



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)<sup>1</sup>: UNITED STATES**

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	Yes but no change to report for the 2002 and 2008 Annual Reviews (ARs).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the US Council for International Business (USCIB) as well as the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) through communication of government's reports. In addition, the draft report was reviewed by members of the Tripartite Advisory Panel on International Labor Standards, a subgroup of the President's Committee on the ILO, which includes representatives from the USCIB and the AFL-CIO. The updated report under the 2007 AR had been communicated to the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the Change to Win Federation, and the U.S. Council of International Business. In addition, in keeping with longstanding practice, as well as U.S. obligations under Convention 144, the draft report was reviewed by members of the Tripartite Advisory Panel on International Labor Standards, a subgroup of the President's Committee on the ILO.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL
	<b>Workers' organizations</b>	<b>2004 AR:</b> Observations by the AFL-CIO. <b>2003 AR:</b> Observation by the AFL-CIO. <b>2002 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: 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 by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex)

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>The United States ratified in 1999 the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). However, it has not ratified the Minimum Age Convention, 1973 (No.138) (C.138).</b>
		<b>Ratification intention</b>	<b>There are no ongoing efforts to ratify C. 138.</b>  <b>2007 AR:</b> According to the Government: there are no efforts underway at this time to ratify C. 138.
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	NIL
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b> <b>2003 AR:</b> The government indicated that the «elimination of illegal and exploitative child labor was both a domestic and international priority».</li> <li>• <b>Legislation</b> <b>2004 AR:</b> The President's fiscal year 2004 budget includes a legislative proposal to increase civil penalties for child labor violations that cause the death or serious injury of a young worker -With respect to the discussion of the study conducted by the National Institute for Occupational Safety and Health (NIOSH), the Wage and Hour Division has given effect to some of the recommendations regarding changes to the hazardous orders.</li> <li><b>2001 AR:</b> The Children's Act for Responsible Employment would amend the Fair Labor Standards Act with respect to children working in agriculture, including hazardous occupations, and in commercial street sales. It would also increase the penalties for egregious child labor violations.</li> <li><b>2000 AR:</b> The federal Fair Labor Standards Act of 1938 (FLSA or Act), is the major federal child labor statute. The FLSA provides that «no employer shall employ any oppressive child labor in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce» (29 U.S.C. § 212(c)). Oppressive child labor is generally defined as the employment of a child under 16 years of age in any occupation, not including minors employed on farms owned or operated by their parents (29 U.S.C. § 203(l)). In addition, the term includes the employment of minors 16 and 17 years of age in any occupation deemed hazardous by the Secretary of Labor. The federal Walsh-Healy Public Contracts Act (41 U.S.C. § 35 et seq.), which sets basic labor standards for work done on federal government contracts, prohibits the employment of persons under sixteen years of age by the contractors in the manufacture, production, or furnishing of any of the material, supplies, articles or equipment included in a contract with the government. -In the United States, child labor is regulated by both federal and state legislation and regulations. -The FLSA establishes a minimum standard for employment subject to the Act. It provides that employers must comply with any «higher standard» in federal law, state law or municipal ordinance related to child labor. 29 U.S.C. § 218(a).</li> </ul>
	<b>Judicial decisions</b>	<b>2006 AR:</b> In fiscal year 2004, the number of cases was 1,616. <b>2005 AR:</b> Number of concluded cases in which child labour violations were found in fiscal year 2003 was 1,648.	
	<b>Exercise of the principle and right</b>	<b>Compulsory Education</b>	<b>YES,</b> compulsory education is subject to state law and regulation. With regard to the age of a child at the end of compulsory schooling, it is 16 years for 25 states, 17 years for 9 states and the District of Columbia and 18 years for 16 states.

