



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: AFGHANISTAN**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , since the 2005 Annual Review (AR).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Chamber of Commerce of Afghanistan (CCA) (except for the 2006 AR) and the All Afghanistan Federation of Trade Unions (AAFTU) through consultations or communication of the Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR::</b> Observations by the CCA.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the AAFTU. <b>2006 AR:</b> Observations by the AWA.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Afghanistan ratified in 1963 the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105)</b>
		<b>Ratification intention</b>	<b>YES, since 2005, for the Forced Labour Convention, 1930 (No. 29) (C.29)</b>  <b>2007 AR:</b> 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.  <b>2005-2006 ARs:</b> According to the Government: C.29 is in the process of ratification.
	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Constitution</b>	<b>YES</b> According to the Government: 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.

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

		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b> <b>2005 AR:</b> The Government stated that the national policy to realize the principle and right (PR) of the elimination of all forms of forced or compulsory labour was defined in the Labour Code.</li> <li>• <b>Legislation</b> <b>2006 AR:</b> According to the Government: Section 11 of the 1987 Labour Code prohibits all forms of forced or compulsory labour.</li> </ul>	
		<b>Basic legal provisions</b>	(i) Constitution (article 41); (ii) Labour Code (1987), section 11.	
		<b>Definition of forced or compulsory labour</b>	<b>2005 AR:</b> According to the Government: Forced or compulsory labour is defined in its various forms in national legislation and or judicial decision.	
		<b>Judicial decisions</b>	NIL	
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	<b>2005 AR:</b> According to the Government: Special attention is given to the situation of young boys and girls.	
		<b>Information/Data collection and dissemination</b>	<b>2005 AR:</b> According to the Government: Statistics are not collected but the Government intends to do so.	
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2005 AR:</b> According to the Government: Should the PR not be respected then the matter is referred to courts, which decide appropriate sanctions, ranging from fines to imprisonment. In realizing the PR, the following measures have been implemented: legal reform and inspection /monitoring mechanisms.		
	<b>Involvement of the social partners</b>	<b>2005 AR:</b> According to the Government: There is a tripartite examination of related issues to realize the PR.		
	<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Promotional activities</b>	<p><b>2007 AR:</b> 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><b>2005 AR:</b> According to the Government: The following measures have been implemented to realize the PR: (i) awareness raising/advocacy activities; (ii) employment creation/income generation; (iii) educational programmes; (iv) rehabilitation following removal from forced labour; (v) international cooperation programmes/projects; and (vi) poverty alleviation programmes. A national commission on children's rights is responsible for the identification, emancipation and/or rehabilitation of people subject to forced labour.</p>	
		<b>Special initiatives/Progress</b>	<p><b>2007 AR:</b> The AAFTU mentioned that it was working to improve workers' rights in Afghanistan, and its major objective was the realization of the fundamental principles and rights at work (FPRW) in the country.</p> <p><b>2006 AR:</b> According to the Government: A national tripartite seminar on International Labour Standards was organized in May 2005 with ILO technical assistance.</p> <p><b>2005 AR:</b> According to the Government: As a successful example, a national project has been designed for the rehabilitation of street children and child soldiers.</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>	<b>2007 AR:</b> The AAFTU mentioned that the Government did not consult with it in the labour law review process.
	<b>According to the Government</b>	<b>2005 AR:</b> According to the Government, the main difficulties encountered with respect to realizing the PR are as follows: (i) lack of information and data; (ii) social values and cultural traditions; (iii) social and economic circumstances; (iv) political situation; (v) legal provisions; (vi) lack of capacity of responsible Government institutions; (vii) lack of capacity of employers' organizations; (viii) lack of capacity of workers' organizations; and (ix) lack of social dialogue on this PR. Difficulties also include the rehabilitation of repatriated Afghan children who have been subject to trafficking in various countries.	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the Government: ILO technical cooperation should be sustained to help Afghanistan better implement the new labour law and realize the FPRW. Labour Inspection and employers' and workers' organizations need ILO support for training and capacity building. A case study on the FPRW is needed in the country.</p> <p>According to the CCA: (i) ILO technical cooperation would be needed for training and capacity building of employers' organizations in Afghanistan to facilitate the realization of the FPRW; and (ii) the CCA supports the Government's request for a case study on the FPRW in Afghanistan.</p> <p>According to the AAFTU: (i) The AAFTU strongly needs ILO support for capacity building and training among its affiliates and members; and (ii) it also supports the Government's request for a case study on the FPRW in Afghanistan.</p> <p><b>2005-2006 ARs:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Afghanistan, in the following priority areas: (1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; strengthening data collection and capacity for statistical collection and analysis; sharing of experiences across countries/regions; policy advice; legal reform (labour law and other relevant legislation); capacity building of responsible Government institutions; training of other officials (e.g. police, judiciary, social workers, teachers); strengthening capacity of employers' and workers' organizations; employment creation; skills training and income generation for vulnerable workers; development of social protection systems; rural development policies (for example, land reform, rural infrastructure, agricultural extension, marketing, micro-finance); cross-border cooperation mechanisms; and coordination between institutions (e.g. various ministries and relevant commissions).</p> <p>Moreover, the Government would appreciate receiving assistance to elaborate a national Declaration Programme to promote all FPRW, including the PR. This could be preceded by a national seminar on the 1998 ILO Declaration.</p> <p><b>2006 AR:</b> The AWA requested ILO technical cooperation to promote the PR among its members.</p>	
	<b>Offer</b>	ILO (awareness raising activities)	
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2006 AR:</b> The ILO Declaration Expert-Advisers encouraged Afghanistan to consider ratification of C.29 (paragraph 44 of the 2006 AR Introduction).</p> <p><b>2005 AR:</b> The ILO Declaration Expert-Advisers noted with particular interest the reporting from Afghanistan in spite of the serious difficulties that this country has to face (Paragraph 8 of the 2005 Annual Review Introduction). They also noted with interest that even in a post-war context, the Government of Afghanistan endeavours to rehabilitate children who are victims of trafficking and has established a national tripartite commission in this respect (paragraph 187 of the 2005 AR Introduction).</p>		
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL		



**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: CANADA**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, since the start of the Annual Review (AR) in 2000. But no change report for the 2001 and 2004 ARs.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	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.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL	
	<b>Workers' organizations</b>	<b>2001 AR:</b> International Confederation of Free Trade Unions (ICFTU)'s observations.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>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).</b>
		<b>Ratification intention</b>	<p><b>2006 AR: Unable to ratify C.29.</b> 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><b>2004 AR:</b> 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><b>2001-2002 ARs:</b> 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>

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

			<p><b>2000 AR:</b> 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>			
	<p><b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES</b> The Constitution 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.</p>			
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b></p>	<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> </ul> <p><b>2003-2006 ARs:</b> 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><b>2005 AR:</b> 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"> <li>• <b>Legislation</b></li> </ul> <p><b>2007 AR:</b> 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><b>2002 AR:</b> 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>			
			<p><b>Basic legal provisions</b></p>		<p>(i) Constitution (Charter of Rights and Freedoms); (ii) Criminal Code of Canada (iii) Immigration and Refugee Protection Act, 2002.</p>	
			<p><b>Definition of forced or compulsory labour</b></p>		<p>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.</p>	
	<p><b>Judicial decisions</b></p>		<p>NIL</p>			
	<p><b>Exercise of the principle and right</b></p>	<p><b>Special attention to particular situations and human trafficking</b></p>	<p><b>2005 AR:</b> According to the Government: Women and children, migrants, racialized or racial/ethnic minorities, Aboriginal communities.</p>			

	<b>Information and data collection</b>	<b>2004 AR:</b> 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.
<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2006 AR:</b> 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><b>2003-2005 ARs:</b> 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>	
<b>Involvement of the social partners</b>	<b>2003-2005 ARs:</b> According to the Government: Social partners have not been involved in the development and implementation of government measures.	
<b>Promotional activities</b>	<p><b>2007 AR:</b> 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><b>2003-2006 ARs:</b> 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>	
<b>Special initiatives/Progress</b>	<p><b>2007 AR:</b> 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><b>2006 AR:</b> 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><b>2003 AR:</b> 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>	

<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>	<b>2001 AR:</b> 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.
	<b>According to the Government</b>	<p><b>2003-2005 ARs:</b> 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><b>2002 AR:</b> 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>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	NIL	
	<b>Offer</b>	NIL	
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed Canada among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 Annual Review Introduction). Furthermore, the IDEAs noted with interest that even though forced labour appears to be rare in the country, the Government is taking active steps to eradicate forced labour, including the organization of various sensitisation activities.		
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL		



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: CHINA**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , except for the 2001 Annual Review (AR). No change report for the 2002 AR.	
	<b>Involvement of Employers' and Workers organizations in the reporting process</b>	<b>YES</b> , Involvement of the China Enterprise Confederation (CEC) and the All-China Federation of Trade Unions (ACFTU) by means of consultations and communication of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the CEC.	
	<b>Workers' organizations</b>	<b>2001 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>China has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29), nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b>
		<b>Ratification intention</b>	<b>2005 AR:</b> According to the Government: In January 2004, a seminar was held in Beijing on C.29 and C.105.
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> 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.

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		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> </ul> <p><b>2005 AR:</b> According to the Government: There is a national policy to realize the principle and right (PR) of the elimination of all forms of forced or compulsory labour, but the Government would appreciate receiving ILO assistance in this respect.</p> <ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <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> <ul style="list-style-type: none"> <li>• <b>Regulation</b></li> </ul> <p>The Regulation Forbidding The Use of Child Labour (section 11).</p>
		<b>Basic legal provisions</b>	(i) Constitution of the People’s Republic of China (article 37); (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); and (iv) the Regulation Forbidding The Use of Child Labour (section 11).
		<b>Definition of forced or compulsory labour</b>	<p><b>2007 AR:</b> According to the Government: the definition of forced labour is found in section 244 of the Criminal Law which provides that an employer would be in violation of the laws and regulations on labour administration should he compel his employees to work by restricting their personal freedom.</p> <p><b>2003 AR:</b> According to the Government: The Labour Law defines forced or compulsory labour as follows: “to force labourers to work by resorting to violence, intimidation or illegal restriction of personal freedom”.</p>
		<b>Judicial decisions</b>	Judicial Explanation of the Supreme Court, 2001 (section 15).
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	<b>2003 AR:</b> According to the Government: Special attention is given to the situation of women and girls.
		<b>Information/Data collection and dissemination</b>	<b>2004-2005 ARs:</b> The Government indicated that it was planning to collect statistics or other information relevant to the PR.
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2007 AR:</b> According to the Government: Under Article 11 of the Regulation on Forbidding The Use of Child Labour 2002, the act of forcing children to work may be punished according to the Criminal Law. Following the Judicial Explanation of the Supreme Court, 2001 (section 15), in instances where the worker proposes to discharge the labour contract, the employer should pay for the remuneration and may pay for compensation. Under section 4 of the Method of Administrative Punishment for the Violation of the Labour Law 1994, in instances where the employer does not consult the trade unions and the worker and forces the latter to extend the working time, a warning should be given to the employer who may also be required to provide compensation, and a 100 Yuan fine for every hour of overtime performed by each worker.</p> <p><b>2005 AR:</b> 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><b>2003-2004 ARs:</b> According to the Government: Measures taken for the enforcement of the PR include: inspection/monitoring mechanisms, penal sanctions, civil/administrative sanctions, employment creation/income generation, educational programmes, international cooperation programmes and tripartite examination of related issues. Moreover, legal reform and capacity building are envisaged.</p> <p><b>2000 AR:</b> According to the Government: Labour inspections have increased to detect and deal with the cases of forced labour.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2005 AR:</b> According to the Government: The Legal Work Committee of the National People’s Congress, the ACFTU, the All-China Federation of Youth and the All-China Federation of Women are responsible for the identification, emancipation and/or rehabilitation of persons subject to forced labour.</p> <p><b>2003-2005 ARs:</b> According to the Government: The ACFTU has been involved in the development and implementation of Government measures.</p>
	<p><b>Promotional activities</b></p> <p><b>Special initiatives/Progress</b></p>	<p><b>2007 AR:</b> The CEC mentioned that it had held two seminars on International Labour Standards and Forced Labour in Beijing City and Hangzhou City in March 2006, in cooperation with ILO.</p> <p><b>2006 AR:</b> According to the Government: In cooperation with the ILO, the Government has conducted a study on Chinese legislation concerning trafficking, illegal migration and forced labour (from November 2004 to March 2005). It has also conducted a high level study tour on trafficking to Australia and Japan (January 2005); a national seminar on trafficking and forced labour in Beijing (April 2005); a field study in projects in Yunnan and Hunan provinces (June 2005); a field study on trafficking and forced labour in Fujian province (August 2005); and a Provincial seminar on trafficking and forced labour in Jilin province (August 2005).</p> <p><b>2005 AR:</b> According to the Government: In January 2004, a seminar was held in Beijing on C.29 and C.105.</p> <p><b>2003-2004 AR:</b> According to the Government: The All-China Federation of Women has cooperated with the ILO in the Mekong Subregional Project to Combat Trafficking in Children and Women. Other governmental bodies also cooperated with UNICEF on actions against trafficking.</p> <p><b>2003 AR:</b> According to the Government: In realizing the PR, the following measures have been implemented: awareness raising/advocacy; employment creation/income generation; educational programmes; and international cooperation programmes/projects.</p> <p><b>2000 AR:</b> The Government indicated that it promotes the relevant laws and regulations, strengthen the enforcement of the laws, increase cooperation with the ILO and widely disseminate international labour standards. The ILO has held many seminars in China on international labour standards in which it promotes the PR.</p> <p><b>2007 AR:</b> According to the Government: In order to reform the Rehabilitation through Labour mechanism (Laojiao), the 19<sup>th</sup> Meeting of the Standing Committee of the 10<sup>th</sup> National People’s Congress held on 29<sup>th</sup> December 2005, proposed to formulate a “Law on Correction of Minor Offences”, and had included the proposal into its national legislation plan. According to the CEC: The CEC delegates at the International Labour Conference (June 2006) discussed cooperation with the ILO Special Action Programme to Combat Forced Labour (ILO/SAP-FL), and took the decision to undertake a survey on working time and wages in China.</p> <p><b>2005 AR:</b> According to the Government: The major change concerning this PR relates to the cooperation started with the ILO in the forms of a study tour concerning minor offences in 2003 and a seminar on forced labour in 2004.</p> <p><b>2003 AR:</b> According to the Government: The major changes concerning the PR are as follows: (i) the Government initiated large-</p>

