



THIRD ITEM ON THE AGENDA

**Review of annual reports under the
follow-up to the ILO Declaration on
Fundamental Principles and Rights
at Work**

**Part II
Compilation of annual reports by the
International Labour Office**

Preface

Reports received from governments and observations from employers' and workers' organizations

- 1. The follow-up.** The 1998 ILO Declaration on Fundamental Principles and Rights at Work incorporates a follow-up that is to be promotional, meaningful and effective. Its purpose is to encourage the efforts by member States to promote the fundamental principles and rights at work. The follow-up involves an annual review, a global report and conclusions about technical cooperation priorities.
- 2.** The first stage of the follow-up is the review by the ILO Governing Body of the annual reports, as compiled by the International Labour Office, and taking due account of article 23 of the Constitution and established practice. The compilation which follows contains the government reports and observations from employers' and workers' organizations for the third round of the annual review under the Declaration follow-up. It is accompanied by an Introduction by the ILO Declaration Expert-Advisers, which appears as Part I of this document (GB.283/3/1).
- 3. Basis of reporting.** Reporting under the Declaration follow-up is based upon the constitutional obligation of ILO member States to provide reports on the position of their law and practice in relation to Conventions they have not ratified (ILO Constitution, article 19(5)(e)). The follow-up provides an opportunity to review the efforts made in accordance with the Declaration by member States which have not yet ratified all of the fundamental Conventions.¹
- 4. Report forms used.** The follow-up instructs the Office to compile reports received in relation to the Declaration (paragraph II.B.2). The Governing Body has approved report forms for this purpose.²
- 5. Cut-off dates.** This compilation was prepared in time for the third meeting of the ILO Declaration Expert-Advisers (9 to 14 January 2002). The vast majority of governments submitted their reports after the 1 September 2001 deadline, and the Office has included any report received by 31 October 2001. This encompassed States that had not ratified the relevant Conventions by 1 September 2001.

¹ These are the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105); the Equal Remuneration Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182). Reports from governments that had not ratified Convention No. 182 were requested for the first time in the current annual review.

² Separate report forms for the four categories of principles and rights at work were approved by the ILO Governing Body in March 1999 (GB.274/2(Add.1)); and a revised report form concerning the effective abolition of child labour was approved in March 2001 (GB.280/12/1). The report forms are available on the ILO website (<http://www.ilo.org/declaration>).

- 6. Structure of the compilation.** The third compilation follows the same structure as in the past. Information received from governments using the new report form in relation to the effective abolition of child labour has been formatted by the Office to fit this structure.
- 7.** Many governments included comments from employers' or workers' organizations in their reports, forwarded those comments, or referred to tripartite consultations in the drawing up of the reports. Where governments subsequently provided additional information or views, these then follow, so that all the information provided for a country in relation to a principle appears together.
- 8. Established practice on comments from employers' and workers' organizations.** Paragraph II.B.1 of the Annex to the Declaration indicates that the annual follow-up will be based on reports requested from Members under article 19, paragraph 5(e), of the ILO Constitution, taking due account of article 23 of the Constitution and established practice. Article 23 refers to the communication of reports on ratified and unratified instruments (referred to respectively in articles 19 and 22 of the Constitution) to representative organizations referred to in article 3 of the Constitution. The term "established practice" refers to the examination of comments made by a national or an international industrial association of employers or of workers in regard to the matters dealt with in a Convention or a Recommendation. The past practice of including information provided by such workers' and employers' organizations in respect of reports under articles 19 and 22 of the ILO Constitution can be seen in special surveys carried out within the context of the four-year review referred to under paragraph II.A.1 of the Declaration's Annex and in the examination of reports in relation to ratified Conventions under article 22 of the Constitution.³
- 9. Practice under the Declaration follow-up.** The compilation of reports thus followed the established practice with regard to comments from employers' and workers' organizations. All comments received by the Office on a timely basis from employers' and workers' organizations were transmitted to the governments concerned so that they might have the opportunity to make their views known should they wish to do so. It must be stressed that the strictly promotional objective of the Declaration follow-up means that annual reporting cannot serve as a basis for complaints, nor lead to a dual examination of situations that are already or have been the subject of supervisory procedures.⁴ The Declaration follow-up states clearly that it is not a substitute for the established supervisory mechanisms, nor shall it impede their functioning (Annex, paragraph I.2).
- 10. Criteria for inclusion.** In deciding whether particular comments or observations received from employers' and workers' organizations should or should not be included in the compilation, the Office bore in mind the purpose of the follow-up as stated in its paragraph II.A.1: it refers to an annual review of efforts made by Members which have not yet ratified all the fundamental Conventions. Comments from workers' and employers' organizations which provide relevant information or opinions about the efforts being made by member States have therefore been taken into account in the compilation of Declaration reports. At the same time, paragraph I.2 of the Annex to the Declaration states that specific