		<p><b>Minimum age</b></p>	<p><b>2000 AR: General minimum age for admission to employment or work: 16 years for both boys and girls</b></p> <p><b>Light work: minimum age of 14 years for both boys and girls</b> Light work is work that is not harmful to the health or development of young persons nor prejudicial to school attendance or participation in approved vocational programs.</p> <p><b>Hazardous work: minimum age of 18 years for both boys and girls</b> Under the FLSA, 18 is the minimum age for employment in non-agricultural occupations that the Secretary of Labor finds and declares to be «particularly hazardous ... or detrimental to the health or well-being» of young persons.</p> <p>In agriculture, 16 is the minimum age under the FLSA for employment in occupations (outside of family farms) that the Secretary of Labor finds and declares to be «particularly hazardous for the employment of children».</p>
		<p><b>Worst Forms of Child Labour</b></p>	<p><b>C.182 is ratified.</b></p>
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Exercise of the principle and right</b></p>	<p><b>Information / Data collection and dissemination</b></p>	<p><b>2007 AR:</b> According to the Government: In fiscal year 2005, the Number of Concluded Cases in Which Child Labor Violations Were Found was 1,129. For Fiscal Year 2005, \$3,744,364 in Child Labor Civil Monetary Penalties were assessed. The number of minors found employed in violation of the FLSA was 3,703. This data may be found on the Web site at: <a href="http://www.dol.gov/esa/whd/statistics/200531.htm">http://www.dol.gov/esa/whd/statistics/200531.htm</a></p> <p><b>2003 AR:</b> According to the Government: It records information on sanctions applied to users of child labor. -The government also undertakes surveys, occasionally, that provide statistical information on the extent and/or nature of child work.</p> <p><b>2000 AR:</b> According to the Government: Relevant indicators and statistics include the following: (i) workforce demographics (Department of Commerce Census Bureau and Department of Labor Bureau of Labor Statistics): information about youth employment by occupation and industry, by hours worked; (ii) Enforcement data and compliance surveys (Department of Labor Wage and Hour Division); (iii) Statistics on deaths and injuries (Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health): data used in determining what kinds of labor are unsuitable for minors; (iv) School enrolment and attendance data (by the individual state authorities). -The National Research Council of the National Academy of Sciences (a congressionally chartered private organization which advises the federal government on scientific and technical matters), with underwriting largely from government agencies such as the National Institute for Occupational Safety and Health and the Wage and Hour Division, published a document in 1998 entitled <i>Protecting Youth at Work</i></p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>		<p><b>2003 AR:</b> According to the Government: In view of bringing about the effective abolition of child labor, the following are among the measures implemented to enforce minimum age(s) for employment and to eliminate the worst forms of child labour: (i) legal reform; (ii) inspection/monitoring mechanisms; (iii) penal sanctions; (iv) civil or administrative sanctions; (v) special institutional machinery.</p> <p>-The Wage and Hour Division contracted with the NIOSH, for that federal agency to conduct a study of the current hazardous orders and to make recommendations for any changes. NIOSH completed that study, <i>National Institute for Occupational Safety and Health (NIOSH) Recommendations to the U.S. Department of Labor for Changes to Hazardous Orders</i>, in May 2002.</p>