		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).	
<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>	<b>2001 AR:</b> The ICFTU made observations on the following issues: (i) forced or compulsory labour is defined by China’s legal context as occurring exclusively in the context of an employment relationship; (ii) legislation does not cover, for instance, servitude or slavery; (iii) forced labour is frequently found in factories producing various consumer goods for export, such as textiles, footwear, radios, television and sporting equipment, handbags, bicycles and many other consumer items; (iv) attempts to organize independently or to strike are said by workers to lead automatically to severe prison sentences; (v) penalties provided for in the law are either inadequate or are not enforced in practice.
	<b>According to the Government</b>	<b>2005 AR:</b> The main difficulties encountered in realizing this PR in the country are the lack of information and data, and the lack of 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.	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> The Government reiterated its previous request for continuing ILO technical cooperation (i.e., legal reform, awareness raising, training, etc.)</p> <p><b>2005 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in the country, in the following priority areas: (1) legal reform (labour law and other relevant legislation); (2) awareness-raising, legal literacy and advocacy; and (3) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the PR.</p> <p><b>2003-2004 ARs:</b> The Government expressed its intention to adopt a national policy to realize the PR and requested ILO assistance in this regard.</p>	
	<b>Offer</b>	ILO and ILO/SAP-FL (policy advice, awareness raising activities and case studies)	
<b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2005 AR:</b> The ILO Expert-Advisers (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 (paragraph 192 of the 2005 Annual Review Introduction).</p> <p><b>2004 AR:</b> The IDEAs stated that they were glad to receive concrete information on activities carried out by the Special Action Programme to Combat Forced Labour (SAP-FL). They noted that the dialogue and engagement with the Government of China continued in this area, on the basis of seminars and study tours on this subject (paragraph 113 of the 2004 Annual Review Introduction).</p> <p><b>2003 AR:</b> The IDEAs commended China for requesting the ILO’s technical cooperation, through the Annual Review process (paragraph 4 of the 2003 Annual Review Introduction).</p>		
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL		



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: JAPAN**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Japan Business Federation (Nippon Keidanren - NIKKEIREN) and the Japanese Trade Union Confederation (JTUC-RENGO) through communication of the Government's report.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2001 AR:</b> Observations by the NIKKEIREN.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the JTUC-RENGO <b>2006 AR:</b> Observations by the JTUC-RENGO and by the International Confederation of Free Trade Unions (ICFTU). <b>2005 AR:</b> Observations by the JTUC-RENGO. <b>2004 AR:</b> Observations by the JTUC-RENGO. <b>2003 AR:</b> Observations by the JTUC-RENGO and by the ICFTU. <b>2002 AR:</b> Observations by the JTUC-RENGO. <b>2001 AR:</b> Observations by the JTUC-RENGO and by the ICFTU. <b>2000 AR:</b> Observations by the JTUC-RENGO.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Japan ratified in 1932 the Forced Labour Convention, 1930 (No. 29) (C.29).</b>
		<b>Ratification intention</b>	<b>2000-2004 and 2006 ARs:</b> 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.  <b>2001 AR:</b> NIKKEIREN encouraged Japan in examining the issue in view of ratifying C.105.  <b>2000-2005 ARs:</b> The JTUC-RENGO supported ratification of C.105 by Japan.

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

	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> 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”.
<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>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> </ul> <p><b>2004 AR:</b> According to the Government: The Labour Policies Commission is responsible for important matters relevant to labour policy and collaborates with the Minister of Health, Labour and Welfare or administration authorities concerned. This Commission is composed by representatives of employers’, workers’ and public interest organizations.</p> <ul style="list-style-type: none"> <li>• <b>Regulations</b></li> </ul> <p><b>2000-2006 ARs:</b> According to the Government: The Labour Standards Bureau in the Ministry of Health, Labour and Welfare, Prefectural Labour Standards Offices and Labour Standards Inspection Offices as the local branches are established. The appropriate number of personnel is allocated at these agencies with a view to enforcing the Labour Standards Law. In addition, the Seafarers Department of the Maritime Technology and Safety Bureau in the Ministry of Transport and District Transport Bureau have established local branches in order to enforce the Mariners Law, etc., and the number of necessary personnel is allocated at these agencies.</p>
		<b>Basic legal provisions</b>	<p><b>2007 AR:</b> According to the Government:</p> <ul style="list-style-type: none"> <li>(i) the Constitution of Japan, articles 14, 18-21, 28, 31, 32, 34 and 36;</li> <li>(ii) the Penal Code (Law No. 45 of 1907), sections 193-196;</li> <li>(iii) the Labour Standards Law ( Law No. 49 of 1947), sections 5 and 117;</li> <li>(iv) the Mariners Law (Law No. 100 of 1947), sections 122 and 128;</li> <li>(v-1) the National Public Service Law (Law No. 120 of 1947), sections 98, 102 and 110;</li> <li>(v-2) the Rule of National Personnel Authority 14-7 (1949), sections 1-8;</li> <li>(vi) the Mail Law (Law No. 165 of 1947) section 79;</li> <li>(vii) the Trade Union Law (Law No. 174 of 1949), section 1;</li> <li>(viii) the Local Public Service Law (Law No. 261 of 1950), sections 37 and 61;</li> <li>(ix) the Gas Undertakings Law (Law No. 51 of 1954), section 53;</li> <li>(x) the Electric Undertakings Law (Law No. 170 of 1964), section 115; and</li> <li>(xi) the Telecommunications Business Law (Law No. 86 of 1984), sections 80 and 102.</li> </ul>
		<b>Definition of forced or compulsory labour</b>	NIL
	<b>Judicial decisions</b>	NIL	
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	NIL
		<b>Information/Data collection and dissemination</b>	<b>2004-2006 ARs:</b> According to the Government: Statistics and information relevant to violations related to the elimination of all forms of forced or compulsory labour are registered during a periodical inspection. Information is available at the Labour Standards Bureau of the Ministry of Health, Labour and Welfare, and at the Maritime Bureau, Ministry of Land, Infrastructure and Transport.

	<b>Prevention/Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2004 AR:</b> According to the Government: In case of violation of the principle and right (PR) of the elimination of all forms of forced or compulsory labour, the Penal Code is enforced. Under the Labour Standards Law, forced labour is prohibited with regard to employers of private undertakings, and penal sanctions are provided in case of violation of this law (sections 5 and 117). Moreover, inspection/monitoring mechanisms and penal sanctions have been implemented in Japan to facilitate the realization of the PR.</p> <p><b>2000-2004 ARs:</b> According to the Government: Instructions are made to establishments deemed to have problems in relation to the implementation of the Labour Standards Law. In case of violations of legal provisions, action is taken by the Ministry of Health, Labour and Welfare.</p>	
	<b>Involvement of the social partners</b>	<b>2004-2005 ARs:</b> According to the Government: Employers' and workers' organizations and other stakeholders have been involved in the Labour Policies Commission.	
	<b>Promotional activities</b>	NIL	
	<b>Special initiatives/Progress</b>	NIL	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2001 AR:</b> According to NIKKEIREN: Tripartite consultations should be established to assess the difficulties and obstacles as regards the ratification of C.105 and the appropriate measures to address them.</p>
	<b>According to the social partners</b>	<b>Workers' organizations</b>	<p><b>2007 AR:</b> According to the 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:</p> <p><i>“Personnel shall not strike or engage in delaying tactics or other acts of dispute against the public represented by the National Government as employer, or resort to delaying tactics which reduce the efficiency of government operations, nor shall personnel or other persons attempt, conspire to effect, instigate or incite such illegal actions.”</i> (Section 98.2, NPSL and section 37.1 LPSL); and</p> <p><i>“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 thousand yen.”</i> (Section 110, NPSL and section 61, LPSL).</p> <p><b>2006 AR:</b> According to the JTUC-RENGO: During consultations in May 2005 between the Prime Minister and the JTUC-RENGO, the JTUC-RENGO raised the issue of fundamental trade unions rights in the public sector, in particular for civil service workers. The Government assured JTUC-RENGO that it would continue to secure the framework of Government-trade union consultations to address reforms of the public service system. However, since May consultations, there have been no Government-trade union consultations, and reforms of the public service system have completely stalled.</p> <p>The ICFTU raised the following challenges: Although forced labour is prohibited by law and does not generally occur in Japan, the National Public Service Law and the Local Public Service Law, which provide that public employees who incite strike action be fined or sentenced up to three-year imprisonment, or possibly dismissed, reprimanded with a pay cut or disciplined, are not in line with C.105 as it prohibits penal servitude as a punishment for having participated in strikes.</p> <p><b>2000-2005 ARs:</b> JTUC-RENGO raised the following challenges: (i) Japan should ratify C.105; (ii) the prohibition of strike for administrative employees, manual workers, employees of state and municipal enterprises; (iii) the punishment by forced labour for strike action; (iv) imprisonment and fine for leaders of “illegal” strikes; (v) the prohibition of political activities to white-collar employees of State and municipalities; (vi) the sanctions (dismissal and fines or sentences) imposed on public employees in case of</p>

			<p>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><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the Government</b></p>	<p><b>2007 AR:</b> In reply to the aforementioned JTUC-Rengo’s observation the Government states that if the JTUC-RENGO is of the view that the prohibition of strikes provided for in section 98, paragraph 2, of the National Public Service Law and section 37, paragraph 1, of the Local Public Service Law is a major barrier to Japan’s ratification of Convention No. 105, it has to be made clear that as pointed out in previous ILO Report that this Convention merely prohibits the type of forced labour characterized to be “a punishment for having participated in a strike” and does not deal with the issue of the right of workers to strike per se. The persons who conspire, instigate or incite other public employees to strike or make such an attempt are the main persons concerned with the illegal act, their act to cause other public employees to undertake illegal activity is in itself of high illegality, and therefore penal sanctions, including imprisonment, may be imposed upon them under the National Public Service Law or the Local Public Service Law. These provisions do not refer to forced labour as a punishment for having participated in a strike.</p> <p>Regarding the ratification of C.105, the Government of Japan considers that the interpretation of the precise scope of forced labour prohibited by the Convention is not clear enough and therefore a careful study is still needed with respect to, among other things, consistency between the provisions of the Convention and of the relevant national laws and regulations in force in Japan. In relation to observations made on the Civil Service Reform by the JTUC-RENGO the Government stated that it regards Civil Service Reform as an important issue which should be worked on promptly, because the public is highly concerned about public service employees these days. The Government of Japan also recognizes that it is necessary to hold sufficient exchanges of views with relevant parties regarding the reform.</p> <p>The Government of Japan held the ministerial-level meetings with the Japanese Trade Union Confederation (JTUC-RENGO) in January, March and May, 2006. Based on these meetings, the Government of Japan established the “The Special Examination Committee of the Headquarters for the Promotion of Administrative Reform”. Having held its first meeting on 27 July, the Committee has held five meetings altogether so far, and it has examined the scope of government affairs in a simple and efficient government; the classification of personnel who carry out government affairs; what those government affairs and personnel should be; and based on these examinations, the prospective labour-employer relationship in the public sector, including the fundamental labour rights of public service employees.</p> <p><b>2006 AR:</b> In response to the JTUC-RENGO’s observations, the Government stated that during the May 2005 meeting, it had acknowledged that it was necessary to continue to hold meetings with JTUC-RENGO on Civil Service Reform. In response to the ICFTU’s observations, the Government mentioned that under the National Public Service Law or the Local Public Service Law, penal sanctions, including penalty of imprisonment, might be imposed upon the persons who conspire, instigate or incite other public employees to strike or make such an attempt, and upon the main authors of such illegal act. The Government further indicated that these provisions did not refer to forced labour as a punishment for having participated in a strike.</p> <p><b>2004 AR:</b> In response to the JTUC-RENGO’s comments, the Government made the following observations: (i) the interpretation of the precise scope of forced labour prohibited by the Convention is not clear and a study is still needed mainly with respect to compliance between the provisions of the Convention and national laws and regulations in Japan; (ii) the prohibition of strikes as provided for in national laws is not an obstacle to the ratification of C.105; (iii) the Public Service Law and the Local Public Service Law provide for punishment for the main conspirators or instigators of highly unlawful acts.</p>	

		<p><b>2001 AR:</b> In response to the JTUC-RENGO's comments, the Government made the following observations: (i) asking governments to make observations on comments presented by workers' organizations, and reflecting these comments and observations in the compilation of annual reports, are contrary to the overall purpose of the annual follow-up; (ii) the Government would like to know the position of the Office in this respect; (iii) the appropriateness of discussing the aforementioned questions in the Governing Body; (iv) comments submitted by the JTUC-RENGO should not be taken into account in the annual follow-up; (v) the follow-up should not lead to the establishment of a new supervisory machinery and should not create the duplication of the reporting system on non-ratified Conventions already established in the Constitution.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2004-2007 ARs:</b> According to the JTUC-RENGO: Needs for ILO technical cooperation exist in the following two priority areas: (i) the interpretation of the precise scope of forced labour prohibited by the Convention is not clear and a study is needed mainly with regard to compliance between the provisions of the Convention and relevant national laws and regulations.</p>
	<b>Offer</b>	NIL
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) reiterated that in cases where Japan faced difficulties in identifying the precise scope of forced or compulsory labour, the Government should turn to the ILO for assistance in clarification (paragraph 189 of the 2005 Annual Review Introduction). They also considered that the example of regular and constructive contributions by the JTUC-RENGO should be expanded upon, in particular among other national workers' organizations, as well as employers' organizations (paragraph 190 of the 2005 Annual Review Introduction).</p> <p><b>2004 AR:</b> The IDEAs mentioned that in cases where governments were in doubt, they should turn to the ILO, for assistance in clarification. Japan might usefully do so with regard to better clarifying the precise scope of forced labour, and indeed carry out the study it mentioned in this respect. The results of such studies would be illuminating (...) (paragraph 112 of the 2004 Annual Review Introduction).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	





**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: REPUBLIC OF KOREA**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2003 Annual Review (AR).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	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.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2004 AR:</b> Observations by the KEF.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the KCTU. <b>2004 AR:</b> Observations by the KCTU. <b>2002 AR:</b> Observations by the KCTU. <b>2001 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2000 AR:</b> Observations by the FKTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>The Republic of Korea has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29), nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b>
		<b>Ratification intention</b>	<b>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 of ratifying both Conventions.</b>  <b>2007 AR:</b> 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.

