour Division to enforce laws and regulations and (iii) lack of information and data collection;</p> <p>SIIBA: (i) inadequate legislation; (ii) inadequate enforcement of the legislation; (iii) lack of expertise and resources in the Labour Division; (iv) lack of resources and staff for the labour inspection; (v) lack of information and data collection; and (vi) lack of ILO support and technical cooperation programmes.</p>
		<p>Workers' organizations</p> <p>2009 AR: According to the SICTU: There is a need to review national legislation concerning the PR.</p> <p>2008 AR: The SICTU and SINUW mentioned the same challenges it raised under the 2006 AR.</p> <p>2006 AR: According to the workers' organizations, the main difficulties encountered in realizing the PR in Solomon Islands are as follows:</p> <p>SIPEU: (i) lack of public awareness on the PR; and (ii) lack of ratification of both Conventions;</p> <p>SINTA: (i) lack of public awareness on the PR;</p> <p>SICTU and SINUW: (i) lack of public awareness on the PR.</p>

	<p>According to the Government</p>	<p>2008 AR: The Government reiterated the same challenges mentioned as those under the 2006 AR. It added that the Labour Division lacked capacity to carry out its monitoring role to operate and report effectively to the ILO. Moreover, the legal framework relating to the principle and right in the country needs to be revised in order to comply with international labour standards.</p> <p>2006 AR: The main difficulties encountered in realizing the PR in the Solomon Islands are as follows: (i) lack of public awareness and support; (ii) lack of information and data; (iii) social values, cultural traditions; (iv) legal provisions; (v) lack of capacity of responsible government institutions; (vi) lack of capacity of employers' organizations; (vii) lack of capacity of workers' organizations; and (viii) lack of social dialogue on the PR.</p> <p>With regard to the current factual situation in the Solomon Islands, some girls under 15 years old are involved in prostitution, due to poverty.</p> <p>In response to the employers' and workers' organizations observations, the Government mentioned the following: The Government hopes that the forthcoming establishment of the Labour Advisory Board will help better realize the principle of the elimination of all forms of forced or compulsory labour in the Solomon Islands and bring together the Government and employers' and workers' organizations in better promoting and realizing the PR, including through: (i) the revision of labour laws in the light of the provisions of Convention No.105 to be ratified soon; (ii) capacity building of employers' and workers' organizations; (iii) the strengthening of the new Labour Advisory Board and (iv) public awareness-raising on forced labour issues. In this regard, the ILO technical cooperation (preferably through a comprehensive Declaration Programme) would be most appreciated.</p>
<p>TECHNICAL COOPERATION</p>	<p>Request</p>	<p>2009 AR: According to the Government: ILO technical cooperation is needed to promote the PR among government officials and employers and workers.</p> <p>The ASIM and the SICTU supported this request and mentioned that the ILO's assistance would be required concerning the PR.</p> <p>2008 AR: According to the Government: The requests made under the 2006 AR remain valid. The Government and the SICCI again request ILO assistance to carry out a country assessment to be validated by a national tripartite workshop on the FPRW. ILO technical cooperation should be sustained with view to guiding the forthcoming national legal reforms.</p> <p>2006 AR: According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the principle of the elimination of all forms of forced or compulsory labour in Solomon Islands, in particular in the following areas, in order of priority: (1) assessment in collaboration with the ILO regarding 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); capacity building of responsible government institutions; 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; cooperation between institutions (e.g. various ministries and relevant commissions); (2) sharing of experiences across countries/regions; policy advice; and (3) training of other officials (police, judiciary, social workers, teachers).</p> <p>These priorities may be satisfied through the preparation (survey and validation seminar) and launching of A National Declaration Programme for the Solomon Islands. Indeed, the forthcoming ratification of ILO Fundamental Conventions by the Solomon Islands needs to be supported by the ILO in terms of labour law reform, capacity building for labour administration, employers' and workers' organizations, tripartite institutions, etc. The ILO support should be comprehensive, preferably through programmes (DECLARATION, IPEC) that can help the Solomon Islands promote and realize all the fundamental principles and rights at work.</p> <p>All employers' and workers' organizations (ASIM, SFA, SICCI, SIIBA, SIWIB, SICA, SICTU, SINUW, SINTA and SIPEU) supported the Government's request for technical cooperation, including the launch of an ILO Declaration Programme to help promote and realize the fundamental principles and rights at work in Solomon Islands.</p>

		<p>According to the employers' organizations, the ILO technical cooperation would be necessary to assist in the realization of the PR in Solomon Islands in the following areas:</p> <p>SFA: (i) capacity building of employers' and workers' organizations on the PR.</p> <p>SICA: (i) legislation; (ii) data collection; and (iii) public awareness raising on the PR;</p> <p>SIWIB: (i) educational programmes; (ii) capacity building; and (iii) adequate coordination among employers' and workers' organizations concerning the promotion and realization of the PR;</p> <p>SICCI: (i) legal reform; (ii) information/data collection and dissemination; and (iii) public awareness raising and support.</p> <p>ASIM: (i) social dialogue, (ii) labour law reform, (iii) data collection; and (iv) capacity building of Government institutions and of employers' and workers' organizations;</p> <p>SIIBA: (i) labour law reform; and (ii) capacity building of Government and of employers' and workers' organizations'</p> <p>According to the workers' organizations, the ILO technical cooperation would be necessary to assist in the realization of the PR in Solomon Islands in the following areas:</p> <p>SIPEU: (i) labour law reform; and (ii) capacity building of Government institutions and of employers' and workers' organizations;</p> <p>SINTA, SICTU and SINUW: (i) capacity building of Government institutions and of employers' and workers' organizations.</p>
	Offer	ILO (including labour law reform and assistance in reporting under the Declaration 2006 Annual Review).
<p>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</p>	<p>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 new member States, in particular in the South Pacific (as well as China and the Gulf States) had made important efforts during this process. However, according to them, more needed to be done. The IDEAs listed Solomon Islands 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 Solomon Islands (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 Solomon Islands, 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>2005 AR: The IDEAs looked forward to receiving a first reply from the Solomon Islands and other countries that had never reported under the Declaration Annual Review (Cf. Paragraph 8 of the 2007 Annual Review Introduction – ILO: GB.292/4).</p> <p>2000-2004 ARs: The IDEAs expressed concern that several countries, including Solomon Islands, had never reported under the Declaration Annual review. They recommended that the Office initiate a dialogue with Solomon Islands and other countries that had never reported under the Declaration Annual Review (for example, cf. Paragraph 30 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p>	
<p>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>	NIL	

Solomon Islands Council of Trade Unions (SICTU)



COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: TIMOR-LESTE

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

REPORTING	Fulfillment of Government's reporting obligations	YES, since the 2006 Annual Review (AR). Timor-Leste joined the ILO in 2003.		
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of 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), the Konfederasaun dos Sindikatu de Timor-Leste (KSTL) (Timor-Leste Confederation of Trade Unions) by means of consultation and communication of a copy of Government's reports.		
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	NIL		
	Workers' organizations	NIL		
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Timor-Leste has ratified neither the Forced Labour Convention, 1930 (No.29) (C.29) nor the Abolition of Forced Labour Convention, 1957 (No.105) (C.105).	
		Ratification intention	2008 AR: 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.	
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	The Timorese Constitution foresees in its Section 50 paragraph 1 that " <i>Compulsory work, without prejudice to the cases provided for under penal legislation, is prohibited.</i> "	
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy <p>2006 AR: 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.</p> <ul style="list-style-type: none"> • Legislation <p>Section 9.2 of the Labour Code (Regulation No.2002/5) prohibits forced labour – "<i>Forced Labour is hereby prohibited.</i>"</p>	
		Basic legal provisions	(i) The Labour Code (sections 2, 9.2).	
Definition of forced or compulsory labour	YES, section 2 of the Labour Code (Regulation No. 2002/5) 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."			

¹ 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

		Judicial decisions	NIL
Exercise of the principle and right		Special attention to particular situations and human trafficking	<p>2006 AR: According to the Government: Women and children, including a specific training awareness raising/training programme on women issues.</p> <p>2008: The Government has launched a campaign to raise awareness about human trafficking.</p>
		Information/Data collection and dissemination	<p>YES</p> <p>2006 AR: According to the Government: The Government collects demographic data as well as data on forced labour in the country.</p>
Monitoring, enforcement and sanctions mechanisms	<p>2006 AR: 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>		
Involvement of the social partners	<p>2006 AR: 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>		
Promotional activities	<p>2008 AR: 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>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>2007 AR: According to the Government: A workshop on the Labour Code was organized in 2006.</p> <p>2006 AR: 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>		
Special initiatives/Progress	<p>2006 AR: 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>		
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL
		Workers' organizations	NIL
	According to the Government	<p>2008 AR: 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>2007 AR: According to the Government: The military crisis has affected the country in the last few months.</p> <p>2006 AR: 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>	

TECHNICAL COOPERATION	Request	<p>2008 AR: The Government request ILO assistance to carry out a country assessment to be validated by a national tripartite workshop on the FPRW.</p> <p>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>2007 AR: According to the Government: Advisors are required on labour as well as training for staff of the Labour Relations and Inspectors.</p> <p>2006 AR: 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>
	Offer	ILO (assistance in reporting in 2005).
EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS	<p>2008 AR: 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>2007 AR: 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>2005 AR: 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>	
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	NIL	



COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: UNITED STATES

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

REPORTING	Fulfillment of Government's reporting obligations	YES, but no changes to reports for the 2001, 2002, 2004 and 2006 Annual Reviews (ARs).	
	Involvement of Employers' and Workers' organizations in the reporting process	<p>YES, 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.</p> <p>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.</p>	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	NIL	
	Workers' organizations	<p>2004 AR: Observations by the AFL-CIO.</p> <p>2002 AR: Observations by the International Confederation of Free Trade Unions (ICFTU).</p> <p>2001 AR: Observations by the ICFTU.</p>	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	The United States ratified in 1991 the Abolition of Forced Labour Convention, 1957 (No.105) (C.105). However, it has not ratified the Forced Labour Convention, 1930 (No.29) (C.29).
		Ratification intention	<p>There are no ongoing efforts to ratify C. 29.</p> <p>2009 AR: According to the Government: No change</p>
	Recognition of the principle and right (prospect(s), means of action, basic provisions)	Constitution	<p>YES, 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> <p>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</p> <p>Section 2. Congress shall have power to enforce this article by appropriate legislation.</p>