³ During the Conference discussion of the draft Declaration, reference was made to the established practice used by the Committee of Experts on the Application of Conventions and Recommendations (International Labour Conference, 86th Session, 1998, *Provisional Record*, No. 20, para. 148). For examples of that practice, see *Report of the Committee of Experts on the Application of Conventions and Recommendations*, 1999, International Labour Conference, 87th Session, Report III (Part 1A), especially para. 119.

⁴ See the Office document submitted to the Governing Body, GB.274/2 (March 1999).

situations within the purview of established ILO supervisory mechanisms shall not be examined or re-examined within the framework of the Declaration follow-up. Thus any portions of those comments or observations that are of this type have been omitted from the compilation. References to individual persons and enterprises have also been deleted.

11. Other types of comments that were not reproduced concerned general references to labour or employment situations that were not obviously relevant to the fundamental principles and rights at work under discussion. Finally, since article 19, paragraph 5(e), of the ILO Constitution concerns unratified Conventions, any inference or statement in respect of the application of ratified Conventions has been deleted from observations made by employers' and workers' organizations. Material omitted has been noted with ellipsis and summarized material appears in square brackets.
12. **Other references to Conventions.** In some reports by governments and observations by employers' or workers' organizations, reference was made to the provisions of ILO Conventions, ratified and unratified. This material has been retained only for reference in relation to the fundamental principles and rights at work involved, and not necessarily as correct references to the scope, content or application of these Conventions. The reproduction of a statement regarding the application of a ratified Convention should not be taken as an indication of whether effect is being given to it or not, since these instruments fall under other ILO constitutional supervisory procedures.⁵
13. **Electronic reporting.** The Director-General's letter inviting reports under the Declaration mentioned that they could be sent to an e-mail address, and a number of countries took up this possibility.
14. **Statistics and indicators.** The report forms requested indicators and statistics for purposes of assessing the factual situation. Several countries provided statistics. While this information has been most welcome, given the time and space constraints, the larger sets of statistics could not be included in the compilation which follows. They can be provided in hard-copy format upon request to the International Labour Office in Geneva, and have been made available to relevant ILO units.
15. **Legislation.** All legislative texts sent with reports have been forwarded to the ILO unit that maintains NATLEX, the database covering national legislation that can be searched through the Internet and is available on CD-ROM.
16. **Accuracy of information.** The Office cannot take a position on the accuracy of any of the statements made in the context of the annual reports from governments or in the observations received from employers' and workers' organizations. Light editing has been done only when necessary to facilitate understanding of a reply, to correct an obvious typographical error or to present the compiled material in a consistent format.
17. **Submission to the Governing Body.** The following reports, as compiled by the Office taking into account article 23 of the ILO Constitution and established practice under it, are being presented together with the Introduction by the ILO Declaration Expert-Advisers, for purposes of review by the Governing Body.

Geneva, 23 January 2002.

⁵ ILO: *Handbook of procedures relating to international labour Conventions and Recommendations*, Rev. 2/1998.

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Executive summary

This compilation, prepared by the Office, contains the annual reports from governments of countries which have not yet ratified the eight fundamental Conventions encompassed by the third annual review under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. It also includes, taking due account of article 23 of the ILO Constitution and established practice, observations of employers' and workers' organizations in relation to efforts made in accordance with the Declaration by ILO member States, as well as additional information governments have supplied in some cases.

The compilation is organized according to the four categories of principles and rights included in the Declaration and within each category by country.

A preface provides information on the nature of the follow-up, the structure of the compilation, established practice on comments from employers' and workers' organizations, and practice pursued under the follow-up to the Declaration. The information compiled, which has been reproduced essentially as received, does not represent the views of the International Labour Office.

This document is submitted for review by the Governing Body together with the Introduction by the ILO Declaration Expert-Advisers.¹

¹ GB.283/3/1.