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

			<p><b>2006 AR:</b> 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 of ratifying both Conventions.</p> <p><b>2000 AR:</b> 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>	
	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Constitution</b>	<p><b>YES</b> The Constitution:</p> <ul style="list-style-type: none"> <li>- Article 10 (respect for human dignity and worth): “All citizens shall be assured of human worth and dignity and have the right to pursue happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals”.</li> <li>- Article 12, paragraph 1 (personal liberty): “All citizens shall enjoy personal liberty. No person shall be arrested, detained, searched, seized or interrogated, except as provided by Act. No person shall be punished, placed under preventive restrictions or be subject to involuntary labour, except as provided by Act and through lawful procedures”.</li> <li>- Article 15 (freedom to choose occupations): “All citizens shall enjoy freedom of occupation”.</li> </ul>	
<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>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> </ul> <p><b>2004-2005 ARs:</b> According to the Government: There is a national policy to realize the principle and right (PR) of the elimination of all forms of forced or compulsory labour for every citizen and every worker, through the implementation of the Constitution, the Labour Standards Act (LSA), and the Criminal Act. These texts provide for the principle of human dignity and values, physical freedom, prohibition of forced labour, imprisonment under court rulings, and sanctions against violation.</p> <ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p><b>2000 AR:</b> According to the Government, section 6 (prohibition of forced labour) of the Labour Standards Act (LSA) provides that: “An employer shall not force a worker to work against his/her own free will through the use of violence, intimidation, confinement or by any other means which unjustly restrict mental or physical freedom.” In order to secure implementation of the legal provision, penal sanctions are also contained in national laws and regulations.</p>	
		<b>Basic legal provisions</b>	(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.	
		<b>Definition of forced or compulsory labour</b>	<b>YES</b> , section 6 of the LSA gives a definition of the term “forced labour” by providing that “[a]n employer shall not force a worker to work against his own free will through the use of violence, intimidation, confinement or by any other means, which unjustly restrict mental or physical freedom”.	
		<b>Judicial decisions</b>	<b>2006 AR:</b> According to the Government: there are no cases of judicial decisions resulting from the violation of the PR (under section 6 of the LSA).	
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	NIL	
		<b>Information/Data collection and dissemination</b>	<b>2004 AR:</b> According to the Government: Systems for gathering information	

		are established, but there are no meaningful statistics on forced labour because of its non-existence in the country.
<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2004-2007 ARs:</b> According to the Government: In realizing the PR, the following measures have been implemented: (i) inspection/monitoring mechanisms; (ii) penal sanctions; (iii) civil or administrative sanctions; and (iv) capacity building. Moreover, the prosecutors' offices and police offices are in charge of sanctions against human trafficking and abuse of power of public servants engaged in the identification, emancipation and/or rehabilitation of persons subjected to forced labour. The Ministry of Labour monitors the implementation of the prohibition of forced labour by employers.</p> <p><b>2001 ARs:</b> According to the Government: The LSA requires employers to comply with the legal obligations concerning the prohibition of forced labour, and imposes penal sanctions in case of non-compliance.</p> <p><b>2000-2005 ARs:</b> According to the Government: Section 460 of the Criminal Procedure Act provides that the sentence of imprisonment shall be executed under the direction of a public prosecutor and in accordance with the court decision. Moreover, the Criminal Act provides for penal sanctions in the following cases:</p> <ul style="list-style-type: none"> <li>– In the case of a public official who, by abusing his official authority, forces a person to do any forced work (section 123 of the Criminal Act: abuse of authority);</li> <li>– In the case of a person who coerces another to do any forced work, by using violence or intimidation (section 324 of the Act: coercion); or</li> <li>– In the case a person who arrests, confines, captures or entices another person as hostage and makes him or her do any forced work (section 324-2 of the Act: coercion by hostage).</li> </ul> <p>The responsibilities for taking action against forced labour are assumed by the police, prosecution and courts. 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. 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. 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>	
<b>Involvement of the social partners</b>	<p><b>2004-2007 ARs:</b> According to the Government: Tripartite examination of related issues has 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>	
<b>Promotional activities</b>	<p><b>2004-2007 ARs:</b> According to the Government: In realizing the PR, the following measures have been implemented: (i) awareness raising/advocacy; (ii) employment creation/income generation; (iii) educational programmes; (iv) rehabilitation following removal from forced labour; and (v) international cooperation programmes or projects.</p>	
<b>Special initiatives</b>	<p><b>2007 AR:</b> The Government organized the International Labour Policy Advisory Board with a view to accelerate the ratification process for these instruments.</p>	

<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>2004 AR:</b> The KCTU observed that despite the Government's comment on the general prohibition of forced labour in the country, various forms of forced/compulsory labour were found at workplaces, involving especially migrant workers.</p> <p><b>2001 AR:</b> No particular challenges were raised in the ICFTU's comments.</p> <p><b>2000 AR:</b> According to the FKTU, some employers abuse the position of those workers who have chosen to work rather than carrying out their military service.</p>
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the Government</b>	<p><b>2007 AR:</b> According to the Government: Because of its unique military situation, such as military confrontation with North Korea, the Republic of Korea adheres to the universal conscription system (compulsory military service). In this respect, it is needed to interpret and review special types of military service, etc.</p> <p><b>2004 AR:</b> In response to KCTU's comments, the Government indicated that separate statistics on forced labour were expected to be compiled owing to the computerization of labour inspection. With regard to forced labour of migrant workers, the Government mentioned that it had made active efforts to prevent employers from forcing foreign workers to work.</p> <p><b>2002 AR:</b> In response to KCTU's comments, the Government observed that, in line with the objectives of the 1998 ILO Declaration, the follow-up should be of a strictly promotional nature and for technical cooperation, which would help ILO member States to implement effectively the core Conventions. In this regard, the KCTU's comments under the 2002 Annual Review were not compatible with the basic objectives of the 1998 ILO Declaration and its follow-up.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<b>2007 AR:</b> The Government requested the ILO to provide advisory assistance in interpreting special types of military service.	
	<b>Offer</b>	<b>2004 AR:</b> The Government mentioned that it was actively cooperating with ILO and ILO/IPEC	
<b>EXPERT-ADVISERS' RECOMMENDATIONS</b>	<b>2005 AR:</b> The ILO Declaration Expert-Advisers 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 (paragraph 13 of the 2005 AR Introduction).		
<b>GOVERNING BODY RECOMMENDATIONS</b>	NIL		



**BASE DE REFERENCE AU TITRE DE L'EXAMEN ANNUEL DE LA DECLARATION DE L'OIT (2000-2007) <sup>1</sup>:  
REPUBLICQUE DEMOCRATIQUE POPULAIRE LAO**

***ELIMINATION DE TOUTE FORME DE TRAVAIL FORCE OU OBLIGATOIRE (TF)***

<b>SOUSSION DES RAPPORTS</b>	<b>Accomplissement par le gouvernement de l'obligation de rapport</b>	<b>OUI</b> , à partir des examens annuels (EA) de 2005 et de 2006.	
	<b>Implication des organisations d'employeurs et de travailleurs dans l'élaboration des rapports</b>	<b>OUI</b> , selon le gouvernement: sous forme de consultations et de communication de la copie des rapports gouvernementaux à la Chambre du commerce et d'industrie du Lao (CCIL) et à la Fédération syndicale du Lao (FSL).	
<b>OBSERVATIONS DES PARTENAIRES SOCIAUX</b>	<b>Organisations d'employeurs</b>	<b>EA 2006:</b> Observations de la Chambre de commerce et d'industrie du Lao (CCIL).	
	<b>Organisations de travailleurs</b>	<b>EA 2006:</b> Observations de la Fédération syndicale du Lao (FSL).	
<b>EFFORTS ET PROGRES ACCOMPLIS DANS LA REALISATION DU PRINCIPE ET DROIT</b>	<b>Ratification</b>	<b>État des ratifications</b>	<b>La République démocratique populaire lao a ratifié en 1964 de la convention (n° 29) sur le travail forcé, 1930 (C.29). Toutefois elle n'a pas ratifié la convention (no.105) sur l'abolition du travail forcé, 1957 (C.105).</b>
		<b>Intention de ratification</b>	<b>OUI, depuis 2002, pour la C.105.</b>  <b>EA 2006:</b> le gouvernement souhaite ratifier la C.105 dans un proche avenir. La CCIL appuie la ratification de toutes les conventions fondamentales de l'OIT par la République populaire démocratique (RDP) lao, y compris la C.105. La FSL appuie la ratification de toutes les conventions fondamentales, y compris la C.105.  <b>EA 2005:</b> Selon les informations contenues dans les documents GB.282/LILS/7 (nov. 2001) et GB.282/8/2 (nov. 2001), le gouvernement avait l'intention de ratifier C.105.

<sup>1</sup> La base de référence par pays au titre de l'Examen annuel de la Déclaration est fondée sur les éléments suivants, dans la mesure de leur disponibilité: rapports des gouvernements, observations des organisations d'employeurs et de travailleurs, études de cas préparés sous le parrainage du pays et du BIT, ainsi que les observations/recommandations formulées par les Experts-conseillers sur la Déclaration et le Conseil d'Administration.

	<b>Reconnaissance du principe et droit (perspective(s), moyens d'action, dispositions juridiques principales)</b>	<b>Constitution</b>	<b>OUI</b> La Constitution (article 6) protège le droit à la liberté et à la démocratie du peuple que personne ne peut violer. En vertu de cet article, tous les actes autoritaires et de harcèlement pouvant porter atteinte à l'intégrité physique ou morale d'une personne, ainsi qu'à son honneur, sa vie, sa conscience ou ses biens, sont prohibés. Selon le gouvernement, le principe et droit (PED) est reconnu dans la Constitution qui interdit toute forme de travail forcé ou obligatoire.	
		<b>Politique, législation et/ou réglementation</b>	<ul style="list-style-type: none"> <li>• <b>Politique</b> <b>EA 2005:</b> Selon le gouvernement: Le PED s'applique à toutes les catégories de personnes ou d'activités et il existe une politique nationale en vue de sa réalisation.</li> <li>• <b>Législation</b> <b>EA 2006:</b> Selon le gouvernement, le PED est reconnu dans le Code du travail, qui interdit toute forme de travail forcé ou obligatoire.</li> </ul>	
		<b>Dispositions juridiques principales</b>	(i) Constitution (article 6); (ii) Code du travail (articles 1 et 4); et (iii) Code pénal (article 5).	
		<b>Définition du travail forcé ou obligatoire</b>	<b>EA 2005:</b> Selon le gouvernement: Le travail forcé est défini comme le fait d'obliger à travailler une personne sans son consentement ou contre sa volonté en violation de la loi.	
<b>EFFORTS ET PROGRES ACCOMPLIS DANS LA REALISATION DU PRINCIPE ET DROIT</b>	<b>Reconnaissance du principe et droit (perspective(s), moyens d'action, dispositions juridiques principales)</b>	<b>Décisions judiciaires</b>	RAS	
		<b>Attention spéciale accordée à des situations particulières et à la traite des êtres humains</b>	<b>EA 2005:</b> Selon le Gouvernement: La situation des garçons et des filles.	
		<b>Collecte et diffusion d'informations et/ou de données</b>	RAS	
	<b>Mécanismes de prévention, contrôle, mise en œuvre et/ou sanctions</b>	<b>EA 2005:</b> Selon le gouvernement: Des mécanismes d'inspection et de contrôle sont mis en place en vue de la réalisation du PED. Des sanctions pénales, civiles ou administratives ont été appliquées dans des cas de travail forcé ou obligatoire.		
	<b>Implication des partenaires sociaux</b>	<b>EA 2005:</b> Selon le gouvernement: Des consultations tripartites sur ces questions sont envisagées.		
<b>Activités promotionnelles</b>	<b>EA 2005:</b> Selon le gouvernement: Les mesures prises afin de promouvoir la réalisation du PED sont les suivantes: (i) création d'emplois ou génération de revenus; (ii) programmes d'enseignement; (iii) réadaptation des personnes soustraites au travail forcé; et (iv) programmes ou projets de coopération internationale.			
<b>Initiatives spéciales/Progrès</b>	<p><b>EA 2006:</b> Le gouvernement a indiqué qu'il avait organisé, en coopération avec le BIT, divers ateliers nationaux sur la C.29, la C.105 et d'autres conventions fondamentales.</p> <p>Selon la CCIL: Les activités de la CCIL concernant l'association des employeurs ont débuté en 2003 avec l'appui du BIT et de la Chambre de commerce de l'Australie. La CCIL a entamé depuis 2004 une sensibilisation de ses membres sur la législation nationale et les normes internationales du travail (NIT).</p>			

<b>DIFFICULTES RENCONTREES DANS LA REALISATION DU PRINCIPE ET DROIT</b>	<b>Selon les partenaires sociaux</b>	<b>Organisations d'employeurs</b>	RAS
		<b>Organisations de travailleurs</b>	RAS
	<b>Selon le Gouvernement</b>	RAS	
<b>COOPERATION TECHNIQUE</b>	<b>Demande</b>	<p><b>EA 2006:</b> Le gouvernement sollicite la coopération technique du BIT pour mettre en œuvre conventions fondamentales de l'OIT. En outre, il soutient les observations formulées par la CCIL et la FSL, ainsi que leur demande de coopération technique.</p> <p>La CCIL sollicite l'assistance technique du BIT pour renforcer l'œuvre de sensibilisation sur les lois nationales et les NIT. La FSL sollicite la coopération technique du BIT pour promouvoir auprès de ses membres les principes et droits fondamentaux au travail.</p> <p><b>EA 2005:</b> Selon le gouvernement: La coopération technique serait nécessaire dans les domaines suivants par ordre de priorité: 1) œuvre de sensibilisation, initiation juridique et mobilisation; renforcement de la collecte de données et de l'aptitude à tenir et analyser les statistiques; formation des fonctionnaires d'autres services (police, juristes, travailleurs sociaux, enseignants); création de systèmes de protection sociale; 2) évaluation en collaboration avec le BIT des difficultés constatées et de leur incidence sur la mise en œuvre pratique; échanges d'expérience entre pays et régions; conseils en matière de politiques; réformes des institutions juridiques; renforcement des capacités des organisations gouvernementales responsables; renforcement des capacités des organisations d'employeurs et de travailleurs, création d'emploi et de revenus pour les travailleurs vulnérables; amélioration de leurs compétences professionnelles; politique de développement rural; mécanismes de coopération transfrontalière; coordination interinstitutionnelle.</p>	
	<b>Offre</b>	<b>EA 2005:</b> Projet de l'IPEC de lutte contre le travail des femmes et des enfants dans la région de Mékong.	
<b>OBSERVATIONS/ RECOMMANDATIONS DES EXPERTS-COPNSEILLERS</b>	<b>EA 2005:</b> Les Experts-Conseillers ont mentionné leur satisfaction de recevoir des informations concrètes sur les progrès réalisés, en coopération avec le BIT, en matière d'élimination de toute forme de travail forcé ou obligatoire. Ils recommandent que le programme d'action spécial pour combattre le travail forcé (SAP-FL) reçoive un appui supplémentaire et important de la part des donateurs pour aider le pays à réaliser de nouveaux progrès dans la promotion et la réalisation du principe et droit. Ils recommandent, en outre, que les programmes sociaux soient durables et soutenus afin de parvenir à l'élimination effective de toute forme de travail forcé ou obligatoire (paragraphe 192 de l'Introduction de 2005).		
<b>OBSERVATIONS/ RECOMMANDATIONS DU CONSEIL D'ADMINISTRATION</b>	RAS		