¹ 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

		<p>Policy, legislation and/or regulations</p>	<ul style="list-style-type: none"> • Policy <p>2003 AR: 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. 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"> • Legislation <p>2009 AR: 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>2007 AR: 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></p> <p>The Trafficking Victims Protection Reauthorization Act of 2003, (TVPRA), Pub. L. No. 108-193, 117 Stat. 2875 (2003), was enacted on December 19, 2003.</p> <p>The United States has specific federal legislation, which requires every employer to pay each of his employees a minimum wage (29 U.S.C. § 206). The United States has specific federal legislation requiring overtime pay (29 U.S.C. § 207).</p>
		<p>Definition of forced or compulsory labour</p>	<p>2003 AR: 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>2000 AR: 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>Judicial decisions</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>Exercise of the principle and right</p>	<p>Special attention to particular situations and human trafficking</p>	<p>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.</p> <p>2003 AR: According to the Government: the laws are designed to protect all groups.</p>

		<p>Information and data collection</p>	<p>2009 AR: 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 www.usdoj.gov/ag/annualreports/tr2007/agreporhumantrafficking2007.pdf.</p> <p>2008 AR: 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 found at www.usdoj.gov/ag/annualreports/tr2006/agreporhumantrafficking2006.pdf.</p> <p>2003 AR: According to the Government: The principal storehouse of information concerning any labor statistics is the Bureau of Labor Statistics, Washington, D.C. 20212. 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>Monitoring, enforcement and sanctions mechanisms</p>		<p>2008 AR: 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>2007 AR: 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: http://www.usdoj.gov/whatwedo/whatwedo_ctip.html</p> <p>2004 AR: 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>2003 AR: 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>2000 AR: 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>

	Involvement of the social partners	2003 AR: According to the Government: Tripartite examination of issues in realizing the principle and right (PR)	
	Promotional activities	<p>2008 AR: 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>2003 AR: 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 (iv) international cooperation programs/projects</p>	
	Special initiatives/Progress	<p>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 programs in more than 90 countries.</p> <p>2008 AR: 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>2003 AR: 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>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL
		Workers' organizations	<p>2004 AR: The AFL-CIO expresses its strong disagreement with the updated report by the Government on this PR.</p> <p>2003 AR: Observations of the AFL-CIO: The labour performed by prisoners involving private sector violates the ILO Convention on forced labour</p> <p>2001-2002 ARs: 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>
	According to the Government	NIL	
TECHNICAL COOPERATION	Request	2004 AR: 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.	

	Offer	NIL
EXPERT-ADVISERS' RECOMMENDATIONS/OBSERVATIONS	<p>2008 AR: 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>2005 AR: 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>	
GOVERNING BODY RECOMMENDATIONS	NIL	



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2009)¹: VIET NAM

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

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2003 and 2004 Annual Reviews (ARs). No change report under the 2001 AR.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, 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) and through consultations and communication of government's reports.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2008 AR: Observations by the VCCI. 2007 AR: Observations by the VCCI.	
	Workers' organizations	2008 AR: Observations by the VGCL. 2007 AR: Observations by the VGCL. 2006 AR: Observations by the VGCL.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	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).

¹ 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

		Ratification intention	<p>YES, since 2000, for C.105.</p> <p>2009 AR: 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>2008 AR: 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>2007 AR: 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>2006 AR: 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>2001 AR: 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> <p>2000 AR: The Government considered that it was "high time" to ratify C.29 and C.105 "in order to prevent misunderstandings".</p>
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	NIL

		<p>Policy, legislation and/or regulations</p> <ul style="list-style-type: none"> • Policy <p>2005 AR: According to the Government: National policy to eliminate all forms of forced and compulsory labour is enshrined in section 5 of the Labour Code.</p> <ul style="list-style-type: none"> • Legislation <p>2006 AR: According to the Government: The Labour Code prohibits forced labour under any form and manifestation.</p> <ul style="list-style-type: none"> • Regulations <p>2006 AR: The Government indicated 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.</p>
		<p>Basic legal provisions</p> <p>(i) Labour Code (section 5); (ii) Resolution No.44/2003/ND-CP of 9 May 2003 (provision 1, section 11); and (iii) Resolution No.113/2004/ND-CP of 16 April 2004.</p>
		<p>Definition of forced or compulsory labour</p> <p>2005 AR: “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).</p>
		<p>Judicial decisions</p> <p>NIL</p>
Exercise of the principle and right	Special attention to particular situations	<p>2009 AR: According to the Government: poor people and cross-border trafficking in women and children.</p> <p>2005 AR: According to the Government: Women and children.</p>
	Information/Data collection and dissemination	<p>2007 AR: According to the Government: A survey is being completed to provide more information on the real situation concerning forced labour.</p> <p>2005 AR: According to the Government: A survey on the extent of forced labour in the country is being conducted.</p>
Prevention, monitoring, enforcement and sanctions mechanisms	<p>2009 AR: According to the VCGL: Activities to monitor law compliance by trade unions have been conducted on a large scale.</p> <p>2006 AR: 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>2005 AR: 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>	
Involvement of the social partners	<p>2009 AR: 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>2005 AR: According to the Government: Involvement of the social partners through tripartite examination of related issues.</p>	

	<p>Promotional activities</p>	<p>2009 AR: 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. The VCGL and the VCA indicated that they had conducted training activities to raise the awareness of their members.</p> <p>2008 AR: 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. The VCCI indicated that it was also collaborating in the awareness-raising programmes. The VGCL indicated that it organized on regular basis trainings in order to raise awareness and to explain to workers the PR.</p> <p>2007 AR: According to the Government: Workshops have been organized to raise awareness on the PR, in cooperation with the ILO</p> <p>2006 AR: The VGCL mentioned its participation in the survey to determine the magnitude of forced labour in the country.</p> <p>2005 AR: According to the Government: In realizing the PR, the following measures have been implemented: employment creation/income generation and educational programmes.</p>	
	<p>Special initiatives/Progress</p>	<p>2006 AR: 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>	
<p>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</p>	<p>According to the social partners</p>	<p>Employers' organizations</p>	<p>NIL</p>
		<p>Workers' organizations</p>	<p>2009 AR: 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>
	<p>According to the Government</p>	<p>2009 AR: 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>2008 AR: 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>2006 AR: 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. 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>2005 AR: 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>	

TECHNICAL COOPERATION	Request	<p>2009 AR: According to the Government: ILO technical assistance is highly needed in strengthening managerial capability of the Ministry of Labour, Invalids and Social Affairs (MOLISA) for coordinating efforts to monitor, prevent and abolish forced labour in all its forms and manifestation in Viet 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. 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. 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>2008 AR: The Government requested ILO technical assistance for the elaboration of training programmes on forced labour. The VGCL requested ILO assistance for awareness-raising activities and that a country assessment be undertaken on the Declaration Follow-up.</p> <p>2007 AR: 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>2006 AR: 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. 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>2005 AR: 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>
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	Offer	<p>ILO (awareness raising activities and case study on the PR).</p> <p>2008 AR: 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 forward 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>2007 AR: 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>2005 AR: 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>
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	NIL	



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2009)¹: SINGAPORE

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

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2000 Annual Review (AR). No change report for the 2005 AR.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, 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.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2009 AR: Observations by the SNEF. 2008 AR: Observations by the SNEF.	
	Workers' organizations	2009 AR: Observations by the SNTUC. 2001 AR: International Confederation of Free Trade Unions (ICFTU)'s observations.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	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".
		Ratification intention	Ratification of C.105 is under review since 2005. 2009 AR: 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, para 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. 2005 AR: The Government indicated that the ratification of C.105 was under review.
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	YES , the Constitution, article 10(1), provides that slavery and all forms of forced labour are strictly prohibited.

¹ 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

		<p>Policy, legislation, and/or regulations</p>	<p>• Legislation: 2008 AR: The Government indicated that Section 13 of the Destitute Persons Act would be subject to regular review very shortly. 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>2005 AR: The Government indicated that it would review the legislation and design better enforcement procedures in consultation with employers and unions.</p>
		<p>Basic legal provisions</p>	<p>(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.</p>
		<p>Definition of forced or compulsory labour</p>	<p>C.29 is ratified.</p>
		<p>Judicial decisions</p>	<p>NIL</p>
<p>Exercise of the principle and right</p>	<p>Special attention to particular situations and human trafficking</p>	<p>2009 AR: 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>Information/Data collection and dissemination</p>	<p>NIL</p>	
<p>Prevention/Monitoring, enforcement and sanctions mechanisms</p>	<p>2008 AR: 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>Involvement of the social partners</p>	<p>2001-2005 ARs: 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>2003 AR: 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>Promotional activities</p>	<p>2009 AR: According to the SNEF: The Government has eliminated the smuggling/trafficking in persons for slavery through very strict laws and effective enforcement. According to the SNTUC: Convening tripartite meetings on labour issues is mandatory.</p> <p>2005 AR: 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>2003 AR: 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>Special initiatives/Progress</p>	<p>2007 AR: 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>		

CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL
		Workers' organizations	2009 AR: According to the SNTC: The Government should set the ratification of C.105 as a priority 2001-2002 ARs: 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).
	According to the Government		2001-2002 ARs: 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.
TECHNICAL COOPERATION	Request	NIL	
	Offer	NIL	
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	<p>2008 AR: 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>2007 AR: 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>2006 AR: 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>2005 AR: 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>		
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	NIL		



GENERAL OBSERVATION BY THE INTERNATIONAL ORGANISATION OF EMPLOYERS (IOE) UNDER THE 2009 ANNUAL REVIEW¹

As in the 2008 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*.

Throughout the last ten years the International Organisation of Employers (IOE) has supported the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up. During the adoption of the Declaration, the Employers expressed the challenge and opportunity that such an instrument represented in order to establish the ILO as the primary multilateral organization on social issues.

