



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: MYANMAR

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

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2000 and 2001 Annual Reviews (ARs). No change report for the 2006 and 2007 ARs.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) and the Workers' Welfare Associations concerned by means of consultations and communications of Government's reports.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2008 AR: Observations by the UMFCCI	
	Workers' organizations	2007 AR: Observations by the International Confederation of Free Trade Unions (ICFTU). 2002 AR: Observations by the ICFTU. 2001 AR: Observations by the ICFTU. 2000 AR: Observations by the ICFTU.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	<i>Myanmar ratified in 1955 of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) (C.87). However, it has not yet ratified the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C. 98).</i>
		Ratification intention	YES, in 2002 for C.98. 2008 AR: The Government indicated that it would consider the ratification of C.100 and C.111 once the new Constitution is promulgated. The UMFCCI supports the ratification of C.98. 2001 AR: According to the Government: C.98 has been submitted to the competent authorities for review. -Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.98.

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 by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>

	Recognition of the principle and right (prospect(s), means of action, main legal provisions)	Constitution	2004 AR: According to the Government: The Constitution is in the drafting stage.		
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Legislation: 2005 AR: According to the Government: In the public sector, workers' rights are stressed in the fundamental rules, orders and directives. Workers in the private sector have their rights protected by the labour laws. 2002 AR: According to the Government: Labour laws were being reviewed in the light of social and economic changes. This labour law reform will take into account the provisions of the State Constitution, which is in a drafting stage, as well as the comments and observations made by the Committee of Experts on the Application of Conventions and Recommendations and the Conference Committee on the Application of Standards.		
		Main legal provisions	(i) Pending the adoption of a new Constitution; (ii) the Labour Code; (iii) fundamental rules; (iv) orders; and (v) directives.		
		Judicial decisions	NIL		
	Exercise of the principle and right	At national level (enterprise, sector/industry, national)	For Employers	2003 AR: According to the Government: No government authorization/approval is required to conclude collective agreements. The right to collective bargaining can be exercised by all categories of employers.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Exercise of the principle and right	At national level (enterprise, sector/industry, national)	For Workers	2004 AR: According to the Government: Workers have the right to bargain individually or collectively for their rights within the existing Workers' Welfare Associations. Workers of factories and establishments have also the right to bargain collectively. 2003 AR: No government authorization/approval is required to conclude collective agreements. The right to collective bargaining cannot be exercised in the public service. However, the principle and right (PR) can be exercised at the enterprise level.	
			Special attention to particular situations	2003 AR: According to the Government: Special attention is given to women and specific categories of persons.	
			Information, data collection and dissemination	2008 AR: According to the Government: From January to July 2007, several cases have reached agreement through negotiation and conciliation, with a total compensation amounting to Kyat 69,376819 (about US\$ 50,500 as of October 2007). 2004 AR: According to the Government: From July 2002 to July 2003, the Township-Level Workers' Supervisory Committees heard and settled 305 cases concerning workers' rights that were either collectively or individually bargained for by the workers.	
	At international level	NIL			

	<p>Monitoring, enforcement and sanctions mechanisms</p>	<p>2008 AR: According to the Government: From January to July 2007, several cases have reached agreement through negotiation and conciliation. The compensation to the workers amounted to 69376819 Kyat.</p> <p>2005 AR: According to the Government: Inspection/monitoring mechanisms and capacity building of responsible government officials have been implemented. Legal reform and special institutional machinery are envisaged. In instances where the PR has not been respected, grievances can be submitted to the Ministry of Labour and to competent courts if no solution is found.</p> <p>2004-2005 ARs: According to the Government: The Township Level Workers' Supervisory Committees ensure workers' rights by means of conciliation and negotiations with the parties concerned within the juridical confines of the 1929 Trade Disputes Act, the conciliation handbook, directives and rules. Between January 2000 and January 2003, the Supervisory Committees successfully settled 1,069 cases.</p> <p>2004 AR: The Government indicated that it had assumed responsibility for ensuring the settlement and attainment of workers' rights.</p>	
	<p>Involvement of the social partners</p>	<p>NIL</p>	
	<p>Promotional activities</p>	<p>2008 AR: According to the UMFCCL: the General Secretary of the industry's association organizes and promotes skill training seminars for workers.</p>	
	<p>Special initiatives/Progress</p>	<p>2008 AR: The Government indicated that trade unions were created, especially in Yangon Division, which is under the supervision of the supervisory Committee of the Industrial Zones. Accordingly, workers' organizations in eleven sectors have been formed in the industrial zones of Yangon Division and more workers' organizations will be formed in other states and Divisions. Subsequently, these initial workers' organizations will eventually form a union. It also added that the first level trade unions would be launched along with the new Constitution and the Labour Code.</p> <p>2003 AR: According to the Government: The establishment in 2001 of the Myanmar Overseas Seafarers' Association.</p>	
<p>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</p>	<p>According to the social partners</p>	<p>Employers' organizations</p>	<p>2008 AR: According to the UMFCCL, the economic conjuncture is very fragile due to the economic embargos and sanctions placed on Myanmar by several western countries.</p>
		<p>Workers' organizations</p>	<p>2007 AR: The ICFTU raised the following additional challenges: (i) It is difficult to have a clear idea of the legal system in force; (ii) only one single trade union system exists; (iii) the current legislation does not recognize the principle of freedom of association; (iv) the independent Federation of Trade Unions-Myanmar (FTUM) is still obliged to operate clandestinely.</p> <p>2006 AR: According to the ICFTU: (i) Legislation is obscure in Myanmar and any legal institutions can be overruled by military decrees or by the action of any powerful officials; (ii) restrictions are imposed under the 1929 Trade Disputes Act (amended in 1966), which appears to define the means of resolving industrial disputes; (iii) while negotiations are under way under the chairmanship of the Township Level Workers' Supervision Committees, the workers are to continue to work as not to affect production and no demonstrations are allowed either inside or outside the factory; (iv) the independent Federation of Trade Unions-Myanmar (FTUM) monitors among others the denial of collective bargaining rights in industrial sectors, which it communicates to the ILO and to the international labour movement. The FTUM members caught doing so incur the death penalty.</p> <p>2000-2002 ARs: According to the ICFTU: (i) there is no legal framework to protect collective bargaining; (ii) abuse of workers' rights is rampant, especially in export-oriented industries.</p>

	According to the Government	2007 AR: In response to the ICFTU's observations, the Government made the following comments: (i) authorities have been set up to conciliate workers' and employers' disputes; (ii) some trade unionists have to function clandestinely because they transgress the law; (iii) the FTUM does not operate in the country, it is an unlawful association as mentioned in the Declaration of the Ministry of Home Affairs notification No. 3/2005.
TECHNICAL COOPERATION	Request	2008 AR: The UMFCCI indicated that ILO technical assistance is needed in order to better train the workers in Myanmar. 2005 AR: According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Myanmar, in particular in assessing difficulties and their implication for realizing the PR.
	Offer	NIL
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	2003 AR: In light of requests Myanmar for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, the ILO Declaration Expert-Advisers (IDEAs) called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field (Cf. Paragraphs 74 of the 2003 AR Introduction – ILO: GB.286/4).	
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	NIL	