**BASE DE REFERENCE AU TITRE DE L'EXAMEN ANNUEL DE LA DECLARATION DE L'OIT (2000-2007) <sup>1</sup>: MADAGASCAR**

***ELIMINATION DE TOUTE FORME DE TRAVAIL FORCE OU OBLIGATOIRE (TF)***

<b>SOUMMISSION DES RAPPORTS</b>	<b>Accomplissement par le Gouvernement de l'obligation de rapport</b>	<b>OUI</b> , sauf pour les examens annuels (EAs) de 2000 et 2003.
	<b>Implication des organisations d'employeurs et de travailleurs dans le processus d'élaboration des rapports</b>	<b>OUI</b> , selon le gouvernement:  <b>EAs 2001, 2005 et 2006:</b> Implication des organisations les plus représentatives d'employeurs et de travailleurs (Groupement des entreprises de Madagascar (GEM), Groupement des entrepreneurs nationaux malgaches (FIVMPAMA) et Confédération des travailleurs malgaches (CTM)) par voie de communication des rapports gouvernementaux et de consultation.
<b>OBSERVATIONS DES PARTENAIRES SOCIAUX</b>	<b>Organisations d'employeurs</b>	<b>EA 2007:</b> Observations de la GEM et ses 14 affiliés.
	<b>Organisations de travailleurs</b>	<b>EA 2007:</b> Observations de la CTM et ses 10 affiliés.  <b>EA 2006:</b> Observations de la CTM Observations de SEKRIMA.  <b>EA 2001:</b> Observations de l'Union des syndicats autonomes de Madagascar (USAM).

<sup>1</sup> La base de référence par pays au titre de l'Examen annuel de la Déclaration est fondée sur les éléments suivants, dans la mesure de leur disponibilité: rapports des gouvernements, observations des organisations d'employeurs et de travailleurs, études de cas préparés sous le parrainage du pays et du BIT, ainsi que les observations/recommandations formulées par les Experts-conseillers sur la Déclaration et le Conseil d'Administration.



EFFORTS ET PROGRES ACCOMPLIS DANS LA REALISATION DU PRINCIPE ET DROIT	Ratification	Ratification: situation	<b>Madagascar a ratifié en 1964 de la convention (n° 29) sur le travail forcé, 1930 (C.29). Toutefois, elle n'a pas ratifié la convention (n° 105) sur l'abolition du travail forcé, 1957 (C.105).</b>
		Ratification: intention	<b>OUI, depuis 2002, pour la C.105 (procédure en cours depuis 2006).</b>  <b>EA 2007:</b> Selon le gouvernement, le document de ratification de la C.105 a été complété en vue de sa prochaine soumission au Parlement. Le GEM et ses 14 affiliés appuient la ratification de la C.105. La CTM et ses 10 affiliés soutiennent également cette ratification.  <b>EA 2006:</b> Selon le gouvernement, la ratification de la C.105 sera effectuée dans le cadre de la mise en œuvre du Programme PAMODEC en coopération avec le BIT. La CTM et la SEKRIMA mentionnent qu'elles soutiennent la ratification de la C.105 par Madagascar.  <b>EA 2002:</b> Selon le gouvernement, grâce au programme national de lutte contre le travail forcé ou obligatoire à Madagascar (dans le cadre de la coopération technique) qui prévoit une étude sur le travail forcé, cette étude devrait ouvrir la voie à une éventuelle ratification de C.105. – Selon les informations contenues dans les documents GB.282/LILS/7 (Nov. 2001) et GB.282/8/2 (Nov. 2001), le gouvernement a l'intention de ratifier C.105.
	Reconnaissance du principe et du droit (perspective(s), moyens d'action, dispositions juridiques principales)	Constitution	La Constitution ne contient pas expressément de dispositions mais confère à la loi la détermination des principes fondamentaux du cadre juridique des rapports entre employeurs et salariés, en l'occurrence le Code du travail.
		Politique, législation et/ou réglementation	<ul style="list-style-type: none"> <li>• <b>Politique:</b> Le gouvernement réitère sa volonté politique de lutter contre le phénomène de travail forcé ou obligatoire dans le pays.</li> <li>• <b>Législation:</b> Loi n°2003-044 du 28 juillet 2004 portant Code du travail (articles 4 et 5).</li> </ul>
		Dispositions juridiques principales	Loi n°2003-044 du 28 juillet 2004 portant Code du travail (articles 4 et 5).
EFFORTS ET PROGRES ACCOMPLIS DANS LA REALISATION DU PRINCIPE ET DROIT	Reconnaissance du principe et du droit (perspective(s), moyens d'action, dispositions juridiques principales)	Définition du travail forcé ou obligatoire	<b>EA 2006:</b> Le Code du travail interdit en son article 4 le travail forcé ou obligatoire, défini comme «tout travail ou service exigé d'un individu sous la menace d'une peine quelconque, pour lequel ledit individu ne s'est pas offert de plein gré». L'interdiction du travail forcé ne s'applique pas dans les cas suivants: i) pour les travaux, services, secours requis dans les circonstances d'accidents ou calamités ainsi que dans les cas de brigandages, pillages, flagrants délits, clameurs publiques ou d'exécution judiciaire; ii) pour les travaux d'intérêt collectif en application d'une convention consentie par les membres du <i>Fokonolona</i> ou dans le cadre de menus travaux de village devenus exécutoires; iii) pour les travaux à caractère purement militaire tels que prévus par la législation relative à la défense nationale et les travaux d'intérêt général réalisés volontairement dans le cadre du Service national; iv) pour tout travail exigé d'un individu, comme conséquence d'une condamnation prononcée par une décision judiciaire, à la condition que ce travail ou service soit exécuté sous la surveillance et le contrôle des autorités publiques et qu'il soit destiné à des réalisations d'intérêt public. Cependant, sont interdites l'imposition de travail aux personnes se trouvant en détention préventive ainsi que la cession gratuite de main-d'œuvre carcérale à des particuliers, entreprises ou personnes morales privées, même si ceux-ci sont chargés de l'exécution de travaux publics. Par ailleurs, l'article 5 du Code du travail dispose que tout salarié a droit au respect de sa dignité (...).

		Décisions judiciaires	RAS
	Exercice du principe et droit	Attention spéciale accordée à des situations particulières et à la traite des êtres humains	EA 2001: Selon le gouvernement: Travail pénitentiaire; utilisation des heures supplémentaires dans les entreprises des zones franches.
		Collecte et diffusion d'informations et de données	RAS
	Mécanismes de prévention, contrôle, mise en œuvre et/ou sanctions	<p>2001 EA: Selon le gouvernement: Une commission chargée de proposer les mesures d'harmonisation de la législation malgache avec C.29 a été créée, par le décret n°70-250 du 26 mai 1970.</p> <ul style="list-style-type: none"> <li>- L'inspection du travail constate les infractions aux dispositions de l'article 3 du Code du travail sur le travail forcé par un établissement. Le constat est adressé au Procureur de la République qui se charge de la poursuite des infractions afin que le tribunal se prononce sur les peines.</li> <li>- Le travail forcé est sanctionné par le Code du travail par une peine d'amende et d'emprisonnement.</li> <li>- Une commission chargée d'examiner le Code pénal a été instituée.</li> </ul>	
	Implication des partenaires sociaux	EA 2001: Selon le gouvernement: Les partenaires sociaux ont été impliqués dans le cadre du programme de coopération technique.	
	Activités promotionnelles	<p>EA 2007: Selon le gouvernement: Un atelier technique interministériel sur le travail forcé dans le pays a été organisé en décembre 2005 à Antsiranana, en coopération avec le BIT.</p> <p>EA 2006: Une campagne nationale de lutte contre les pratiques de travail forcé ou obligatoire est envisagée, conformément au plan national d'action en la matière.</p> <p>EA 2005: Selon le gouvernement: Une étude a été lancée à l'échelon national en coopération avec le BIT pour évaluer la situation dans le pays et débattre lors d'un atelier national «tripartite plus».</p> <p>EA 2001: Selon le gouvernement: Des opérations nationales de sensibilisation au principe ont été menées.</p>	
	Initiatives spéciales/Progrès	EA 2006: Selon le gouvernement: En 2004, un nouveau Code du travail a été adopté, prenant en compte les dispositions de la C.29. De même, un plan national d'action a été adopté pour lutter contre ce fléau en concertation avec les partenaires sociaux.	
DIFFICULTES RENCONTREES DANS LA REALISATION DU PRINCIPE ET DROIT	Selon les partenaires sociaux	Organisations d'employeurs	RAS
		Organisations de travailleurs	EAs 2001-2002: Observations de l'USAM: i) un certain nombre de personnes sont exclues des dispositions de l'article 3 du Code du Travail (travaux d'intérêts généraux suite à une condamnation judiciaire, certains travailleurs du service public, travaux d'intérêt collectif exécutés en application d'une convention librement consentie par les membres du <i>Fokonolona</i> ); ii) de nombreuses personnes sont dans une situation précaire les conduisant à négliger certains de leurs droits fondamentaux.
	Selon le gouvernement	<p>EA 2007: Selon le gouvernement: Ces informations figurent dans l'étude de cas sur le travail forcé à Madagascar a été réalisée en 2004, avec la coopération technique du BIT. Cette étude de cas a été validée par un séminaire tripartite national sur le travail forcé. A la suite de cela, un plan d'action sur l'abolition du travail forcé dans le pays a été adopté. Un appui du projet Déclaration «PAMODEC» est attendu par le gouvernement.</p> <p>EA 2006: Selon le gouvernement: certaines pratiques de travail forcé existent dans le pays.</p>	

<b>COOPERATION TECHNIQUE</b>	<b>Demande</b>	<p><b>EA 2007:</b> Selon le gouvernement: Ces besoins figurent dans le plan national d'action de lutte contre le travail forcé; plan que le gouvernement entend exécuter avec l'appui du Programme d'appui à la mise en œuvre de la Déclaration (PAMODEC. Le gouvernement apprécie le soutien des partenaires sociaux pour la ratification de la C.105 et espère que le PAMODEC pourra aider à une meilleure mise en œuvre du principe et droit dans le pays.</p> <p>La CTM espère que le PAMODEC sera en mesure d'aider les syndicats de travailleurs à sensibiliser leurs membres sur la question du travail forcé et à lutter contre ce fléau.</p> <p><b>EA 2006:</b> Le gouvernement espère fermement que le PAMODEC sera rapidement mis en œuvre dans le pays. La CTM et la SEKRIMA espèrent que le Programme de coopération technique de la Déclaration du BIT sera bientôt lancé à Madagascar, afin de réaliser le plan national d'action de lutte contre le travail forcé dans le pays, de concert avec les organisations syndicales de travailleurs en particulier.</p> <p>En réponse aux observations des partenaires sociaux, le gouvernement appuie les observations de la CTM.</p> <p><b>EA 2005:</b> Selon le gouvernement: Un programme de coopération technique a été demandé au BIT, notamment en vue de la ratification de C.105.</p>
	<b>Offre</b>	<ul style="list-style-type: none"> <li>– BIT/Programme de la Déclaration: Séminaires et ateliers sur la Déclaration; étude cas nationale sur le travail forcé; séminaire de validation de l'étude et adoption d'un plan national d'action en septembre 2004.</li> <li>– PNUD; UNICEF</li> </ul>
<b>OBSERVATIONS/ RECOMMANDATIONS DES EXPERTS-CONSEILLERS</b>	<p><b>EA 2005:</b> Les Experts-conseillers du BIT déclarent qu'ils espèrent voir l'intention de ratifier C.105 se concrétiser (paragraphe 185 de l'Introduction de 2005). Par ailleurs, les Experts-Conseillers ont mentionné leur satisfaction de recevoir des informations concrètes sur les progrès réalisés, en coopération avec le BIT, en matière d'élimination de toute forme de travail forcé ou obligatoire à Madagascar. Ils recommandent que le programme d'action spécial pour combattre le travail forcé (SAP-FL) reçoive un appui supplémentaire et important de la part des donateurs pour aider le pays à réaliser de nouveaux progrès dans la promotion et la réalisation du principe et droit. Ils recommandent, en outre, que les programmes sociaux soient durables et soutenus afin de parvenir à l'élimination effective de toute forme de travail forcé ou obligatoire (paragraphe 192 de l'Introduction de 2005).</p> <p><b>EA 2001:</b> Les Experts-conseillers du BIT ont noté avec satisfaction la demande formulée par un pays (Madagascar) en vue d'une assistance du BIT afin de traiter le problème de la mise à disposition de main d'œuvre carcérale en faveur de particuliers et d'entreprises, de même que celui du travail forcé dans le cadre du service national (paragraphe 85 de l'Introduction de 2001).</p>	



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: MALAYSIA**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2000 Annual Reviews (AR). No change report for the 2002 AR.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Malaysian Employers' Federation (MEF) and the Malaysian Trade Union Congress (MTUC), through communication of the Government's report.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the MEF.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU) (late observation for the 2006 AR). <b>2001 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>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".</b>
		<b>Ratification intention</b>	<b>NIL</b>  <b>2001 AR:</b> The ICFTU mentioned that the Government should provide legal guarantees for protection against forced labour and again ratify C.105.
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> <b>2001 and 2004 ARs:</b> The Federal Constitution of Malaysia provides that no forced labour is allowed, except as provided for by national law according to article 6 of the Constitution. Under this provision: (1) no person shall be held in slavery; (2) all forms of forced labour are prohibited, but Parliament may, by law, provide for compulsory service for national purposes; and (3) incidental work to the serving of sentence of imprisonment imposed by a court of law shall not be taken to be forced labour.