[2008] commemorates the tenth anniversary of the adoption of the Declaration and the IOE would like to reiterate its commitment to the principles enshrined in the Declaration, the relevance of which continues to increase as it has done during the last ten years.

The IOE continues to support the Declaration and its Follow-up. In this connection the process that concerns us is the Annual Follow-up concerning Non-Ratified Fundamental Conventions (“the Annual Review”).

This communication intends to give an overview of the efforts the IOE undertook during 2007 and 2008 to promote the Declaration and its four principles.

For a better understanding, our comments are divided into three parts:

- I. IOE efforts to support the Declaration
- II. IOE initiatives in relation to the four fundamental principles
- III. Areas of concern

I. IOE efforts to support the Declaration

Ten years after its creation, the Declaration – an instrument created as an initiative of the Employers’ group within the ILO – remains as a relevant tool for employers, and the IOE remains firmly committed to ensuring its success.

We have been involved in promoting and supporting the Declaration throughout the last ten years. The following are some examples of ways in which our commitment was translated into action in 2007 and 2008.

¹ 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.

1. *IOE position paper: The ILO Declaration on Fundamental Principles and Rights at Work*

The IOE continues its efforts to further raise the profile and the utility of the Declaration. The IOE Position Paper on the Declaration, adopted in 2006, guides its work in this respect. We encourage our members to link activities at national level with the principles of the Declaration and provide it with profile where opportunities arise.

2. *New IOE products*

[In 2008], the IOE released the second edition of its *International Labour and Social Policy Review*. The Review, released in June, covers articles affecting the Declaration in the following ways: youth employment, trends in collective bargaining and HIV/AIDS in the workplace.

[2008] also marked the release of a new IOE product: Trends in the Workplace Survey 2008. The Survey was targeted at member organizations of the IOE. More than two-thirds of our members responded to the Survey and numerous pieces of information emerged from it relating to the Declaration and its four principles: migrants; gender implications; collective bargaining trends.

This Survey is anticipated to become an annual survey of Trends in the Workplace by the IOE. As of March 2008, we have been working on the new Survey 2009, trying to expand on topics of interest that emerged from the Survey 2008. Many of those topics relate to the principles of the Declaration, such as women in the labour market, migrants in the labour market, older workers in the labour market.

3. *The Global Report and ILC discussions*

The Global Report and its ILC discussions continue to be viewed by the IOE as effective promotional tools for the Declaration. These discussions represent an excellent opportunity for employers' organizations to become actively engaged in the Declaration, since the issues that are addressed in the report directly affect them.

In preparation for the 2008 ILC, the IOE organized a meeting with government representatives to share and present the views of the Employers' group on the different items of the 2008 ILC. A presentation on the upcoming Global Report *Freedom of Association in practice: Lessons learned* was made to present the areas of interest and concern for the group. The importance of the Declaration for the Employers' group was once again highlighted.

The IOE, as the secretariat of the Employers' group at the ILC, coordinated the participation of more than ten employer delegates in the [year 2008]'s debate. We worked closely with the Employer spokesperson and the speakers in order to present the views, positions and concerns of employers.

Preparatory work for this debate involved consultations with members, ACT/EMP, the Employer spokesperson, the Declaration department and the Workers' group. Notes were also prepared for the Employers' group, containing the most relevant points of interest of the Global Report and eventual points of discussion to enrich the debate.

As part of the preparations of the Global Report discussion and the promotion of the Declaration, the IOE coordinated a session on "*The future of the Declaration*". The meeting was programmed during the Employers' group session on 3 June. As [2008] year marked the tenth anniversary of the Declaration, the IOE considered this meeting as a special opportunity to hold a session to discuss the objectives of the Declaration, the lessons learnt during the past ten years and, most importantly, its future. Mr. Kari Tapiola, ILO Executive Director and yourself kindly accepted our invitation to address the group.

4. *Corporate Social Responsibility (CSR)*

The prominence and importance of CSR continue to increase, as did the significance of the Declaration as a useful reference point in the debate.

The IOE, through its CSR Working Group, continues to provide guidance to its members about how to apply and support the Declaration in this context. The Working Group meets three times per year. In 2007 it met on March, June and November to discuss various topics and new CSR initiatives.

The IOE coordinates the participation of its members in the International Organization for Standardization (ISO) Working Group on Social Responsibility. [In 2008], the sixth Working Group meeting was held in Santiago, Chile, at which the IOE was represented. Information about this meeting was sent to all IOE members.

As part of its secretarial support within the ILO MNE Subcommittee, the IOE has been deeply involved in the CSR courses developed by the ILO ITC in Turin.

The IOE, in collaboration with two leading global industrial law practices, Ius Laboris and Baker & McKenzie, will hold a World Conference on Globalization and the Future of Labour Law. The event, which will be hosted by the French Business Confederation (MEDEF) and held in Paris on 24 and 25 November 2008, will have various sessions related to CSR, such as: Session 4: *The impact of Corporate Social Responsibility on Labour Law* and Session 5: *The Role of Codes of Conduct and International Framework Agreements*.

At the beginning of 2008, the IOE undertook an analysis of International Framework Agreements (IFAs). The emergence of IFAs in the last 20 years provides an opportunity to analyse their content and identify some of their common and emerging trends. The paper presents some general points about the signatory companies and GUFs when an agreement is reached. It continues by identifying the common trends on the substantive and procedural provisions of the publicly available IFAs.

An interesting finding was that the model of an IFA is built around the fundamental principles at work, which are drawn from the eight core Conventions (C. Nos 87 and 98, 29 and 105, 138 and 182, 100 and 111)². All of the 51 IFAs reviewed refer to the respect of the four fundamental principles.

This analysis was presented to the IOE Global Industrial Network, which is composed of 25 multinational companies, during its meeting in 2008 and during the IOE CSR Working Group in June.

5. *The Global Compact*

The Global Compact's labour principles are drawn from the ILO Declaration. The IOE continues to be actively involved in the promotion of the Global Compact. In addition, the IOE Secretary-General is a member of the Board.

In June 2008, the IOE organized the first meeting of the Global Compact Labour Working Group. As a result of this meeting, a resource guide on labour principles will be developed and the IOE has been highly involved in this initiative.

² Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); the elimination of child labour: Minimum Age Convention, 1973 (No. 138); and Worst Forms of Child Labour Convention, 1999 (No. 182). Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Equal Remuneration Convention, 1951 (No. 100).

II. IOE initiatives in relation to the four fundamental principles

In addition to our involvement in the promotion of the Declaration, we actively promote and support each of the four fundamental principles. Below are some of our promotional efforts through the year.

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

The IOE's main means of engagement in relation to freedom of association remains the Governing Body Committee on Freedom of Association (CFA). The IOE continues to work closely with the Employer members of the CFA to ensure that the work of the Committee remains relevant to employers.

[Reference is made to a case pending before the ILO Committee on Freedom of Association.]

In addition, the IOE continues to assist employers' organizations that do not fully enjoy freedom of association. We provide assistance, guidance and support to ensure that this fundamental principle is respected.

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.

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

The IOE has actively been working with the ILO/DECLARATION Special Action Programme to combat Forced Labour (SAP-FL) on the development of the publication: *Combating Forced Labour: A Handbook for Employers and Business*.

Early in the year, the IOE addressed a major UN meeting on forced labour and trafficking held in Vienna and presented the challenges for employers regarding this issue.

In February 2008, the IOE, ILO, US Council for International Business and the US Chamber of Commerce held a one-day meeting to raise the profile of the principle of the elimination of forced labour with multinational US companies. The event was hosted by Coca-Cola in Atlanta and attracted more than 80 participants coming from the private sector, international organizations and NGOs. During this discussion, a number of questions arose concerning the definition of forced labour and what may or may not fall within that definition. In order to assist participants in answering those questions, the IOE is developing material covering key elements drawn from ILO instruments. By addressing six key questions, these key elements are brought to the attention of business to guide its responses when addressing forced labour.

In May 2008, the IOE Deputy Secretary-General participated as a keynote speaker at the Anti-Slavery International event on *Is there slavery and forced labour in your supply chain?* The presentation highlighted the challenges of identifying and eradicating forced labour from the point of view of employers.

During the ILC, the IOE, as the Employers' group secretariat, coordinated a session on Forced Labour, Human Rights and Enterprises. [] Head of the [ILO/SAP-FL/DECLARATION] was invited to address the Employers' group. We consider this as a special opportunity to discuss the issue of forced labour and the role of employer organizations.

The IOE also actively collaborated with [ILO/SAP–FL/DECLARATION] in the coordination and organization of the *Regional workshop on addressing forced labour: the role of employers' organisations and business* that took place in Bangkok in June 2008. In addition, the IOE coordinated the participation of employer organizations in the region. The objective of the workshop was to provide a space for employer representatives to develop strategies and action plans to address forced labour, exchange information and experiences, as well as for the IOE and ILO to present the tools they are currently developing.

In developing work in this area, the IOE is producing a Guide which is a first attempt to clarify some of the questions surrounding the issue. It draws the attention of employers and their members to the risks forced labour represents within their operations, giving guidance on how to identify and prevent situations of forced labour and providing some direction on what employers can do to address the matter. The Guide has been developed in the context of a global strategy to engage employers and their organizations on the issue and it is expected to be a useful tool for employers' organizations and their members.

- *The effective abolition of child labour*

The IOE supports the participation of the Employers' group and the Employer spokesperson of the IPEC Steering Committee.

Recognizing that there were no practical guidelines specifically drafted for employers to address child labour within their workplaces or their supply chain, the IOE and ACT/EMP worked on a set of Guides for employers. The Guides for Employers on Eliminating Child Labour were released in 2007, and during 2008 a series of activities have been organized to release the Guides. The Guides have been translated into Spanish and French and it is expected that translations into Portuguese, Russian and Arabic will follow in the next few months.