		<p><b>2000 AR:</b> According to the Government: the FLSA contains provisions designed to control or regulate the employment of children as well as to abolish, or to prevent outright, the employment of oppressive child labor.</p> <p>-The Secretary of Labor promulgates regulations which detail occupations found to be hazardous (there are 17 hazardous orders addressing various non-agricultural industries and occupations where the Secretary has found it to be particularly dangerous for youth workers).</p> <p>The child labor provisions of the FLSA are administered and enforced by the United States Department of Labor acting through the Administrator of its Wage and Hour Division.</p> <p>-The Wage and Hour Division employs a number of enforcement tools to ensure effective implementation of federal child labor laws.</p> <p>-Civil money penalties: assessed in proportion to the severity of violations, ranging from fines to imprisonment, are employed to encourage future compliance by employers.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2003-2004 ARs:</b> According to the Government: The Wage and Hour Division has held stakeholder meetings where it sought comments from employers, unions and child advocacy groups regarding the NIOSH recommendations.</p> <p>-Stakeholders can and do provide the Department and other concerned agencies with information about the existence of illegal child labor, as well as receiving relevant information from the Government.</p> <p>-Child labor regulations are issued through notice-and-comment rulemaking, subject to the requirements of the Administrative Procedure Act, 1947 (APA), in which employers' and workers' organizations are entitled to, and do, participate</p>
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Promotional activities</b></p>	<p><b>2007 AR:</b> According to the Government: The Department of Labor continues its efforts to abolish illegal child labor and ensure the safety and well-being of young people at work. In Fiscal Year 2005, the Department initiated a five-year summer job safety campaign. In the summer of 2006, the campaign focused on the land care industry and performed education and outreach, achieving wide dissemination of its education materials through the media and contacts with youth-oriented non-profit organizations. Through its ongoing Youth Rules! Public Awareness Campaign, it also directed its efforts to youth working in the construction industry in response to an increase in youth working in the construction industry during the summer. It launched a new electronic seminar, «Youth Working in Construction» on CD-ROM and available on the Youth Rules! Web site (<a href="http://www.youthrules.dol.gov">www.youthrules.dol.gov</a>), which focuses on the Secretary's Hazardous Orders. In addition, there are two region-wide initiatives to educate employers and others regarding the rules for this industry. There are also several local initiatives relating to the roofing industry involving both outreach and enforcement activities.</p> <p><b>2003 AR:</b> According to the Government: With a view to bringing about the effective abolition of child labor, the following measures had been implemented to enforce minimum age(s) for employment and to eliminate the worst forms of child labor: (i) employment creation/income generation; (ii) social assistance (e.g. stipends, subsidies, vouchers); (iii) child rehabilitation following removal from work; (iv) vocational and skills training for young workers; (v) awareness raising/advocacy; (vi) free compulsory education; and (vii) international cooperation programs/projects.</p> <p><b>2000 AR:</b> According to the Government: The Wage and Hour Division undertakes «compliance education» which serves to promote voluntary compliance with child labor laws by informing employers, educators, young workers, and their parents about the child labor laws and the Wage and Hour Division also partners with consumers and corporations to raise public awareness of child labor issues and promote child labor compliance practices.</p> <p>-The Department of Labor in particular had developed a broad array of Programs to abolish illegal child labor and to ensure the safety and well-being of young people at work (e.g. the Department's Low-Wage Initiative, the Safe Work/Safe Kids Initiative).</p>
	<p><b>Special initiatives/Progress</b></p>	<p>NIL</p>

<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL
		<b>Workers' organizations</b>	<p><b>2003-2004 ARs:</b> The AFL-CIO strongly disagreed with the draft update to the report on child labour prepared by the Government of the United States for the year 2003.</p> <p><b>2003 AR:</b> Observations by the AFL-CIO through the government: the draft report did not provide information on current United States practice with respect to enforcing child labour laws; the draft said nothing about the U.S. practice.</p> <p><b>2002 AR:</b> ICFTU's observations: A major area of abuse is the agricultural sector, particularly as regards children of migrant workers. The school-leaving age is not set at the national level. Encourages the Government to ratify C.138.</p>
	<b>According to the Government</b>		<b>2003 AR:</b> In the informal sector of the economy, the employment of children in door-to-door sales raises concerns about their safety and welfare.
<b>TECHNICAL COOPERATION</b>	<b>Request</b>		NIL
	<b>Offer</b>		NIL
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS/ OBSERVATIONS</b>			<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that few governments, such as the United States (and three other governments), had indicated their current lack of effort to ratify C.138 and/or C.182 (Cf. Paragraph 57 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p><b>2005 AR:</b> The IDEAs listed the United States among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, prevention, enforcement and sanctions mechanisms and/or ratification. They also mentioned the following: «Australia, New Zealand and the United States have expressed their intention to renew their assistance to other States and international organizations to combat child labour, including in its worst forms. Their assistance ranges from financial aid to participation in international forums. It is important to maintain a continuity of social programmes to combat child labour. Once programmes are interrupted, it is difficult to maintain the momentum. The sustainability of such programmes will be enhanced with the active support of employers' and workers' organizations» (Cf. Paragraphs 13 and 234 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS/ OBSERVATIONS</b>			NIL