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

		<p><b>Policy, legislation and/or regulations</b></p> <ul style="list-style-type: none"> <li> <p><b>Policy</b></p> <p><b>2007 AR:</b> According to the MEF: There is no prison labour in Malaysia. Prisoners are taught living skills while undergoing their imprisonment term so that it is easier for them to go back to society when they are released from prison. Importing skills to the prisoners should not and cannot be considered as forced labour even though some of the skills training may be carried out in collaboration with the private sector employers.</p> <p><b>2001 AR:</b> According to the Government: A prison labour scheme has been implemented by the Malaysian Prisons Department for the purpose of reformation and rehabilitation of offenders. About 8,000 prisoners have been involved in the vocational programme. Moreover, measures have been taken to provide better working conditions to inmates. With a view to promoting effective vocational training and rehabilitation, a new approach has been initiated, consisting in joint venture schemes with the private sector.</p> </li> <li> <p><b>Legislation</b></p> <p><b>2003-2005 ARs:</b> According to the Government: Although there are no definitions of forced or compulsory labour in national legislation or judicial decisions, all forms of forced or compulsory labour are prohibited, except those provided by the Law.</p> </li> </ul>
		<p><b>Basic legal provisions</b></p> <p>The Federal Constitution of Malaysia (article 6).</p>
		<p><b>Definition of forced or compulsory labour</b></p> <p>NIL</p>
		<p><b>Judicial decisions</b></p> <p>NIL</p>
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<p><b>Special attention to particular situations and human trafficking</b></p> <p>NIL</p>
		<p><b>Information/Data collection and dissemination</b></p> <p><b>2006 AR:</b> According to the Government: the number of cases of abuse reported to the Labour Department has decreased.</p>
	<b>Prevention/Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2006 AR:</b> The Government stated that the Ministry of Human Resources was responsible for enforcing the labour laws.</p> <p><b>2003-2005 ARs:</b> According to the Government: The following measures have been implemented to realize the 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>
	<b>Involvement of the social partners</b>	NIL
	<b>Promotional activities</b>	<p><b>2003-2005 ARs:</b> According to the Government: The following measures have been implemented to realize the PR: (i) awareness-raising/advocacy; (ii) capacity building; (iii) employment creation/income generation; (iv) educational programmes; (v) rehabilitation following removal from forced labour; (vi) international cooperation programmes or projects; and (vii) tripartite examination of related issues.</p> <p><b>2001 AR:</b> According to the Government: Rehabilitation programmes are organized for prisoners.</p>
	<b>Special initiatives/Progress</b>	<p><b>2003-2005 ARs:</b> According to the Government: Clause 3 of article 6 of the Malaysian Federal Constitution was amended in 2001 regarding work or service as consequence of a conviction of guilt in a court of law (11 January 2001).</p>

<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>	<b>2001 AR:</b> The ICFTU raised the following challenges: (i) the extremely abusive treatment of migrant workers; (ii) the existence in Malaysia of compulsory prison labour for the expression of views in opposition to the established political, social or economic order.
	<b>According to the Government</b>	<p><b>2006 AR:</b> The Government reiterated that all the workers, local and foreigners, are subject to the same laws.</p> <p><b>2001 AR:</b> In response to ICFTU's comments, the Government raised the following observations: (i) all the workers, local and foreigners, are subject to the same labour laws; the Ministry of Human Resources is responsible of enforcing the labour laws; (ii) the allegation that migrant workers face an extremely abusive situation is baseless and actions will be taken by the Government against the violators if there is proof of any such abuses; (iii) the incidence of employers retaining passports of migrant workers is not a common occurrence; it applies only for the purpose of safe keeping and these passports are replaced with special identification cards issued by the Immigration Department and returned to the workers upon completion of their contract of service; (iv) no compulsory labour is imposed, in any form, either within or outside the prison grounds.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	NIL	
	<b>Offer</b>	NIL	
<b>EXPERT-ADVISERS' RECOMMENDATIONS</b>	<p><b>2006 AR:</b> The ILO Declaration Expert-Advisers (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 (paragraph 44 of the 2006 Annual Review Introduction).</p> <p><b>2005 AR:</b> The IDEAs hoped that Malaysia, which had denounced C.105, would reconsider its position in this respect. (Paragraph 187 of the 2005 Annual Review Introduction).</p>		
<b>GOVERNING BODY RECOMMENDATIONS</b>	NIL		

**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: MYANMAR**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2000, 2001 and 2002 Annual Reviews (ARs). No change reports under the 2006 and 2007 ARs.		
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the most representative employers' and workers' organizations by means of consultations and communication of Government's report.		
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL		
	<b>Workers' organizations</b>	NIL		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Myanmar ratified in 1932 the Forced Labour Convention, 1930 (No. 29) (C.29).</b>	
		<b>Ratification intention</b>	NIL	
	<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>2003-2005 ARs:</b> 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.</li> <li>• <b>Legislation:</b> the Criminal Code</li> <li>• <b>Regulations:</b> Order No. 1/99 and its Supplementing Order.</li> </ul>	
		<b>Basic legal provisions</b>	(i) Criminal Code (section 374); (ii) Order No. 1/99; and (iii) Supplementing Order to Order No. 1/99.	
		<b>Definition of forced or compulsory labour</b>	<b>2005 AR:</b> According to the Government: Forced labour is defined as a situation in which a person is forced to work without his/her consent and contrary to law.	
<b>Judicial decisions</b>	NIL			

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

	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	NIL
		<b>Information/Data collection and dissemination</b>	<b>2004 AR:</b> According to the Government: The Department of General Administration collects statistics and other information relevant to the PR.
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2003-2005 ARs:</b> According to the Government: In instances where the PR has not been respected, Order No. 1/99 and its Supplementing Order explicitly provide that action will be taken against offenders under section 374 of the Criminal Code (charges of negligence and public nuisance, respectively). Complaints can be referred to Peace and Development Councils, the courts and the police. Furthermore, the following measures have been implemented: (i) legal reform; (ii) inspection/monitoring mechanisms; penal sanctions; and (iii) civil/administrative sanctions.	
	<b>Involvement of the social partners</b>	<b>2003-2004 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in the development and implementation of government measures.	
	<b>Promotional activities</b>	<b>2003-2004 ARs:</b> According to the Government: Awareness raising/advocacy have been implemented to promote the PR.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Special initiatives/Progress</b>	<p><b>2005 AR:</b> According to the Government: Successful example: field inspections were carried out based on allegations and measures were taken.</p> <p><b>2004 AR:</b> According to the Government: The major change concerning the PR consisted in the acceptance in October 2002 of an ILO Liaison Officer in the country; and a Joint Plan of Action was launched subsequently.</p> <p><b>2003 AR:</b> According to the Government: Successful example: Adoption of Order No. 1/99 and its Supplementing Order (in case of negligence, public nuisance, etc.).</p>	
<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>	NIL
	<b>According to the Government</b>	NIL	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<b>2005 AR:</b> According to the Government: To facilitate the realization of the PR in Myanmar, ILO technical cooperation would be needed in the following areas: (1) awareness-raising, literacy and advocacy; (2) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the PR; and (3) sharing of experiences across countries/regions.	
	<b>Offer</b>	ILO	
<b>EXPERT-ADVISERS' RECOMMENDATIONS</b>	NIL		
<b>GOVERNING BODY RECOMMENDATIONS</b>	NIL		





**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: NEPAL**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2002 and 2003 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the General Federation of Nepalese Trade Unions (GEFONT), the Nepalese Trade Union Congress (NTUC), the Democratic Confederation of Nepalese Trade Unions (DECONT) and the Employers' Council of the Federation of Nepalese Chamber of Commerce and Industry (FNCCI), through communication of the Government's report.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL	
	<b>Workers' organizations</b>	<b>2002 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Nepal ratified in 2002 the Forced Labour Convention, 1930 (No. 29) (C.29), following the Government's intention expressed under the AR.</b>
		<b>Ratification intention</b>	<p><b>YES, since 2002 for the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b></p> <p><b>2007 AR:</b> According to the Government: Ratification of C.105 is in process.</p> <p><b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.105.</p> <p><b>2001 AR:</b> The Government stated that there were no legal barriers to the ratification of C.105.</p> <p><b>2000 AR:</b> According to the Government: National employers' and workers' organizations support ratification of C.29 and C.105.</p>

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

	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> The 1990 Constitution, article 20, provides that traffic in human beings, slavery, serfdom or forced labour (FL) in any form is prohibited, with the exception of compulsory service required by the State for public benefit/purpose.
<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>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> <li><b>2006 AR:</b> According to the Government: a new Labour and Employment Policy and a National Plan of Action on Decent Work have been developed in consultations with social partners and other stakeholders. These documents are to be approved by government agencies and their implementation is expected to improve the realization of the PR.</li> <li><b>2004-2005 ARs:</b> According to the Government: The Government and the ILO have developed a comprehensive Poverty Reduction Strategy Paper, with a focus on decent work. This strategy was subsequently integrated into the Tenth Five-Year Development Plan. A National Plan of Action Against Trafficking in Women and Children for Commercial Sexual Exploitation has been implemented since 1998. The National Master Plan on child labour was adopted in 2004.</li> <li><b>2002 AR:</b> According to the Government: The Government has declared all bonded labourers free, and has deployed efforts to rehabilitate them. The Tenth Development Plan has considered systematic rehabilitation of former bonded labours as one of its policy objectives. It also aims at empowering them by imparting them training on life skills and productive vocational skills.</li> <li><b>2001 AR:</b> According to the Government: The Ministry of Land Reforms and Management has initiated programmes aimed at generating income and productive employment by providing those removed from bonded labour with skill development training. Other programmes in collaboration with ILO/IPEC have been launched in order to improve their quality of life and reintegrate them in the mainstream national development process.</li> <li><b>Legislation:</b> (i) the Labour Act; (ii) the Bonded Labour (Prohibition) Act; (iii) the Child Labour (Prohibition and Regulation) Act, 2004; and (iv) the Civil Code.</li> </ul>
		<b>Basic legal provisions</b>	(i) The 1990 Constitution, article 20; (ii) Labour Act; (iii) Bonded Labour (Prohibition) Act; (iv) Child Labour (Prohibition and Regulation) Act, 2004; and (v) the Civil Code.
		<b>Definition of forced or compulsory labour</b>	According to the Government: Forced or compulsory labour (FCL) is partially defined in national law.
		<b>Judicial decisions</b>	NIL
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	<b>2002-2004 ARs:</b> According to the Government: Women and children within vulnerable communities, child-labour prone families, castes and indigenous/ethnic groups (Dalits, Kamaiyas, Magars, Tamags, Tharus, etc.).
		<b>Information/Data collection and dissemination</b>	<b>2004 AR:</b> According to the Government: Cases of violations of the principle and right (PR) are registered. Statistics and other information relevant to the PR are also collected, especially data on bonded labourers in Kamaiya districts.

	<b>Prevention, monitoring, enforcement and/or sanctions mechanisms</b>	<p><b>2004 AR:</b> According to the Government: Inspection/monitoring mechanisms are envisaged, as well as civil/administrative sanctions. However, in case of violation of the PR, penal sanctions are implemented under the Bonded Labour (Prohibition) Act, and the Civil Code (“serious crime”).</p> <p><b>2001 AR:</b> According to the Government: The 1990 Constitution provides that violation of the PR shall be punishable by law. These violations are referred to district courts and district administration offices and Supreme Court. Trade Unions also have their own mechanisms for handling complaints regarding forced or compulsory labour.</p>	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Involvement of the social partners</b>	<p><b>2004 AR:</b> According to the Government: District committees have been formed, including employers’ and workers’ organizations and other stakeholders, to implement a multi-sectoral integrated programme focusing on the rehabilitation of former bonded labourers.</p> <p><b>2000 AR:</b> The Government stated that trade unions had been involved in addressing the issues and implementing various intervention programmes on the PR.</p>	
	<b>Promotional activities</b>	<p><b>2004-2005 ARs:</b> According to the Government, the following activities have been implemented: (i) awareness raising/advocacy activities; (ii) employment creation/income generation; (iii) educational programmes; (iv) rehabilitation following removal from FL; (v) international cooperation programmes/projects; (vi) tripartite examination of related issues; and (vii) poverty alleviation programmes.</p> <p><b>2000 AR:</b> According to the Government: A “crash programme” had been implemented in order to realize the PR.</p>	
	<b>Special initiatives/Progress</b>	<p><b>2004-2005 ARs:</b> According to the Government: The Small Farmer Development Programmes and the Production Credit for Rural Women are two examples of successful government interventions in the area of poverty alleviation and economic empowerment of marginal farmers and women.</p> <p><b>2001 AR:</b> According to the ICFTU: The Bill on bonded labour to enforce the Government’s decision to end the practice of bonded labour with immediate effect and cancel all outstanding debts owed by bonded labourers is a significant progress in Nepal. It needs to be adopted in order to transform Government’s decision into reality.</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>	<b>2001-2002 ARs:</b> The ICFTU raised the following challenge: bonded labour in Nepal primarily affects two groups (the Dalits (intouchables) and the Tharu), and about 70,000 to 110,000 Nepalese being exploited as bonded labourers (kamaiya system) in five districts of the country (Kanchanpur, Kailali, Bardiya, Banke and Dang). In order to fight against this phenomenon, the Bill on bonded labour needs to be adopted and enforced.
	<b>According to the Government</b>	<b>2004-2005 ARs:</b> The Government identified the following main difficulties: (i) lack of public awareness and/or support; (ii) lack of information and data; (iii) social values and cultural traditions; (iv) social and economic circumstances; (v) political situation; (vi) prevailing employment practices; (vii) lack of capacity of responsible government institutions; (viii) lack of capacity of employers’ organizations; and (ix) lack of capacity of workers’ organizations.	