The IOE actively collaborated with ACT/EMP on the coordination of the Latin American and Caribbean Business Conference against Child Labour. The event, jointly organized with IPEC and the Argentinean employer organization (UIA), was held in Buenos Aires in October 2008. The meeting included a workshop where the IOE-ACTEMP Guides were launched in Spanish. The main objective of the meeting was to strengthen the capacities of employers' organizations and enterprises through training in the use of the Employers' Guide. The Conference also promoted a subregional exchange of information on good business practices against child labour and showcased success stories of business promoting the eradication of child labour.

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

The IOE is actively involved both directly and indirectly in addressing various forms of discrimination. The following are key examples of our involvement:

The IOE continues to be actively involved in addressing the issue of HIV/AIDS, which is a critical issue with potentially grave consequences for the world of work. While it is important to tackle it in regions that are currently severely affected, HIV/AIDS must also be addressed in regions/areas where it has not yet reached dramatic proportions but has the potential to do so.

Youth employment continues to be a key feature of the work of the IOE. The IOE has been working jointly with the ILO in the development of a Toolkit, which is a compendium of interventions used by the business community globally. Its objective is to be a shared resource in helping to generate employment opportunities for young people.

III. Areas of concern

Our support for the Declaration, its Follow-up and the four fundamental principles remain clear throughout our activities. However, we take this opportunity to highlight particular concerns to the IOE and the Employers' group of the ILO in relation to the Declaration and its Follow-up.

1. *Strengthening the ILO's capacity to assist its members' efforts to reach its objectives in the context of globalization*

During the 2008 ILC, the ILO *Declaration on Social Justice for a Fair Globalization* was unanimously adopted. The text reaffirms the principles of the 1944 Declaration of Philadelphia as well as those contained in the 1998 Declaration on Fundamental Principles and Rights at Work. The IOE and the Employers' group of the ILO will continue defending the promotion of the 1998 Declaration, highlighted in the preamble of the new Declaration.

During the upcoming consultations and Steering Group meetings, the IOE and the Employers' group will insist on the fact that confirmation is needed with regard to the continued separate promotion of the 1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up.

2. *National baselines analysis*

We strongly support the baseline approach. It represents a creative and innovative way to use the information gathered through the Annual Review. We have reiterated this support during the Governing Body discussions in the framework of the Annual Review.

It is important that this analysis not be allowed to turn into a ranking tool between countries. The baselines should be continued as a useful tool to track the advancement of the efforts of member States over time – not against externally imposed standards, but against their own progress. Consistent with the spirit and intent of the Declaration, each member State must be allowed to give effect to the four fundamental principles in a manner that is nationally appropriate. It remains to be seen what impact these analyses have.

3. *The obligations created under the Declaration*

The assessment under the Annual Review should focus on the steps taken by member States to give effect to the fundamental principles. This assessment should not involve a discussion of law and practice. The employers repeatedly raise the fact that the Declaration and its Follow-up is a political track, not a legal track like the ILO's regular supervisory machinery. The political obligations required to promote, achieve and realize the principles under the Declaration must remain distinct from the specific legal obligations undertaken through the ratification of a Convention.

4. *Ratification of core Conventions*

The IOE and the Employers' group have expressed their concern about the emphasis on ratification of the core Conventions throughout the Declaration's Follow-up. The Declaration is a political instrument, and the emphasis should be properly placed on the efforts of member States (and their successes and challenges) in giving effect to the four fundamental principles.

The Declaration is supposed to provide a vehicle through which focus can be given to the respect for the Fundamental principles. This means that, instead of looking at whether member States have complied with the letter of each article of a Convention, it looks at the efforts that have been made by the member States to give effect to the principle.

5. *Capacity building of employers' organizations and technical cooperation*

The Declaration can only be effectively promoted within strong constituents. Attention must be paid to using the Declaration Follow-up to build the capacity of employers' organizations to help improve the voice of business and strengthen the spirit of tripartism and social dialogue.

Resources should be set aside for the development of technical cooperation programmes that specifically target employers' organizations. Donors should also be encouraged to devote a portion of their funding towards the capacity-building of the social partners.

6. *The tenth year anniversary of the Declaration*

With every passing year since the adoption of the Declaration in 1998, we continue to learn more about what aspects of its follow-ups are useful and effective in achieving their aims and which aspects demonstrate room for improvement.

The tenth year anniversary of the ILO Declaration in 2008 presents a useful opportunity to address the follow-ups with a view to finding ways to strengthen them. Using what has been learned over the past ten years may help us to refine follow-ups to ensure that they remain relevant.

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. We appreciate this opportunity to provide feedback and remain available to answer any questions arising from this document.



Observation générale de l'Organisation internationale des employeurs (OIE) aux fins de l'examen annuel de 2009 ¹

Comme pour l'examen annuel de 2008, l'OIE a fait parvenir au Bureau une communication (reproduite ci-après in extenso) indiquant sa position et les activités qu'elle a menées en rapport avec la Déclaration et son suivi.

Tout au long de la décennie écoulée, l'Organisation internationale des employeurs (OIE) a œuvré en faveur de la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail, 1998, et de son suivi. Au moment de l'adoption de la Déclaration, les employeurs ont fait observer que cet instrument représentait à la fois un pari difficile et une chance pour l'OIT de devenir la principale organisation multilatérale chargée des questions sociales.

Deux mille huit étant l'année du 10^e anniversaire de l'adoption de la Déclaration, l'OIE souhaite réaffirmer son engagement envers les principes consacrés par celle-ci dont l'importance n'a cessé de croître depuis dix ans.

L'OIE continue d'apporter son soutien à la mise en œuvre de la Déclaration et de son suivi, pour ce qui est notamment du suivi annuel concernant les conventions fondamentales non ratifiées («l'examen annuel»).

La présente communication offre une vue d'ensemble des efforts que l'OIE a déployés au cours de 2007 et de 2008 pour promouvoir la Déclaration et ses quatre principes.

Par souci de clarté, nous avons réparti nos observations sous trois rubriques:

- I. Efforts déployés par l'OIE pour promouvoir la Déclaration
- II. Initiatives de l'OIE relatives aux quatre principes fondamentaux
- III. Domaines de préoccupation

I. Efforts déployés par l'OIE pour promouvoir la Déclaration

Dix ans après son élaboration, la Déclaration, née de l'initiative du groupe des employeurs dans le cadre de l'OIT, reste pour les employeurs un outil important que l'OIE est toujours fermement décidée à faire appliquer.

Nous avons pris une part active dans la promotion et le soutien de la Déclaration tout au long de ces dix dernières années, et notre engagement dans la pratique s'est traduit en 2007 et 2008 notamment de la manière suivante:

¹ Les bases de référence par pays, utilisées aux fins de l'examen annuel au titre de la Déclaration, sont fondées sur les éléments ci-après dans la mesure où ils sont disponibles: les renseignements fournis par les gouvernements dans le cadre de l'examen annuel, les observations des organisations d'employeurs et de travailleurs, les études de cas réalisées sous les auspices du pays et de l'OIT et les observations/recommandations des Experts-conseillers sur la Déclaration et celles du Conseil d'administration du BIT.

1. *Position de l'OIE concernant la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail*

L'OIE a poursuivi ses efforts pour améliorer la visibilité et l'utilité de la Déclaration. La position qu'elle a adoptée en 2006 concernant la Déclaration guide ses travaux en la matière. Nous encourageons nos membres à lier leurs activités au niveau national avec les principes de la Déclaration et à appeler l'attention sur celle-ci lorsque l'occasion se présente.

2. *Nouvelles publications de l'OIE*

En juin 2008, l'OIE a publié le deuxième numéro de sa revue intitulée *International Labour and Social Policy Review*, laquelle contient des articles en rapport avec la Déclaration dans les domaines suivants: l'emploi des jeunes, les tendances en matière de négociation collective, et le VIH/sida dans le monde du travail.

Deux mille huit a été également l'année de la sortie d'une nouvelle publication de l'OIE: un rapport intitulé *Trends in the Workplace Survey 2008*. Cette enquête sur les tendances dans le monde du travail qui visait les organisations membres de l'OIE a permis de recueillir les réponses de plus des deux tiers d'entre elles. Parmi les nombreux éléments d'information qui en ont été tirés, un grand nombre se rapportait à la Déclaration et à ses quatre principes: migrants, incidences sur l'égalité entre les sexes, tendances en matière de négociation collective.

Cette enquête devrait devenir une enquête annuelle de l'OIE. En mars 2008, nous avons commencé à travailler sur la nouvelle enquête pour 2009 en essayant de l'élargir aux questions intéressantes qui se sont dégagées de l'enquête 2008. Bon nombre de ces questions se rapportaient aux principes de la Déclaration, notamment pour ce qui est de la situation des femmes, des migrants et des travailleurs âgés sur le marché du travail.

3. *Le rapport global et les discussions de la Conférence internationale du Travail*

L'OIE est toujours d'avis que le rapport global et les discussions à son sujet dans le cadre de la Conférence constituent des outils efficaces de promotion de la Déclaration. Les discussions offrent une excellente occasion aux organisations d'employeurs de prendre une part active aux travaux portant sur la Déclaration, étant donné qu'un grand nombre d'entre elles sont directement concernées par les questions traitées dans le rapport global.

En vue de la session de 2008 de la Conférence, l'OIE a organisé une réunion avec des représentants des gouvernements pour présenter les vues du groupe des employeurs sur les différentes questions à l'ordre du jour de la session. Lors d'une présentation du rapport global intitulé *Liberté d'association: enseignements tirés de la pratique*, les sujets d'intérêt et les préoccupations du groupe ont été évoqués, et l'importance de la Déclaration pour le groupe a été une nouvelle fois soulignée.

Dans le cadre de ses fonctions de secrétariat du groupe des employeurs à la Conférence, l'OIE a coordonné la participation de plus de dix délégués employeurs aux débats de 2008. L'OIE a travaillé en étroite collaboration avec le porte-parole des employeurs et les orateurs afin de présenter les vues, les positions et les préoccupations des employeurs.

Dans le cadre de travaux préparatoires en vue des discussions, des consultations ont été tenues avec les membres, ACT/EMP, le porte-parole des employeurs, le département chargé de la Déclaration et le groupe des travailleurs. Par ailleurs, des notes reprenant les points les plus importants du rapport global et les éventuels points appelant une discussion ont été élaborées à l'intention du groupe des employeurs pour alimenter le débat.

En vue de l'examen du rapport global et de la promotion de la Déclaration, l'OIE a organisé une session sur l'avenir de la Déclaration. La réunion a été programmée pendant la session du 3 juin du groupe des employeurs. Étant donné que 2008 marque le 10^e anniversaire de la Déclaration, l'OIE a estimé

que cette réunion offrait une occasion particulière d'examiner les objectifs de la Déclaration, les enseignements tirés des dix dernières années et, ce qui est le plus important, son avenir. M. Kari Tapiola, directeur exécutif au BIT, et vous-même avez accepté notre invitation à venir prendre la parole devant le groupe.

4. Responsabilité sociale de l'entreprise (RSE)

La responsabilité sociale de l'entreprise (RSE) est un sujet qui prend de l'importance, tout comme la Déclaration qui constitue un instrument de référence utile aux débats.

L'OIE, par l'intermédiaire de son groupe de travail sur la RSE, a continué à donner des orientations à ses membres sur la façon de mettre en œuvre et de promouvoir la Déclaration dans ce domaine. Le groupe de travail se réunit trois fois par an. En 2007, il s'est réuni en mars, juin et novembre pour examiner plusieurs questions et de nouvelles initiatives en matière de RSE.

L'OIE coordonne la participation de ses membres au Groupe de travail de l'Organisation internationale de normalisation (ISO) sur la responsabilité sociale. En 2008, la sixième réunion du groupe de travail s'est tenue à Santiago au Chili, réunion à laquelle l'OIE a été représentée. Des informations sur cette réunion ont été communiquées à tous les membres de l'OIE.

Dans le cadre des services de secrétariat qu'elle assure à la Sous-commission sur les entreprises multinationales, l'OIE a pris une large part dans les cours de formation sur la RSE mis au point par le Centre international de formation de l'OIT à Turin.

L'OIE, en collaboration avec deux grands cabinets juridiques internationaux, Ius Laboris et Baker & McKenzie, tiendra une conférence mondiale sur la mondialisation et l'avenir du droit du travail. La conférence qui sera organisée par le Mouvement des entreprises de France (MEDEF) se tiendra à Paris les 24 et 25 novembre 2008 et aura à son programme plusieurs sessions se rapportant à la RSE. Ainsi, par exemple, la session 4 sera consacrée à l'incidence de la responsabilité sociale de l'entreprise sur le droit du travail et la session 5 au rôle des codes de conduite et des accords-cadres internationaux.

Au début de l'année 2008, l'OIE a entrepris une analyse des accords-cadres internationaux (ACI) qui ont été conclus ces vingt dernières années de façon à en examiner la teneur et à en recenser les tendances communes et nouvelles. Le document présente certaines caractéristiques générales des sociétés signataires et des fédérations syndicales internationales concluant ces accords. Il définit par ailleurs les tendances communes concernant les dispositions de fond et de procédure des ACI qui sont accessibles au public.

La conclusion intéressante est que le modèle d'un accord-cadre international reprend les principes fondamentaux relatifs au travail, tirés des huit conventions principales sur le sujet (conventions n^{os} 87 et 98, 29 et 105, 138 et 182, 100 et 111²). Les 51 accords-cadres internationaux examinés font tous référence au respect des quatre principes fondamentaux.

Cette analyse a été présentée au *Global Industrial Relations Network* de l'OIE, composé de 25 sociétés multinationales, au cours de sa réunion de 2008 et également en juin, lors de la réunion du groupe de travail de l'OIE sur la RSE.

² Convention (n^o 87) sur la liberté syndicale et la protection du droit syndical, 1948, convention (n^o 98) sur le droit d'organisation et de négociation collective, 1949, convention (n^o 29) sur le travail forcé, 1930, convention (n^o 105) sur l'abolition du travail forcé, 1957, convention (n^o 138) sur l'âge minimum, 1973, convention (n^o 182) sur les pires formes de travail des enfants, 1999, convention (n^o 111) concernant la discrimination (emploi et profession), 1958, et convention (n^o 100) sur l'égalité de rémunération, 1951.

5. *Le Pacte mondial*

Les principes du Pacte mondial concernant le travail sont tirés de la Déclaration de l'OIT. L'OIE continue de prendre une part active à la promotion du pacte. En outre, le Secrétaire général de l'Organisation est membre du Conseil du Pacte mondial.

En juin 2008, l'OIE a organisé la première réunion du Groupe de travail du Pacte mondial sur le travail. Suite à cette réunion, un manuel sur les principes relatifs au travail va être mis au point, une initiative à laquelle l'OIE a beaucoup contribué.

II. **Initiatives de l'OIE relatives aux quatre principes fondamentaux**

Outre notre engagement dans le cadre de la promotion de la Déclaration, nous nous employons activement à favoriser la mise en œuvre de chacun des quatre principes fondamentaux et à les défendre. Certains des efforts que nous avons déployés en ce sens tout au long de l'année sont décrits ci-après.

■ *Liberté d'association et reconnaissance effective du droit de négociation collective*

Le principal moyen d'action de l'OIE en ce qui concerne la liberté d'association s'inscrit dans le cadre du Comité de la liberté syndicale du Conseil d'administration. L'OIE continue de travailler en étroite collaboration avec les membres employeurs de ce comité pour s'assurer que les activités de ce dernier restent pertinentes pour les employeurs.

[Il est fait mention d'un cas en instance au Comité de la liberté syndicale de l'OIT.]

En outre, l'OIE continue de prêter main forte aux organisations d'employeurs qui ne jouissent pas totalement de la liberté d'association. Nous apportons assistance, conseils et appui pour faire en sorte que ce principe fondamental soit respecté.

Les employeurs jouissent de la liberté dans de nombreux pays, ce qui dans l'ensemble est considéré comme un fait acquis, mais des événements survenant dans d'autres parties du monde continuent de menacer les droits en question et appellent l'attention du groupe des employeurs et de l'OIE.

■ *Elimination de toute forme de travail forcé ou obligatoire*

L'OIE a contribué de manière active au Programme d'action spécial pour combattre le travail forcé (SAP-FL), qui relève du Programme pour la promotion de la Déclaration (OIT/DECLARATION), œuvrant à l'élaboration de la publication intitulée: *Combating forced labour: A handbook for Employers and Business*.

Au début de l'année, l'OIE a pris la parole à l'occasion d'une importante réunion des Nations Unies sur le travail forcé et la traite des êtres humains organisée à Vienne et y a exposé les défis que doivent relever les employeurs dans ce domaine.

En février 2008, l'OIE, le BIT, le Council for International Business des Etats-Unis et la Chambre de commerce des Etats-Unis se sont réunis une journée entière pour sensibiliser les entreprises multinationales des Etats-Unis au principe de l'élimination du travail forcé. Cette initiative, organisée sous l'égide de Coca-Cola à Atlanta, a attiré plus de 80 participants venant du secteur privé, des organisations internationales et des organisations non gouvernementales. Au cours de la discussion qui s'est tenue, un certain nombre de questions ont été soulevées au sujet de la définition du travail forcé et de ce qui peut relever ou non de cette définition. Afin d'aider les participants à répondre à ces questions, l'OIE élabore actuellement des matériels portant sur

des éléments clés extraits des instruments de l'OIT. Six questions clés ont été abordées, qui permettent d'attirer l'attention des entrepreneurs sur ces éléments clés et de les guider dans les solutions qu'ils apporteront lorsqu'ils seront confrontés au travail forcé.

En mai 2008, le secrétaire général adjoint de l'OIE a participé, en tant qu'orateur principal, à une manifestation de portée internationale contre l'esclavage, intitulé *Is there slavery and forced labour in your supply chain?* (Y a-t-il des pratiques d'esclavage et de travail forcé dans votre chaîne d'approvisionnement?). L'exposé a mis en lumière les défis que représentent pour les employeurs le fait de repérer les pratiques de travail forcé et de les éradiquer.

Au cours de la Conférence internationale du Travail, l'OIE, en sa qualité de secrétariat du groupe des employeurs, a coordonné une session sur le travail forcé, les droits de l'homme et les entreprises. [], chef de [OIT/SAP-FL/DECLARATION], a été convié à prendre la parole devant le groupe des employeurs. Cela nous est apparu comme une bonne occasion de débattre de la question du travail forcé et du rôle des organisations d'employeurs.

L'OIE a également pris une part active, en collaboration avec [OIT/SAP-FL/DECLARATION], à la coordination et à l'organisation de l'*Atelier régional sur la lutte contre le travail forcé: Rôle des organisations d'employeurs et des entreprises*, qui s'est déroulé à Bangkok en juin 2008. En outre, elle a coordonné la participation des organisations d'employeurs dans la région. L'objectif de cet atelier était d'offrir l'occasion aux représentants des employeurs d'élaborer des stratégies et des plans d'action pour lutter contre le travail forcé, échanger des informations et des données d'expérience, ainsi que, pour ce qui est de l'OIE et du BIT, de présenter des outils actuellement en cours d'élaboration.

Dans le cadre des activités menées dans ce domaine, l'OIE a entrepris de produire un guide pour, dans un premier temps, tenter de clarifier certaines des questions en la matière. Il appelle l'attention des employeurs et de leurs membres sur les risques que le travail forcé fait peser sur leurs activités, donnant des indications sur la façon de repérer et de prévenir des situations de travail forcé et formulant des recommandations sur les mesures que peuvent prendre les employeurs pour remédier à ces situations. Le guide s'inscrit dans le cadre d'une stratégie globale qui vise à impliquer les employeurs et leurs organisations dans ce domaine et qui devrait constituer un outil intéressant pour les organisations d'employeurs et leurs membres.

■ *Abolition effective du travail des enfants*

L'OIE encourage la participation du groupe des employeurs et du porte-parole des employeurs du comité directeur du Programme international pour l'abolition du travail des enfants (IPEC).