<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR exist in capacity building for government institutions and employers' and workers' organizations.</p> <p><b>2005 AR:</b> According to the Government: A need for ILO technical cooperation to facilitate the realization of the PR in Nepal exists in the following three priority areas: (1) awareness raising, legal literacy and advocacy; strengthening data collection and capacity for statistical collection and analysis; 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, microfinance); (2) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the PR; sharing of experiences across countries/regions; policy advice; legal reform (labour law and other relevant legislation); coordination between institutions (e.g. various ministries and relevant commissions); (3) training of other officials (e.g. police, judiciary, social workers, teachers); and cross-border cooperation mechanisms.</p>
<b>TECHNICAL COOPERATION</b>	<b>Offer</b>	ILO Decent Work Programme, local and international NGOs, UNICEF, DFID, the Asian Development Bank, FAO, WFP, GTZ, Action Aid, the Norwegian Embassy, DANIDA, Save the Children US
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed Nepal among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 Annual Review Introduction). Furthermore, the IDEAs noted with interest that even though the country was severely affected by ongoing civil conflict, the Government was implementing integrated programmes against trafficking in women and children and bonded labour, including poverty alleviation, microfinance and social safety net programmes (paragraph 187 of the 2005 Annual Review Introduction). In this respect, Nepal provided a good example of an integrated approach to addressing FL, where a combination of political will, legislative reform and technical cooperation to support operation programmes had helped to achieve progress (paragraph 166 of the 2005 Annual Review Introduction). The IDEAs also expressed satisfaction concerning the concrete information received on progress made in the elimination of all forms of forced or compulsory labour in Nepal in cooperation with the ILO (paragraph 192 of the 2005 Annual Review Introduction).</p> <p><b>2001 AR:</b> The IDEAs mentioned that it was worth noting that the information Nepal provided in its annual report for 2000 was one of the factors that gave rise to a major ILO technical assistance programme on the "Sustainable elimination of bonded labour in Nepal", which targeted 20,000 recently freed bonded families.</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: QATAR**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, since the start of the Annual Review in 2000. No change reports for the 2001 and 2004 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Chamber of Commerce and Industry of Qatar (QCCI) and to the Workers' Committee of Qatar (WCQ) by means of consultations and communication of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>AR 2007:</b> Observations by the QCCI.	
	<b>Workers' organizations</b>	<b>AR 2007:</b> Observations by the Qatar Petroleum Workers' Committee (QPWC). <b>2006 AR:</b> Observations by the QPWC and observations by the International Confederation of Free Trade Unions (ICFTU).	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Qatar ratified in 1998 the Forced Labour Convention, 1930 (No. 29) (C.29).</b>
		<b>Ratification intention</b>	<b>YES, in 2002, for the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b> <b>2007 AR:</b> According to the Government: The subject is under consideration by the competent authority. <b>2006 AR:</b> Ratification of C.105 was being examined, and the Government expected a positive outcome before the end of 2005. <b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.105.

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<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></li> </ul> <p><b>2006 AR:</b> The Government expressed its adherence to the fundamental principles and rights at work (FPRW).</p> <p><b>2005 AR:</b> According to the Government: the application of the Labour Code and the Penal Code (which prohibit forced or compulsory labour) is deemed to be an effective national policy in relation to the principle and right (PR) of the elimination of all forms of forced or compulsory labour.</p> <ul style="list-style-type: none"> <li>• <b>Legislation:</b> (i) the Labour Code, 2004 (Act No. 14, 2004); and (ii) the Penal Code, 2004 (Act No. 11 of 2004).</li> </ul> <p><b>2007 AR:</b> According to the Government: the law primarily prohibits employment of persons under the mandatory age which is in conformity with the provision of the international Convention, in addition to the prohibition of forcing any person to work against his will. Under the Penal Code, 2004, sections 321 and 322, a person who makes an individual enter or leave the State of Qatar with the intention of manipulating him as a slave or forcing him to perform work, regardless of whether it is paid or unpaid, shall be incriminated. This law is in force since 10 May 2004.</p>	
		<b>Basic legal provisions</b>	(i) Labour Code (Act No. 14, 2004); (ii) Penal Code, sections 321-322 (Act No. 11, 2004).	
		<b>Definition of forced or compulsory labour</b>	<b>2005 AR:</b> According to the Government: Forced or compulsory labour is defined by national laws as imposing work on a person without his/her consent, or forcing him/her to exercise a work or an activity.	
		<b>Judicial decisions</b>	NIL	
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	NIL	
		<b>Information/ Data collection and dissemination</b>	NIL	
	<b>Prevention, monitoring, enforcement and sanctions mechanisms</b>	<p><b>2005 AR:</b> According to the Government: In realizing the PR, the following measures have been implemented: inspection/monitoring mechanisms; penal sanctions; civil or administrative sanctions.</p> <p><b>2002 AR:</b> According to the Government: No worker is hired without a contract. The Labour Department approves these contracts after ensuring that they do not violate any provisions of the Labour Code. Freedom to conclude as well as to terminate contracts of employment is guaranteed by legislation. The established laws impose sanctions on anyone who tries to force a person to work or to exact work against the person's will. One of the tasks of a labour inspector is to ensure that workers are hired in compliance with legal work contracts approved by the Labour Department. Employees have been recruited in the labour inspection services with the aim of undertaking inspection visits to a larger number of enterprises in the country.</p>		
	<b>Involvement of the social partners</b>	<b>2007 AR:</b> According to the Government: Symposia and dialogue have also been held on working situations.		

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Promotional activities</b>	<p><b>2007 AR:</b> According to the Government: Measures have been taken to reinforce the Labour Relations Unit in order to develop good relations with employers and workers and to undertake all efforts to ensure that work conditions and relation between employers and workers are in compliance with international labour standards. Moreover, guidance publications on working conditions and workers' rights have been issued. Symposia and dialogue have also been held on working situations where it has been indicated that arbitrary and hard treatment of workers by their employers could be deemed as a forced labour conduct, and hence would be in contradiction with laws and with C.29 ratified by Qatar. Labour inspectors have been instructed to observe strictness in dealing with any practices that might be considered as or analogous to forced labour practices and in drawing the attention of employers to such practices. The Government, the QCCI and the QPWC referred to their participation in the Fourth ILO/Gulf Cooperation Council (GCC) Regional Workshop on the ILO Declaration and International Labour Standards held in Kuwait City in April 2006.</p> <p><b>2005 AR:</b> According to the Government: In realizing the PR, the following measures have been implemented: awareness raising/advocacy and employment creation/income generation.</p> <p><b>2002 AR:</b> According to the Government: A training course for new labour inspectors was conducted on international and Arab Labour Conventions and their application in national laws.</p>	
	<b>Special initiatives/ Progress</b>	<b>2005 AR:</b> According to the Government: Ratification of C.29 in 1998 by Qatar.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> According to the QCCI: Lack of social dialogue on the PR. Tripartite discussions should be organized with a view to understanding better how to respect, promote and realize the ILO Declaration in Qatar.
		<b>Workers' organizations</b>	<b>2007 AR:</b> According to the QPWC: Lack of social dialogue on the PR. Tripartite discussions should be organized with a view to understanding better how to respect, promote and realize the ILO Declaration in Qatar, as mentioned by the QCCI.
	<b>According to the Government</b>	<b>2007 AR:</b> According to the Government: Laws in force prohibit forced and bonded labour and provide for sanctions for those who resort to such work. Forced or compulsory Labour, such as defined by labour standards, is non-existent in Qatar. However, some individual cases that might be interpreted as forced labour violation by employers might be noticed from time to time. Competent authorities cooperate together to face this challenge. Action taken to this effect includes increasing awareness raising campaigns and dialogue with employers to explain related laws and regulations and indicate what could be considered as forced labour, and, therefore, to be avoided.	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the Government: Technical cooperation on the PR could be achieved through the 2001 ILO/GCC Plan of Joint Activities, and in particular by showing examples of practices that might be considered as forced labour. According to the Government, the QCCI and the QPWC: ILO technical cooperation is also needed to promote a better understanding of the ILO Declaration in Qatar.</p> <p><b>2006 AR:</b> According to the QPWC, the ILO technical cooperation will soon be needed on the PR and other fundamental principles and rights at work when the Workers' Committees are generalized in the country.</p> <p><b>2002 AR:</b> The Government indicated that it intended to seek the help of the ILO for the organization of a meeting for officials and workers in the different public and private sectors, in order to discuss the 1998 ILO Declaration and the implications of its PRs and obligations for all the parties concerned.</p>	
	<b>Offer</b>	ILO (awareness raising activities); Arab Labour Organization (ALO)	

<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (paragraphs 12 and 148 of the 2005 Annual Review Introduction).</p> <p><b>2003 AR:</b> The IDEAs commended Qatar for its continuing dialogue with the Office (paragraph 4 of the 2003 Annual Review Introduction).</p> <p><b>2002 AR:</b> The IDEAs acknowledged, in particular, the high level dialogue and agreement on a plan of activities between the Office and the Government of Qatar (paragraph 82 of the 2002 Annual Review Introduction).</p> <p><b>2001 AR:</b> The IDEAs hoped that the Government of Qatar would continue a dialogue with the Office regarding the ways in which the principle and right could be achieved (paragraph 77 of the 2001 Annual Review Introduction).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p>NIL</p>





**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: SAMOA**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , under the 2006 Annual Review (AR). Samoa joined the ILO in 2005.		
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to Government: Involvement of the employers' organizations (the Samoa Association of Manufacturers and Exporters (SAME); and the Samoa Chamber of Commerce and Industry (CCI), the ANZ Bank Staff Association (ANZBSA)) and workers' organizations (the Samoa Public Service Association (PSA); the Yazaki Employees' Association (YEA); and the Polynesian Airlines Staff Association (PASA) by means of consultation and communication of a copy of Government's reports.		
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2006 AR:</b> Observations by the SAME. Observations by the CCI.		
	<b>Workers' organizations</b>	<b>2006 AR:</b> Observations by the PSA. Observations by the YEA. Observations by the PASA.		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Samoa has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29) nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b>	
		<b>Ratification intention</b>	<b>Under consideration for both C.29 and C.105.</b>  <b>2006 AR:</b> The Government enjoyed the employers' and workers' organizations' (CCI, SAME, PSA, YEA and PASA) support for ratification of all ILO fundamental Conventions by Samoa.	
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> , the national Constitution, Article 8, provides that no person shall be required to perform forced or compulsory labour. Furthermore, Article 7 of the same text prohibits any forms of inhumane treatment.	
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b> <b>2006-2007 ARs:</b> According to the Government: The policy to realize the principle and right (PR) is embodied in the Constitution.</li> </ul>	
		<b>Basic legal provisions:</b>	(i) The Constitution (articles 7 and 8); and (ii) the Occupational Safety and Health Act 2002.	

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

		<b>Definition of forced or compulsory labour</b>	<b>NO</b> <b>2006 AR:</b> According to Government: Although forced or compulsory labour is not defined in its various forms in national legislation or judicial decisions, all forms of forced or compulsory labour are prohibited in the country.
		<b>Judicial decisions</b>	NIL
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	<b>NO</b> <b>2006 AR:</b> According to Government: The principle of the elimination of forced or compulsory labour applies to all categories of persons or activities.
		<b>Information/Data collection and dissemination</b>	<b>NO</b> <b>2006 AR:</b> The Government indicated that no statistics or other information relevant to the elimination of all forms of forced or compulsory labour were collected.
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2006-2007 ARs:</b> According to the Government: Under the Occupational Safety and Health Act 2002, the Ministry of Commerce, Industry and Labour has authority To take action against persons found to be engaging workers in forced labour or under terms and conditions contrary to the provisions of the Law. No specific government authority is responsible for the rehabilitation of persons subject to forced labour.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Involvement of the social partners</b>	NIL	
	<b>Promotional activities</b>	NIL <b>2006 AR:</b> According to Government: No specific measures have been implemented or envisaged for the realization of the PR.	
	<b>Special initiatives/Progress</b>	NIL	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2006 AR:</b> Employers' organizations acknowledged that the PR is recognized in the national Constitution. However:  (i) According to the SAME: Although the PR is recognized in the Constitution, difficulties in realizing the PR in Samoa relate to social values and cultural traditions, and social and economic circumstances that prevail in the country. Community service obligations, with compulsory social obligations, are closed to forced labour. They are often arbitrary, with no specific guidelines given by the Government (such as compulsory participation in building churches).  (ii) According to the CCI: Difficulties related to social values and cultural traditions. In this regard, consideration has to be given to: (i) Samoan culture and its impact on the PR; (ii) the lack of public awareness and support; (iii) challenges regarding legislation; and (iv) challenges regarding enforcement mechanisms. In summary, there is a need to ensure that Samoan legislation adequately recognizes and acknowledges the PR, and that adequate mechanisms are in place to ensure adherence and enforcement. Moreover, there is a need to highlight the benefits/positive aspects of each principle and right from both the workers' and the employers' viewpoints.

		<p><b>Workers' organizations</b></p>	<p><b>2006 AR:</b> The YEA and PASA acknowledged that the PR is recognized in the national Constitution. However:</p> <p>(i) According to the YEA: The major difficulties in realizing the PR in Samoa relate to social values and cultural traditions, and lack of public awareness and support.</p> <p>(ii) According to the PASA: PASA shares the views of the SAME. Although the PR is recognized in the Constitution, community service obligations, with compulsory social obligations, are closed to forced labour. They are often arbitrary, with no specific guidelines given by the Government (such as compulsory participation in building churches).</p>
	<p><b>According to the Government</b></p>	<p><b>2006-2007 ARs:</b> In response to the employer's and workers' organizations' observations, the Government stated as follows: There is a need to explain to the public that communities should not take arbitrary decisions that might involve forced labour. Moreover, there is a need for greater public awareness not only on the principle and right, but also on the relevant legislation. In this respect, the Government supports the CCI's stand on the need to highlight the benefits/positive aspects of each PR from both the workers' and the employers' viewpoints.</p>	
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2006 AR:</b> According to 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 Samoa, in particular in the following areas, in order of priority: (1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; (2) awareness-raising, legal literacy and advocacy; and (3) strengthening data collection and capacity for statistical 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 (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; cooperation between institutions (e.g. various ministries and relevant commissions).</p> <p>In view of better understanding, promoting and realizing the fundamental principles and rights at work enshrined under the 1998 ILO Declaration, there is a need for ILO support through a Declaration Programme and an IPEC Programme.</p> <p>All employers' and workers' organizations (SAME, CCI, YEA, PSA and PASA) 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 Samoa.</p> <p>According to the SAME: There is a need for capacity building on forced labour in Samoa, especially with respect to the need for institutions to understand what is good governance. Tripartite consultations should be developed on this issue.</p> <p>According to the CCI: There is a need for ILO technical cooperation to facilitate the realization of the PR in Samoa, in particular in the following areas: (i) greater public awareness on the PR as well as on the relevant legislation. In this regard, the positive aspects of each principle and right should be highlighted from both the workers' and the employers' point of view; (ii) labour law reform; and (iii) enforcement mechanisms.</p> <p>According to the YEA: There is a need for legislative reforms to introduce and enforce the PR. Public awareness-raising should also be undertaken, and tripartite institutions should be set up in the country.</p> <p>According to the PSA and the PASA: There is a need for capacity building of workers' organizations on forced labour. Tripartite consultations should be developed on this issue.</p>	