Conscients de l'absence de directives pratiques élaborées spécifiquement à l'intention des employeurs pour lutter contre le travail des enfants dans leurs lieux de travail ou dans leurs chaînes d'approvisionnement, l'OIE et ACT/EMP ont travaillé à l'élaboration d'un ensemble de guides à l'intention des employeurs. Ces guides, sur l'abolition du travail des enfants, ont été publiés en 2007, et une série d'activités a été organisée en 2008 pour leur diffusion. Ils ont été traduits en espagnol et en français et devraient l'être en arabe, portugais et russe dans les prochains mois.

L'OIE a pris une part active, en collaboration avec ACT/EMP, à la coordination de la Conférence sur le travail des enfants à l'intention des entreprises d'Amérique latine et des Caraïbes, qui s'est tenue à Buenos Aires en octobre 2008, sous l'égide de l'IPEC et de l'Union industrielle d'Argentine (UIA). Un atelier a été organisé à cette occasion, au cours duquel les guides élaborés par l'OIE et ACT/EMP (version espagnole) ont fait l'objet d'une promotion. La réunion avait pour principal objectif de renforcer les capacités des organisations d'employeurs et des entreprises par le biais d'une formation à l'utilisation du guide pour les employeurs. La conférence a, en outre, encouragé l'échange au niveau sous-régional d'informations sur les bonnes pratiques des entreprises dans le cadre de la lutte contre le travail des enfants et a présenté des exemples d'entreprises qui promeuvent l'éradication du travail des enfants avec succès.

■ *Elimination de la discrimination en matière d'emploi et de profession*

L'OIE prend une part active, tant directement qu'indirectement, à la lutte contre les diverses formes de discrimination. Des exemples de l'engagement de l'organisation à cet égard sont donnés ci-après.

L'OIE continue de participer activement à la lutte contre le VIH/sida et à ses conséquences, qui risquent d'être lourdes pour le monde du travail. Il importe de s'attaquer à ce problème dans les régions qui sont actuellement sévèrement touchées, mais il faut aussi s'y attaquer dans les régions ou les zones où la pandémie n'a pas encore atteint des proportions spectaculaires mais où le risque existe bel et bien.

L'emploi des jeunes continue d'être une des questions essentielles sur laquelle travaille l'OIE. Cette dernière a collaboré avec le BIT à l'élaboration d'un guide pratique, qui est un répertoire d'actions menées dans ce domaine par les entreprises du monde entier. Ce guide pratique a été conçu comme un outil de référence commun, contribuant à créer des opportunités d'emploi pour les jeunes.

III. Domaines de préoccupation

Dans toutes nos activités, nous continuons clairement à soutenir la Déclaration, son suivi et les quatre principes fondamentaux. Toutefois, nous saisissons cette occasion pour mettre l'accent sur certaines préoccupations de l'OIE et du groupe des employeurs du Conseil d'administration du BIT concernant la Déclaration et son suivi.

1. *Renforcement de la capacité de l'OIT d'appuyer les efforts déployés par ses Membres pour atteindre ses objectifs dans le contexte de la mondialisation*

Pendant la session de 2008 de la Conférence internationale du Travail, la *Déclaration de l'OIT sur la justice sociale pour une mondialisation équitable* a été adoptée à l'unanimité. Son texte réaffirme les principes de la Déclaration de Philadelphie de 1944 et ceux contenus dans la Déclaration relative aux principes et droits fondamentaux au travail (1998). L'OIE et le groupe des employeurs du Conseil d'administration du BIT continueront à promouvoir la Déclaration de 1998 mentionnée dans le préambule de la nouvelle déclaration.

Au cours des consultations et des réunions du groupe directeur à venir, l'OIE et le groupe des employeurs insisteront sur la nécessité de continuer à promouvoir séparément la Déclaration de 1998 et son suivi.

2. *Analyse des bases nationales de référence*

Nous soutenons fermement l'approche fondée sur les bases de référence. Il s'agit là d'une manière innovante et créative d'utiliser les informations recueillies dans le cadre de l'examen annuel. Nous avons réitéré notre soutien au cours des débats du Conseil d'administration consacrés à cet examen.

Il faut éviter que cette analyse ne soit utilisée pour établir un classement entre les pays. Les bases de référence devraient rester un moyen de suivre les progrès réalisés par les Etats Membres – non pas par rapport à des normes imposées de l'extérieur, mais par rapport à leur propre situation. Conformément à l'esprit et aux objectifs de la Déclaration, chaque Etat Membre doit pouvoir donner effet aux quatre principes fondamentaux de manière adaptée au contexte national. Il reste à mesurer les effets que ces analyses peuvent produire.

3. *Obligations au titre de la Déclaration*

L'évaluation menée au titre de l'examen annuel devrait se concentrer sur les mesures prises par les Etats Membres pour donner effet aux principes fondamentaux. Elle ne devrait pas porter sur la loi et la pratique. Les employeurs ne cessent de répéter que la Déclaration et son suivi sont un instrument politique, et non juridique comme le sont les mécanismes ordinaires de contrôle de l'OIT. Les obligations politiques nécessaires pour promouvoir et réaliser pleinement les principes consacrés par la Déclaration doivent rester distinctes des obligations juridiques spécifiques découlant de la ratification d'une convention.

4. *Ratification des conventions fondamentales*

L'OIE et le groupe des employeurs ont fait part de leurs préoccupations quant à l'importance donnée à la ratification des conventions fondamentales dans le cadre du suivi de la Déclaration. Cette dernière est un instrument politique, et il faudrait plutôt insister sur les efforts déployés par les Etats Membres (ainsi que sur les résultats obtenus et les problèmes rencontrés) pour donner effet aux quatre principes fondamentaux.

La Déclaration est l'instrument qui doit permettre de mettre l'accent sur le respect des principes fondamentaux. Aussi, plutôt que de veiller à ce que les Etats Membres appliquent à la lettre chaque article d'une convention, elle s'intéresse aux efforts que les Etats Membres consentent pour donner effet aux principes.

5. *Renforcement des compétences des organisations d'employeurs et coopération technique*

La Déclaration ne peut être efficacement soutenue que par des mandats forts. Il faut donc s'attacher à utiliser le mécanisme de suivi de la Déclaration pour renforcer les capacités des organisations d'employeurs afin d'aider ces derniers à mieux faire entendre leur voix et à affermir l'esprit du tripartisme et du dialogue social.

Des ressources devraient être affectées spécialement au développement de programmes de coopération technique s'adressant spécifiquement aux organisations d'employeurs. Il faudrait aussi inciter les donateurs à consacrer une partie de leurs fonds au renforcement des compétences des partenaires sociaux.

6. *La Déclaration a 10 ans*

Chaque année depuis l'adoption de la Déclaration, en 1998, nous en apprenons davantage sur les éléments du mécanisme de suivi qui remplissent leur office et sur ceux qui appellent des améliorations.

Le 10^e anniversaire de la Déclaration de l'OIT, en 2008, a été l'occasion de réexaminer le mécanisme de suivi en vue de trouver les moyens de le renforcer. Grâce aux enseignements de ces dix dernières années, on pourrait affiner ce mécanisme afin qu'il conserve toute sa pertinence.

La Déclaration est le parfait exemple de ce que l'OIT doit faire, grâce à son système unique, pour parvenir à un consensus sur les grands enjeux sociaux. Nous nous réjouissons de l'occasion qui nous est donnée de rendre compte des résultats obtenus, et nous restons ouverts à toute question concernant le présent document.



Observaciones generales de la Organización Internacional de Empleadores (OIE) en el marco del examen anual de 2009 ¹

Como ya hiciera en el examen anual de 2008, la Organización Internacional de Empleadores (OIE) envió una declaración en la que describe su posición y actividades en relación con la Declaración y su seguimiento, que se reproduce a continuación en su integridad.

En los diez últimos años, la OIE ha respaldado la Declaración de la OIT sobre los principios y derechos fundamentales en el trabajo, de 1998, y su seguimiento. Cuando se adoptaba la Declaración, los empleadores manifestaron que dicho instrumento representaba un aliciente y una oportunidad para consagrar a la OIT como la principal organización multilateral en cuestiones sociales.

[En 2008] se conmemora el 10.º aniversario de la adopción de la Declaración y la OIE quisiera aprovechar la oportunidad para reiterar el compromiso contraído respecto de los principios consagrados en la Declaración, cuya importancia continúa creciendo como ha sido el caso en los diez últimos años.

La OIE sigue apoyando la Declaración y su seguimiento. A este respecto, el proceso que le interesa es el del seguimiento anual relativo a los convenios fundamentales no ratificados («el examen anual»).

La presente comunicación tiene por objeto dar una idea general de los esfuerzos que la OIE realizó en 2007 y 2008 para promover la Declaración y sus cuatro Principios.

En aras de su mejor comprensión, la OIE ha agrupado sus observaciones en tres partes:

- I. Esfuerzos de la OIE para apoyar la Declaración;
- II. Iniciativas de la OIE en relación con los cuatro principios fundamentales;
- III. Areas de interés.

I. Esfuerzos de la OIE para apoyar la Declaración

Diez años después de su adopción, la Declaración, elaborada por iniciativa del Grupo de los Empleadores en la OIT, sigue siendo una herramienta importante para dicho colectivo, y la OIE sigue comprometiéndose firmemente a garantizar su buen éxito.

La OIT ha participado en la promoción y el apoyo de la Declaración a lo largo de los diez últimos años. A continuación se facilitan algunos ejemplos sobre la manera en que su compromiso se ha traducido en medidas concretas en 2007 y 2008.

¹ En el marco del examen anual de la Declaración de la OIT, la información de referencia por países se basa en los siguientes elementos, en la medida en que están disponibles: información proporcionada por el gobierno en el marco del examen anual de la Declaración, observaciones formuladas por las organizaciones de empleadores y de trabajadores, estudios de caso preparados bajo los auspicios del país y de la OIT, y observaciones/recomendaciones formuladas por los Expertos Consejeros en la Declaración y el Consejo de Administración de la OIT.

1. Documento de posición de la OIE: Declaración de la OIT sobre los principios y derechos fundamentales en el trabajo

La OIE sigue procurando realzar la notoriedad y la utilidad a la Declaración. El documento de posición que la OIE adoptó en 2006 acerca de la Declaración es el marco de referencia de la labor que dicha organización realiza en este sentido. La OIE insta a sus federaciones miembros a que ajusten las actividades de ámbito nacional a los principios de la Declaración y a que subrayen su importancia en cada oportunidad que surja.