		The Government agreed with the views expressed by PASA, PSA, SAME and YEA. It also supported the CCI stand on the need to highlight the benefits/positive aspects of each PR from both the workers' and the employers' viewpoints.
	<b>Offer</b>	ILO (including assistance in reporting under the Declaration 2006 Annual Review).
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	

**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: SINGAPORE**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2000 Annual Review (AR). No change report for the 2005 AR.		
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Singapore National Employers' Federation (SNEF) and the Singapore National Trades Union Congress (SNTUC), through communication of Government's report.		
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL		
	<b>Workers' organizations</b>	<b>2001 AR:</b> International Confederation of Free Trade Unions (ICFTU)'s observations.		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>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".</b>	
		<b>Ratification intention</b>	<b>2005 AR: Ratification of C.105 is under review by the Government.</b>	
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	YES, the Constitution, article 10(1), provides that slavery and all forms of forced labour are strictly prohibited.	
		<b>Policy, legislation, and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <b>2005 AR:</b> The Government indicated that it would review the legislation and design better enforcement procedures in consultation with employers and unions.	
		<b>Basic legal provisions</b>	(i) Constitution (article 10(1)); (ii) the Women's Charter; (iii) the Children and Young Persons Act; (iv) the Penal Code; (v) the Destitute Persons Act (DPA); and (vi) the Prisons Act.	
		<b>Definition of forced or compulsory labour</b>	<b>C.29 is ratified.</b>	
		<b>Judicial decisions</b>	NIL	

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

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	NIL
		<b>Information/Data collection and dissemination</b>	NIL
	<b>Prevention/Monitoring, enforcement and sanctions mechanisms</b>	NIL	
	<b>Involvement of the social partners</b>	<p><b>2001-2005 ARs:</b> According to the Government: An active social dialogue is engaged with the employers' and workers' organizations to ensure that: (i) forced or compulsory labour does not exist in the country; (ii) the legislation is reviewed; and (iii) better enforcement procedures are designed.</p> <p><b>2003 AR:</b> According to the Government: Both the SNTUC and the SNEF were consulted in the development and implementation of various measures concerning the principle and right (PR).</p>	
	<b>Promotional activities</b>	<p><b>2005 AR:</b> The Government mentioned its plan to step up public education through tripartite efforts, with a view to raising awareness on employers' and workers' rights and obligations.</p> <p><b>2003 AR:</b> According to the Government: The work programme is an integral part of the Prisons Rehabilitation Programme and aims at providing prisoners with some basic skills and training in a voluntary basis.</p>	
	<b>Special initiatives/Progress</b>	<p><b>2007 AR:</b> The Government reported that it would be reviewing the necessity to amend section 13 of the Destitute Persons Act, with a view to articulating better the voluntary nature of the work performed by Destitute Persons under this Act. This exercise should be completed by early 2008.</p>	
<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>	<b>2001-2002 ARs:</b> The ICFTU raised the following challenges: Although forced labour is prohibited in Singapore, any destitute person may be required to reside in a welfare home and engaged in suitable work, or face penal sanctions (the Destitute Persons Act, 1989, sections 3, 13 and 16).
	<b>According to the Government</b>	<p><b>2001-2002 ARs:</b> In response to the ICFTU's observations, the Government stated that despite such provisions, admittance of persons to a welfare home and their possible employment was on an entirely voluntary basis. It further mentioned that no indication of forced labour of a significant scale had been noticed in Singapore.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	NIL	
	<b>Offer</b>	NIL	
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2006 AR:</b> The ILO Declaration Expert-Advisers (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 (paragraph 44 of the 2006 Annual Review Introduction).</p> <p><b>2005 AR:</b> The IDEAs hoped that Singapore, which denounced C.105, would reconsider its position in this respect (paragraph 185 of the 2005 Annual Review Introduction).</p>		
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL		



**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: SOLOMON ISLANDS**

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

*Note: This draft baseline is waiting for Government's approval*

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , but ONLY ONCE under the 2006 Annual Review (AR).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to 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.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2006 AR:</b> Observations by SCCI, SICA, SIIBA, SIWIB, ASIM and SFA.	
	<b>Workers' organizations</b>	<b>2006 AR:</b> Observations by SICTU, SIPEU, SINUW and SINTA.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Solomon Islands ratified in 1985 the Forced Labour Convention, 1930 (No. 29) (C.29).</b>
		<b>Ratification intention</b>	<b>YES, for the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b>  <b>2006 AR:</b> 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.

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

Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	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 “[n]o person shall be deprived of his personal liberty save as may be authorised by law [...]” and that “[n]o person shall be subjected to torture or inhuman treatment or degrading punishment or other.”	
	Policy, legislation and/or regulations	<ul style="list-style-type: none"> <li>• <b>Policy</b>  <b>2006 AR:</b> The Government intended to adopt a policy for the realization of the PR, and requested ILO assistance in this respect.</li> </ul>	
	Basic legal provisions	(i) The Preamble of Constitution; and (ii) The Constitution (Articles 5-7 and 17-18).	
	Definition of forced or compulsory labour	<p><b>NO, however:</b>  <b>2006 AR:</b> According to Government: Although forced or compulsory labour is not defined in its various forms in national legislation or judicial decisions, all forms of forced or compulsory labour are prohibited in the country.</p> <p>Although forced or compulsory labour is defined in its various forms in national legislation or judicial decisions, all forms of forced or compulsory labour are not prohibited in the country. According to Article 6(3)(a) and Article 6(3)(e) of the National Constitution, the expression “forced labour” does not include:</p> <p style="padding-left: 40px;">“(a) any labour required in consequence of the sentence or order of a court;</p> <p style="padding-left: 40px;">(b) any labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;</p> <p style="padding-left: 40px;">(c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;</p> <p style="padding-left: 40px;">(d) any labour required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation; or</p> <p style="padding-left: 40px;">(e) any labour reasonably required as part of reasonable and normal communal or other civic obligations.”</p>	
	Judicial decisions	NIL	
Exercise of the principle and right	Special attention to particular situations and human trafficking	<p><b>NO</b>  <b>2006 AR:</b> According to Government: The principle of the elimination of forced or compulsory labour applies to all categories of persons or activities.</p>	



		<b>Information/Data collection and dissemination</b>	<b>NO, however:</b> <b>2006 AR:</b> The Government plans to collect statistics or other information relevant to the elimination of all forms of forced or compulsory labour.
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2006 AR:</b> According to Government: No specific government authority is responsible for the identification, emancipation and/or rehabilitation of persons subject 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.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Involvement of the social partners</b>	<b>2006 AR:</b> According to 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.	
	<b>Promotional activities</b>	<b>2006 AR:</b> According to 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.	
	<b>Special initiatives/Progress</b>	According to Government: (i) ratification intention for C.105; and (ii) labour law reform in cooperation with the ILO.	

**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: TIMOR-LESTE**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, since the 2006 Annual Review (AR). Timor-Leste joined the ILO in 2003.		
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the União Nacional de Pequenas Empresas (UNAPE) (National Union of Small Enterprises), the Associação Empresários Timor Loro Sa'e (ASSET LORO SA'E) (Employers' Association of Timor-Leste), the Serikat Bekerja Socialist Timorese (SBST) (Socialist Timorese Trade Union); and the Konfederasaun Sindikatu Timor-Leste (KSTL) (Timor-Leste Confederation of Trade Unions) by means of consultation and communication of a copy of Government's reports.		
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL		
	<b>Workers' organizations</b>	NIL		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Timor-Leste has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29) nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</b>	
		<b>Ratification intention</b>	NIL	
	<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>2006 AR:</b> According to the Government: All forms of forced or compulsory labour are prohibited in the country. The principle and right (PR) of the elimination of all forms of forced or compulsory labour applies to all categories of persons or activities, but there is no national policy for its realization. The Government intends, however, to adopt a policy on this subject by 2006, and would appreciate receiving ILO assistance in this respect.</li> <li>• <b>Legislation</b>  Section 9.2 of the Labour Code (Regulation No. 2002/5) prohibits forced labour.</li> </ul>	
		<b>Basic legal provisions</b>	(i) The Labour Code (sections 2, 9.2 and 11.1 - 4).	

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

		<b>Definition of forced or compulsory labour</b>	<b>YES</b> , 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.”	
		<b>Judicial decisions</b>	NIL	
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	<b>2006 AR:</b> According to the Government: Women and children, including a specific training awareness raising/training programme on women issues.	
		<b>Information/Data collection and dissemination</b>	<b>YES</b> <b>2006 AR:</b> According to the Government: The Government collects demographic data as well as data on forced labour in the country.	
<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2006 AR:</b> According to the Government: The following measures have been implemented to promote and realize the PR: (i) legal reform (labour law and other relevant legislation); (ii) inspection/monitoring mechanisms; and (iii) civil or administrative sanctions. The National Labour Board established under the Labour Code includes two representatives each from employers’ and workers’ organizations and the responsible Government institution, as well as one representative of the population. Mandates of the National Labour Board include, <i>inter alia</i> , policy advice and dispute settlement. The Immigration Police and the Department of Labour are responsible for the identification, emancipation and/or rehabilitation of victims of forced labour. 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.			
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Involvement of the social partners</b>	<b>2006 AR:</b> According to the Government: There is a tripartite examination of issues. Employers’ and workers’ organizations have been involved in the development and implementation of government measures through their participation in the National Labour Board, which is the responsible government institution for, <i>inter alia</i> , policy advice and dispute settlement.		
	<b>Promotional activities</b>	<b>2007 AR:</b> According to the Government: A workshop on the Labour Code was organized in 2006.  <b>2006 AR:</b> According to the Government: The following measures have been implemented to promote and realize the PR in Timor-Leste: (i) awareness raising/advocacy; (ii) capacity building; (iii) employment creation/income-generation; (iv) educational programmes; international cooperation programme or projects; and (iv) tripartite examination of issues.		
	<b>Special initiatives/Progress</b>	<b>2006 AR:</b> According to the Government: The prohibition of forced labour, under section 9.2 of the Labour Code, can be regarded as successful example in the realization of the PR.		
<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>	NIL	
	<b>According to the Government</b>	<b>2007 AR:</b> According to the Government: The military crisis has affected the country in the last few months.  <b>2006 AR:</b> The main difficulties encountered in Timor-Leste in realizing this PR are as follows: (i) lack of information and data; (ii) social values, cultural traditions; (iii) social and economical circumstances; (iv) legal provisions; (v) lack of capacity of Government institutions; (vi) lack of capacity of employers’ organizations; (vii) lack of capacity of workers’ organizations; and (viii) lack of social dialogue on this PR.		

<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the Government: Advisors are required on labour as well as training for staff of the Labour Relations and Inspectors.</p> <p><b>2006 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Timor-Leste, in particular in the following areas, in order of priority: (1) capacity building of responsible government institutions; (2) legal reform (labour law and other relevant legislation); (3) strengthening capacity of employers' and workers' organizations; (4) strengthening data collection and capacity for statistical analysis; (5) awareness-raising, legal literacy and advocacy; (6) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; (7) policy advice; (8) development of social protection systems; (9) training of other officials (police, judiciary, social workers, teachers); (10) employment creation, skills training and income generation for vulnerable workers; (11) sharing of experiences across countries/regions; (12) rural development policies (for example, land reform, rural infrastructure; agricultural extension, marketing, micro-finance); (13) cooperation between institutions (e.g. various ministries and relevant commissions); (14) cross-border cooperation mechanisms.</p>
	<b>Offer</b>	ILO (assistance in reporting in 2005).
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	The ILO Declaration Expert-Advisers (IDEAs) looked forward to receiving a first reply from the Democratic Republic of Timor-Leste (paragraph 8 of the 2005 Annual Review Introduction).	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: UNITED STATES**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, but no changes to reports for the 2001, 2002, 2004 and 2006 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the United States Council for International Business and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) by means of consultation and communications of a copy of Government's reports. The updated report under the 2007 AR has been communicated to the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the Change to Win Federation, and the U.S. Council 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>	<p><b>2004 AR:</b> Observations by the AFL-CIO.</p> <p><b>2004 AR:</b> Observations by the AFL-CIO.</p> <p><b>2002 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).</p> <p><b>2001 AR:</b> Observations by the ICFTU.</p>	
<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 1991 of 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).</b>
		<b>Ratification intention</b>	<b>There are no ongoing efforts to ratify C.29.</b>

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

	<b>Recognition of the principle and right (prospect(s), means of action, basic provisions)</b>	<b>Constitution</b>	<b>YES</b> , The Thirteenth Amendment to the U.S. Constitution specifically outlaws slavery and involuntary servitude, except as punishment for a person duly convicted of a crime. The Amendment states: 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 Section 2. Congress shall have power to enforce this article by appropriate legislation.
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b> <b>2003 AR:</b> According to the Government: The United States adopted legislation showing the existence of a national policy for realizing the principle of the elimination of all forms of forced or compulsory labour 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.</li> <li>• <b>Legislation</b> <b>2007 AR:</b> Legislation: The Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA), PL 109-164, 119 Stat 3558, was enacted on January 10, 2006, amending the Trafficking Victims Protection Act of 2000 (TVPA), Division A of PL 106-386, 22 U.S.C. § 7101 <i>et seq.</i> The Trafficking Victims Protection Reauthorization Act of 2003, (TVPRA), Pub. L. No. 108-193, 117 Stat. 2875 (2003), was enacted on December 19, 2003. The United States has 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).</li> </ul>
		<b>Definition of forced or compulsory labour</b>	<p><b>2003 AR:</b> According to the Government: the Victims of Trafficking and Violence Protection Act of 2000 enacted on 28 October 2000 expands the definition of forced labour to reach the more insidious forms of coercion occurring in contemporary times, thus enabling the Government to come to the aid of more victims and to bring more cases than allowed under prior anti-slavery and anti-peonage laws.</p> <p><b>2000 AR:</b> According to the Government: The Supreme Court defined involuntary servitude to mean the control of the labour 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>
		<b>Judicial decisions</b>	<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).
	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations and human trafficking</b>	<b>2003 AR:</b> According to government: the laws are designed to protect all groups.