2. Nuevos productos de la OIE

[En 2008], la OIE publicó la segunda edición de su *International Labour and Social Policy Review (Revista de política laboral y social internacional)*. En dicha revista, difundida en junio, se recogen artículos sobre distintos aspectos de la Declaración: el empleo de los jóvenes, las tendencias registradas en la negociación colectiva y el VIH/SIDA en el lugar de trabajo.

[En 2008] también se publicó un nuevo producto de la OIE: la Encuesta de 2008 sobre las «Tendencias en el lugar de trabajo», destinada a las federaciones miembros de la OIE. Más de las dos terceras partes de los miembros de dicha organización respondieron a la encuesta, la cual permitió obtener numerosos elementos de información relativos a la Declaración y a sus cuatro principios: los migrantes, las consideraciones de género y las tendencias en materia de negociación colectiva.

La OIE prevé que esta encuesta se convierta en una encuesta anual sobre las tendencias registradas en el lugar de trabajo. Desde marzo de 2008 trabaja en la nueva encuesta de 2009 y trata de ampliar los temas de interés que descollaron de la encuesta de 2008. Muchos de ellos, como las mujeres, los migrantes y los trabajadores de edad en el mercado laboral, se refieren a los principios de la Declaración.

3. El Informe global y las discusiones en la CIT

La OIE sigue considerando que el Informe global y su discusión en la Conferencia Internacional del Trabajo (CIT) son herramientas eficaces para la promoción de la Declaración. Estas discusiones representan una oportunidad excelente para que las organizaciones de empleadores se impliquen activamente en la Declaración, dado que los temas que se abordan en el Informe afectan directamente a esas organizaciones.

Para colaborar en la preparación de la reunión de la CIT de 2008, la OIE organizó una reunión con representantes gubernamentales para intercambiar y exponer las opiniones del Grupo de los Empleadores sobre los distintos puntos del orden del día de la reunión de la CIT de 2008. Además, se realizó una presentación del Informe global que se publicaría y que se titulaba *La libertad de asociación y la libertad sindical en la práctica: lecciones extraídas*, con miras a tratar los temas de interés y los motivos de preocupación para el Grupo. Se subrayó una vez más la importancia que revestía la Declaración para el Grupo de los Empleadores.

La OIE, asumiendo sus funciones de secretaría del Grupo de los Empleadores en la CIT, coordinó la participación de más de diez delegados empleadores en el debate [de 2008]. Colaboró estrechamente con el portavoz de los empleadores y con los oradores con objeto de exponer las opiniones, posiciones e inquietudes de los empleadores.

Entre las labores preparatorias para este debate hubo consultas con las federaciones miembros, con ACT/EMP, con el portavoz de los empleadores, con el Departamento de la Declaración y con el Grupo de los Trabajadores. Asimismo, se prepararon para el Grupo de los Empleadores notas en que se recogían los puntos del Informe global que presentaban mayor interés, así como posibles temas de discusión para enriquecer el debate.

En el marco de los preparativos del debate sobre el Informe global y la promoción de la Declaración, la OIE coordinó una reunión sobre el futuro de la Declaración, cuya celebración estaba programada para el 3 de junio, fecha de la reunión del Grupo de los Empleadores. Habida cuenta de que en [2008] se celebró el 10.º aniversario de la Declaración, la OIE consideró que esa reunión brindaría una ocasión ideal para abordar los objetivos de la Declaración, las enseñanzas extraídas en los diez últimos años y, sobre todo, el futuro de la Declaración. El Sr. Kari Tapiola, Director Ejecutivo de la OIT, y usted mismo, aceptaron amablemente nuestra invitación a dirigirse al Grupo.

4. Responsabilidad social de la empresa (RSE)

La notoriedad y la importancia de la RSE siguen en auge, al igual que la trascendencia de la Declaración como valioso punto de referencia para los debates.

La OIE, por conducto de su Grupo de Trabajo sobre la RSE, sigue facilitando pautas de orientación a sus federaciones miembros respecto de la manera de aplicar y apoyar la Declaración en este contexto. El Grupo de Trabajo se reúne tres veces al año. En 2007 se reunió en marzo, junio y noviembre para abordar diversos temas y nuevas iniciativas en materia de RSE.

La OIE coordina la participación de sus miembros en el Grupo de Trabajo sobre la responsabilidad social de la Organización Internacional de Normalización (ISO). [En 2008] se celebró la sexta reunión del Grupo de Trabajo en Santiago (Chile), en la que estuvo representada la OIE. La información sobre esta reunión se envió a todas las federaciones miembros.

En el marco de los servicios de secretaría que presta a la Subcomisión de Empresas Multinacionales (MNE) de la OIT, la OIE ha participado activamente en los cursos de RSE organizados por el Centro Internacional de Formación de la OIT en Turín.

La OIE, en colaboración con dos despachos de abogados de renombre mundial especializados en derecho laboral, *Ius Laboris* y *Baker & McKenzie*, celebrará una Conferencia mundial sobre la globalización y el futuro del Derecho del Trabajo. El acto, que organizará la Confederación Francesa de Empresarios (MEDEF) y se celebrará en París del 24 al 25 de noviembre de 2008, incluirá diversas reuniones relacionadas con la RSE, como la Reunión 4, titulada *Los efectos de la responsabilidad social de las empresas en la legislación del trabajo*, y la Reunión 5, titulada *El papel de los códigos de conducta y los acuerdos marco internacionales*.

A principios de 2008, la OIE llevó a cabo un análisis de los acuerdos marco internacionales (AMI). El surgimiento de acuerdos de este tipo en los veinte últimos años brinda la oportunidad de analizar su contenido y de identificar algunas de sus tendencias comunes e incipientes. En el documento se presentan algunos puntos generales sobre las empresas signatarias y las federaciones sindicales internacionales cuando se alcanza un acuerdo. Acto seguido se definen las tendencias comunes sobre las disposiciones sustantivas y de procedimiento de los AMI, disposiciones a las que el público puede acceder.

Una conclusión interesante fue que el AMI tipo se crea en torno a los principios fundamentales en el trabajo, a su vez extraídos de los ocho convenios fundamentales (Convenios núms. 87 y 98, 29 y 105, 138 y 182, 100 y 111)². En los 51 AMI examinados se hace referencia al respeto de los cuatro principios fundamentales.

² Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 (núm. 87); Convenio sobre el derecho de sindicación y de negociación colectiva, 1949 (núm. 98); Convenio sobre el trabajo forzoso, 1930 (núm. 29); Convenio sobre la abolición del trabajo forzoso, 1957 (núm. 105); Convenio sobre la edad mínima, 1973 (núm. 138); Convenio sobre las peores formas de trabajo infantil, 1999 (núm. 182); Convenio sobre igualdad de remuneración, 1951 (núm. 100) y Convenio sobre la discriminación (empleo y ocupación), 1958 (núm. 111).

Este análisis se presentó a la Global Industrial Network de la OIE, integrada por 25 empresas multinacionales, durante su reunión en 2008 y durante la reunión del Grupo de Trabajo sobre la RSE de la OIE celebrada en junio.

5. *El Pacto Mundial*

Los principios laborales del Pacto Mundial dimanan de la Declaración de la OIT. La OIE sigue participando activamente en la promoción del Pacto Mundial. Además, el Secretario General de la OIE es miembro de su Consejo.

En junio de 2008, la OIE organizó la primera reunión del Grupo de Trabajo sobre Asuntos Laborales del Pacto Mundial, a raíz de la cual se elaborará una guía de referencia sobre los principios laborales; la OIE participa activamente en esta iniciativa.

II. **Iniciativas de la OIE en relación con los cuatro principios fundamentales**

Además de contribuir a la promoción de la Declaración, la OIE realiza grandes esfuerzos para impulsar y apoyar cada uno de los cuatro principios fundamentales. A continuación se mencionan algunos de estos esfuerzos realizados a lo largo de todo el año.

■ *Libertad sindical y libertad de asociación, y reconocimiento efectivo del derecho de negociación colectiva*

El principal mecanismo de participación de la OIE en lo que se refiere a la libertad sindical y la libertad de asociación sigue siendo el del Comité de Libertad Sindical (CLS) del Consejo de Administración. La OIE sigue colaborando estrechamente con los miembros empleadores del CLS para que la labor de éste siga siendo significativa para los empleadores.

[Se hace referencia a un caso pendiente ante el Comité de Libertad Sindical de la OIT.]

Asimismo, la OIE sigue ayudando a las organizaciones de empleadores que no disfrutan plenamente de la libertad de asociación y la libertad sindical. Presta asistencia, orientación y apoyo a fin de garantizar el respeto de este principio fundamental.

Si bien la libertad de los empleadores prevalece en muchos países del mundo y se da en gran medida por sentada, los cambios registrados en otras partes del mundo siguen amenazando esos derechos, por lo que se requiere la atención del Grupo de los Empleadores y de la OIE.

■ *Eliminación de todas las formas de trabajo forzoso u obligatorio*

La OIE colabora activamente con el Programa Especial de Acción para Combatir el Trabajo Forzoso (SAP-FL) de OIT/DECLARATION en la preparación de la publicación titulada *Lucha contra el trabajo forzoso: Manual para empleadores y empresas*.

A principios de año, la OIE se dirigió a una importante reunión de las Naciones Unidas sobre el trabajo forzoso y la trata de personas, que se celebró en Viena, y expuso los desafíos que esta cuestión planteaba a los empleadores.

En febrero de 2008, la OIE, la OIT, el Consejo de Estados Unidos para el Comercio Internacional y la Cámara de Comercio de los Estados Unidos celebraron una reunión de un día para realzar el principio de la eliminación del trabajo forzoso ante las empresas multinacionales estadounidenses. El evento fue organizado por Coca-Cola en Atlanta y congregó a más de 80 participantes procedentes del sector privado, organizaciones internacionales y ONG.

Durante esta discusión, se formuló una serie de preguntas sobre la definición del trabajo forzoso y sobre lo que cabe o no incluir en dicha definición. Para ayudar a los participantes a responder a dichas preguntas, la OIE está preparando un material que abarca elementos fundamentales extraídos de los instrumentos de la OIT. Estos elementos fundamentales, que se refieren a seis preguntas clave, se señalan a la atención de las empresas para que orienten sus respuestas a la hora de afrontar el trabajo forzoso.

En mayo de 2008, el Secretario General Adjunto de la OIE participó como destacado orador en el evento organizado por Anti-Slavery International en torno al tema *¿Existen la esclavitud y el trabajo forzoso en la cadena de suministro?* En la presentación se recalcó lo difícil que resulta determinar y erradicar el trabajo forzoso desde la perspectiva de los empleadores.

Durante la reunión de la CIT, la OIE, asumiendo su función de secretaría del Grupo de los Empleadores, coordinó una reunión sobre Trabajo forzoso, derechos humanos y empresas. [] Se invitó al Jefe de [OIT/SAP-FL/DECLARATION] a dirigirse al Grupo de los Empleadores. Considera que ésta es una oportunidad especial para tratar la cuestión del trabajo forzoso y el papel que a este respecto desempeñan las organizaciones de empleadores.

La OIE también colaboró activamente con [OIT/SAP-FL/DECLARATION] en la coordinación y organización del Taller regional sobre el trabajo forzoso: el papel de las organizaciones de empleadores y de las empresas, celebrado en Bangkok, en junio de 2008. También coordinó la participación de las organizaciones de empleadores en la región. El objetivo del taller fue facilitar un espacio en que los representantes de los empleadores pudieran elaborar estrategias y planes de acción con miras a combatir el trabajo forzoso y a intercambiar información y experiencias. También se permitió a la OIE y a la OIT presentar los instrumentos que estaban elaborando.

En el marco de su labor en este ámbito, la OIE está preparando una guía, que es un primer intento de contestar a algunas de las preguntas que plantea la cuestión. En la guía se señalan a la atención de los empleadores y sus miembros los riesgos que representa el trabajo forzoso en sus operaciones, al paso que se proporciona orientación sobre cómo reconocer y prevenir las situaciones de trabajo forzoso, y sobre lo que los empleadores pueden hacer para abordar el problema. La guía se ha elaborado en el contexto de una estrategia mundial para lograr que los empleadores y sus organizaciones participen en esta empresa, y se espera que este instrumento sea útil para las organizaciones de empleadores y sus miembros.

- *Abolición efectiva del trabajo infantil*

La OIE apoya la participación del Grupo de los Empleadores y de los portavoces de los empleadores del Comité Directivo del IPEC.

Reconociendo que no existían pautas prácticas redactadas con carácter específico para ayudar a los empleadores a abordar la cuestión del trabajo infantil en sus lugares de trabajo o sus cadenas de suministro, la OIE y ACT/EMP elaboraron un conjunto de guías para los empleadores. Las guías para los empleadores sobre la eliminación del trabajo infantil se publicaron en junio de 2007. En 2008 se organizaron diversas actividades para publicar esas guías, que se han traducido al español y al francés, y que deberían traducirse en los próximos meses al árabe, al portugués y al ruso.

La OIE ha colaborado activamente con ACT/EMP en la coordinación de la Conferencia empresarial contra el trabajo infantil para América Latina y el Caribe. Esta conferencia, organizada conjuntamente con el IPEC y la Unión Industrial Argentina (UIA), se celebró en Buenos Aires en octubre de 2008. La reunión incluyó un taller en el que se presentó la guía OIE-ACT/EMP en español. El principal objetivo de la reunión fue reforzar la capacidad de las organizaciones de empleadores y de las empresas mediante actividades de formación para el uso de la guía de los empleadores. La conferencia también promovió a escala subregional un intercambio de información sobre buenas prácticas empresariales para luchar contra el trabajo infantil, y presentó casos de empresas que logran fomentar la erradicación del trabajo infantil.

■ *Eliminación de la discriminación en materia de empleo y ocupación*

La OIE interviene activamente, de manera tanto directa como indirecta, en la lucha contra las distintas formas de discriminación. A continuación, se facilitan algunos ejemplos representativos de su participación en este ámbito.

La OIE sigue interviniendo activamente para paliar la problemática del VIH/SIDA, que por su gravedad podría acarrear funestas consecuencias para el mundo del trabajo. Si bien es importante atacar este problema en las regiones hoy gravemente afectadas por el fenómeno, también es importante hacerlo en aquellas regiones/zonas donde la epidemia no ha alcanzado todavía proporciones desastrosas, aunque ello podría suceder.

El empleo de los jóvenes sigue siendo un elemento fundamental de la labor de la OIE. Esta ha cooperado con la OIT en la elaboración de una guía práctica, que es en realidad una recopilación de iniciativas utilizada por la comunidad empresarial a escala mundial. Con esta guía se pretende dar a conocer los recursos utilizados para ayudar a generar oportunidades de empleo para los jóvenes.

III. Areas de interés

El apoyo que la OIE brinda a la Declaración, a su seguimiento y a los cuatro principios fundamentales trasluce indudablemente en sus actividades. Sin embargo, aprovecha esta oportunidad para hacer hincapié en las inquietudes concretas que tanto ella como el Grupo de los Empleadores de la OIT albergan en relación con la Declaración y su seguimiento.

1. *Fortalecimiento de la capacidad de la OIT para prestar asistencia a los Miembros en la consecución de sus objetivos en el contexto de la globalización*

Durante la reunión de la CIT celebrada en 2008, la Declaración de la OIT sobre la justicia social para una globalización equitativa fue adoptada por unanimidad. En su texto se reafirman los principios de la Declaración de Filadelfia de 1944, así como aquéllos contenidos en la Declaración de 1998 relativa a los principios y derechos fundamentales en el trabajo. La OIE y el Grupo de los Empleadores de la OIT seguirán defendiendo la promoción de la Declaración de 1998 mencionada en el preámbulo de la nueva Declaración.

Durante las próximas consultas y reuniones del Grupo Directivo, la OIE y el Grupo de los Empleadores subrayarán la necesidad de confirmar que se seguirá promoviendo por separado la Declaración de 1998 relativa a los principios y derechos fundamentales en el trabajo y su seguimiento.

2. *Análisis de las referencias nacionales*

La OIE apoya sin reservas el enfoque de los estudios de referencia, que representa un mecanismo creativo e innovador para aprovechar la información recabada a través del examen anual. Reiteró este apoyo en el curso de los debates del Consejo de Administración en el marco del examen anual.

Es importante evitar que este análisis se utilice para clasificar a los países. Deberían proseguirse los estudios de referencia como herramienta valiosa para seguir la progresión de los Estados Miembros a lo largo del tiempo, partiendo de los avances logrados por los propios Estados y no con referencia a criterios exteriores. De acuerdo con la filosofía y el objeto de la Declaración, se debe permitir a cada Estado Miembro poner en práctica los cuatro principios fundamentales de una manera que resulte adecuada a sus circunstancias nacionales. Queda por ver cuáles serán las repercusiones de estos análisis.

3. *Obligaciones contraídas en virtud de la Declaración*

Las evaluaciones llevadas a cabo mediante el examen anual deberían centrarse en las medidas adoptadas por los Estados Miembros para poner en práctica los principios fundamentales. Estas evaluaciones no deberían suponer una discusión de la legislación y la práctica. Los empleadores han reiterado en varias ocasiones que la Declaración y su seguimiento constituyen una vía política, y no un cauce jurídico, como el mecanismo de control periódico de la OIT. Las obligaciones políticas que deben contraerse para promover, alcanzar y poner en práctica los principios de la Declaración deben seguir diferenciándose de las obligaciones jurídicas concretamente derivadas de la ratificación de los convenios.

4. *Ratificación de los convenios fundamentales*

La OIE y el Grupo de los Empleadores han expresado preocupación respecto del énfasis que, en toda la parte de la Declaración relativa al seguimiento, se pone en la ratificación de los convenios fundamentales. La Declaración es un instrumento político y, por lo tanto, sería más acertado hacer hincapié en los esfuerzos de los Estados Miembros (así como en sus logros y retos) destinados a dar cumplimiento a los cuatro principios fundamentales.

Se supone que la Declaración debería polarizar la atención en el respeto de los principios fundamentales. Esto significa que, en lugar de examinar si los Estados Miembros han cumplido el tenor de todos y cada uno de los artículos de un convenio, se debería analizar el empeño que estos Estados ponen en dar cumplimiento a los principios.

5. *Capacitación de las organizaciones de empleadores y cooperación técnica*

Para que la Declaración pueda promoverse de manera efectiva es preciso que los mandantes sean fuertes. Se debe cuidar por tanto de que el seguimiento de la Declaración sirva para fortalecer la capacidad que las organizaciones de empleadores tienen para contribuir a mejorar la representación de las empresas y fortalecer la filosofía del tripartismo y el diálogo social.

Deberían consignarse recursos para financiar la formulación de programas de cooperación técnica expresamente destinados a las organizaciones de empleadores. También se debería animar a los donantes a dedicar parte de sus recursos financieros a la capacitación de los interlocutores sociales.

6. *Décimo aniversario de la Declaración de la OIT*

Cada año que pasa desde que se adoptó la Declaración de la OIT de 1998, aprendemos más acerca de los aspectos de su seguimiento que resultan útiles y eficaces para lograr sus objetivos, y de los aspectos que son mejorables.

El 10.º aniversario de la Declaración de la OIT, que se celebrará en 2008, brinda una oportunidad apropiada para examinar las labores de seguimiento con miras a encontrar la manera de reforzarlas. Aprovechar las enseñanzas extraídas a lo largo de los diez últimos años tal vez ayude a perfeccionar las actividades de seguimiento a fin de velar por que sigan siendo pertinentes.

La Declaración sigue siendo un ejemplo destacado de la manera en que la OIT puede y debe reaccionar ante cuestiones sociales urgentes, a través del proceso de creación de consenso que la caracteriza. La OIE agradece esta oportunidad de facilitar información, y responderá gustosa a cualquier pregunta que surja de la lectura del presente documento.