		<b>Information and data collection</b>	<b>2003 AR:</b> According to the Government: the principal storehouse of information concerning any labour 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).
	<b>Monitoring, enforcement and sanctions mechanisms</b>		<b>2007 AR:</b> According to the Government: With respect to the Trafficking Victims Protection Act of 2000, as amended, information on monitoring and enforcement is contained in yearly assessments that may be found at <a href="http://www.usdoj.gov/whatwedo/whatwedo_ctip.html">http://www.usdoj.gov/whatwedo/whatwedo_ctip.html</a>  <b>2004 AR:</b> According to the Government: the Trafficking Victims Protection Reauthorization Act of 2003 allows a victim of trafficking to file a civil action in district court against his/her trafficker and to recover damages and attorney's fees and allows for the prosecution of sex traffickers whose actions affect foreign commerce. The law also allows for the prosecution of sex traffickers whose actions affect commerce.  <b>2003 AR:</b> According to the Government: In realizing the principle of the elimination of all forms of forced or compulsory labour, 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.  <b>2000 AR:</b> According to the Government: The provisions of 18 U.S.C. §§ 241 and 242 provide criminal penalties for the exaction of forced labour in violation of the Thirteenth Amendment.
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Involvement of the social partners</b>		<b>2003 AR:</b> According to the Government: Tripartite examination of issues in realizing the principle and right (PR).
	<b>Promotional activities</b>		<b>2003 AR:</b> According to the Government: In realizing the principle and right of the elimination of all forms of forced or compulsory labour, the following measures have been implemented: (i) awareness raising/advocacy; (ii) employment creation/income generation; (iii) educational programs; (iv) rehabilitation following removal from forced labour; (v) international cooperation programs/projects.
	<b>Special initiatives/Progress</b>		<b>2003 AR:</b> According to the Government: the cases brought under the Victim of Trafficking and Violence Protection Act of 2000 can be regarded as successful examples of the elimination of forced or compulsory labour in the United States.
<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>2004 AR:</b> The AFL-CIO expresses its strong disagreement with the updated report by the Government on this PR.</p> <p><b>2003 AR:</b> Observations of the AFL-CIO: The labour performed by prisoners involving private sector violates the ILO Convention on forced labour</p> <p><b>2001-2002 ARs:</b> Observations of the ICFTU: (i) the minimum wage does not apply to prisoners; (ii) prisoners who refuse to work lose their chance for early release, are deprived of privileges or sent to higher-security institutions and may be locked in their cells 23 hours a day; (iii) with regard to forced domestic labour, there are reported cases of migrant domestic workers facing working conditions that are close to slavery, (iv) forced labour occurs in the garment industry within the United States territories, such as the Northern Mariana Islands; (v) an estimated 18,000 to 20,000 people are trafficked to the US every year (most are employed in the sex sector); (vi) trafficking cases are difficult to discover due to their clandestine nature and to language and cultural barriers which isolate the victims; (vii) many foreign workers are paid less than the minimum wage and, under the terms of their visa, face deportation if they leave their employer to escape from these oppressive conditions.</p>
	<b>According to the Government</b>	NIL	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<b>2004 AR:</b> According to the ICFTU: There is a need for the effective elimination of forced prostitution and trafficking of women and children. A stronger enforcement of the law is needed as well as effective cooperation with the countries these women come from.	
	<b>Offer</b>	NIL	
<b>EXPERT-ADVISERS' RECOMMENDATIONS/OBSERVATIONS</b>	<b>2005 AR:</b> The ILO Declaration Expert-Advisers 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, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 AR Introduction). They also considered that the example of regular and constructive contributions by AFL-CIO should be expanded upon, in particular among other national workers' organizations, as well as employers' organizations (paragraph 190 of the 2005 Annual Review Introduction).		
<b>GOVERNING BODY RECOMMENDATIONS</b>	NIL		



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: VIET NAM**

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

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2003 and 2004 Annual Reviews (ARs). No change report under the 2001 AR.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Viet Nam Chamber of Commerce and Industry (VCCI), the Viet Nam Cooperatives Alliance of Small and Medium Enterprises (VCASME), the Viet Nam National Council of Cooperatives (VNC) and the Viet Nam General Confederation of Labour (VGCL) through consultations and communication of government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the VCCI.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the VGCL. <b>2006 AR:</b> Observations by the VGCL.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Viet Nam has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29) nor the Abolition of Child Labour Convention, 1957 (No. 105) (C.105).</b>
		<b>Ratification intention</b>	<b>YES, since 2000, for both C.29 and C.105.</b>  <b>2007 AR:</b> According to the Government: Section 5 of the Labour Code clearly prohibits all forms of forced or compulsory labour. In that spirit, an interagency taskforce (Ministry of Labour, Invalids and Social Affairs, (MoLISA), Ministry of Justice; Ministry of Public Security; VCCI and VGCL) has been established. The MoLISA has been cooperating with the ILO in conducting comparative analysis between national laws and the provisions of C.29 and C.105, as part of a move to ratify these instruments. The VCCI and the VGCL support ratification of these Conventions.  <b>2006 AR:</b> According to the Government: After the resolution of technical differences, it is likely that Viet Nam will ratify C.29 and C.105. The survey on the status of forced or compulsory labour is proceeding to its second phase, which consists in comparing the country's legislation with the provisions of both Conventions to lay foundation for their ratification (starting with C.29).

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

			<p>The VGCL mentioned that it was developing and implementing an action plan to move forward the ratification of C.29 and C.105 by Viet Nam.</p> <p><b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government confirmed its intention to ratify C.29 and C.105.</p> <p><b>2000 AR:</b> The Government considered that it is “high time” to ratify C.29 and C.105 “in order to prevent misunderstandings”.</p>
	<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>2005 AR:</b> According to the Government: National policy to eliminate all forms of forced and compulsory labour is enshrined in section 5 of the Labour Code.</li> <li>• <b>Legislation</b> <b>2006 AR:</b> According to the Government: The Labour Code prohibits forced labour under any form and manifestation.</li> <li>• <b>Regulations</b> <b>2006 AR:</b> 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.</li> </ul>
		<b>Basic legal provisions</b>	(i) Labour Code (section 5); (ii) Resolution No. 44/2003/ND-CP of 9 May 2003 (provision 1, section 11); and (iii) Resolution No. 113/2004/ND-CP of 16 April 2004.
		<b>Definition of forced or compulsory labour</b>	<b>2005 AR:</b> “Maltreatment and forced labour are the case in which a worker is beaten, insulted or forced to work in jobs inappropriate to gender, detrimental to health and dignity” (Resolution No. 44/2003/ND-CP of 9 May, 2003, provision 1, section 11).
		<b>Judicial decisions</b>	NIL
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<b>2005 AR:</b> According to the Government: Women and children.
		<b>Information/Data collection and dissemination</b>	<p><b>2007 AR:</b> According to the Government: A survey is being completed to provide more information on the real situation concerning forced labour.</p> <p><b>2005 AR:</b> According to the Government: A survey on the extent of forced labour in the country is being conducted.</p>
	<b>Prevention, monitoring, enforcement and sanctions mechanisms</b>	<p><b>2006 AR:</b> The Government reported that it had been instructing ministries, relevant agencies and local authorities to work jointly with social organizations to prevent and combat proactively cross-border trafficking in women and children. It further indicated that trafficking in persons was considered as a criminal offence under national law and subject to prosecution.</p> <p><b>2005 AR:</b> According to the Government: The following measures have been implemented to realize the principle and right (PR) in Viet Nam: inspection/monitoring mechanisms and penal, civil or administrative sanctions. Where the principle has not been respected (use of</p>	

		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).	
	<b>Involvement of the social partners</b>	<b>2005 AR:</b> According to the Government: Involvement of the social partners through tripartite examination of related issues.	
	<b>Promotional activities</b>	<p><b>2007 AR:</b> According to the Government: Workshops have been organized to raise awareness on the PR, in cooperation with the ILO</p> <p><b>2006 AR:</b> The VGCL mentioned its participation in the survey to determine the magnitude of forced labour in the country.</p> <p><b>2005 AR:</b> According to the Government: In realizing the PR, the following measures have been implemented: employment creation/income generation and educational programmes.</p>	
	<b>Special initiatives/Progress</b>	<b>2006 AR:</b> According to the Government: Law enforcement agencies have tightened their control to combat trafficking, in particular through: (i) patrols and fight against networks of human traffickers; and (ii) cooperation with mass organizations to disseminate information and raise public awareness on the PR. At the same time, efforts at poverty reduction and employment programmes are designed to prevent women and children from being victims of trafficking. Furthermore, a case study on C.29 and C.105 is being undertaken with ILO assistance by an inter-agency task force (comprising representatives of ministries, agencies and employers' and workers' organizations), with a view to establishing an overview of the legal framework and comparing national laws with relevant ILO Conventions.	
<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>	NIL
	<b>According to the Government</b>	<p><b>2006 AR:</b> In practice, the majority of victims of trafficking come from poor, rural areas, with low public awareness and insufficient information, therefore the victims are vulnerable to enticement and deception. In response to VGCL's comments, the Government supports VGCL's observations, in particular with respect to ratification and the need to strengthen ILO technical cooperation to promote and realize the PR in the country.</p> <p><b>2005 AR:</b> The main difficulties are as follows: lack of public awareness and/or support; lack of information and data; social and economic circumstances; legal provisions; lack of capacity of employers' organizations; lack of capacity of workers' organizations; and lack of social dialogue on the PR.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> The Government thanked the ILO for its active cooperation, and mentioned that it would appreciate further ILO technical cooperation to improve the realization of the PR in the country.</p> <p><b>2006 AR:</b> The Government thanked the ILO for its active cooperation and advice to governmental agencies and social partners and would appreciate receiving further support from the ILO in this regard. The VGCL thanked the ILO for its valued support for the promotion and realization of the PR, and wished the extension of this ongoing technical cooperation.</p> <p><b>2005 AR:</b> According to the Government: ILO technical cooperation is needed to facilitate the realization of the PR in the country in the three following priority areas: (1) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the PR; (2) awareness-raising, legal literacy and advocacy; sharing of experiences across countries/region; strengthening capacity of employers' and workers organizations; employment creation, skills training and income generation for vulnerable workers; and (3) strengthening data collection and capacity for statistical collection and analysis; training of other officials (e.g. police, judiciary, social workers, teachers) and coordination between institutions (e.g. various ministries and relevant commissions).</p>	

	<b>Offer</b>	ILO (awareness raising activities and case study on the PR)
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) hope that ratification intentions expressed by Viet Nam will 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 (Paragraph 192 of the 2005 Annual Review Introduction).	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**GENERAL OBSERVATION BY THE INTERNATIONAL ORGANIZATION  
OF EMPLOYERS (IOE) UNDER THE 2007 ANNUAL REVIEW**<sup>1</sup>

The International Organisation of Employers (“IOE”) continues to support the process of the Annual Follow-up concerning Non-Ratified Fundamental Conventions (“the Annual Review”) under the Declaration on Fundamental Principles and Rights at Work (the “Declaration”).

**1. The IOE’s efforts to support the Declaration**

The IOE takes this opportunity to reaffirm its strong commitment to the Declaration. The Declaration was created out of the employers’ initiative and the IOE remains firmly committed to ensuring its success. We have been involved in promoting and supporting the Declaration and the following are some examples of the ways in which our commitment was translated into action.

*1. The IOE and the Organisation of American States (OAS) in the Summit of the Americas:*

The IOE coordinates the involvement of its American members through the Business Technical Advisory Committee on Labour Affairs (CEATAL), one of the advisory bodies of the Inter-American Conference of Ministers of Labour (IACML).

In 2005, the XIV IACML adopted a Ministerial Declaration and a Plan of Action for the next biennium. The Declaration of Mexico recognizes that “the promotion and strengthening of democracy requires the full and effective exercise of workers’ rights and application of core labour standards, as recognized in the Declaration on Fundamental Principles and Rights at Work” (paragraph 3). In paragraph 4, it reaffirms the commitment to respect, promote and realize the principles of the ILO Declaration, as the basis for sustainable economic growth with social justice. For example, paragraphs 24, 25 and 26 recognize the fundamental importance of the principle of equality and non-discrimination in employment and encourage the coordination of policies that combat all forms of discrimination and seek for equality of opportunities at work. The effective abolition of child labour is specifically addressed on paragraph 27, reconfirming the commitment to protect children and adolescents from economic exploitation.

The plan of Action of Mexico is based on the Declaration of Mexico and one of its strategic objectives is to “promote the respect and provide for the effective application of the core international labour standards contained in the Declaration on the Fundamental Principles and Rights at Work of the International Labour Organization and its Follow-up of 1998.”

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

During the XIV IACML, workers (COSATE) and employers (CEATAL) once again issued a joint Declaration, addressed to their governments, highlighting the importance of involving the social partners in the process of addressing social and labour challenges deriving from the Summit Process. It reaffirms the importance of promoting the ILO Declaration of Fundamental Principles and Rights at Work (1998) and its Follow-up, as the framework of the social dimension of regional integration.

2. *IOE position paper on the Declaration on Fundamental Principles and Rights at Work*

The ILO Declaration on Fundamental Principles and Rights at Work has taken on a new importance for enterprises in recent years and has become a reference in the context of different debates, specifically on Corporate Social Responsibility (CSR) and international framework agreements. The IOE, aware of this importance, released the IOE Position Paper on the ILO Declaration on Fundamental Principles and Rights at Work at the beginning of this year [2006].

The document provides general background information about the Declaration and its Follow-up, addresses the views of employers on the important aspect of the Declaration and addresses how employers' organizations can play a role in ensuring that the profile and credibility of the Declaration remain high.

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 many of them.

The IOE, as the employers' group secretariat at the ILC, coordinated the participation of employer delegates in this year's debate [2006], worked closely with the employers' spokesperson and the speakers in order to present the views, positions and concerns of employers.

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.

At its annual European members' meeting, an update was provided to participants about recent trends on the different options available for engagement. Documents were provided by the IOE Secretariat, which are available on the IOE website.

The IOE coordinates the participation of its members in the International Standardization Organization (ISO) Working Group on Social Responsibility. We have been advised that the fourth Working Group meeting will be held in Sydney, Australia next year [2007]. Information about this meeting has been sent to all IOE members and the IOE will be also represented at the meeting.

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, we continue to be involved in country launches and regional initiatives.

Last summer [2005], the United Nations Global Compact Board convened its inaugural meeting in New York. The IOE was present at the Board through its Secretary-General.

The IOE has been asked to be part of the SME international expert team to draft a “UN Global Compact Operational Guide for SMEs” to assist in understanding the 10 principles and their relation to their daily operations. The team will meet later in the year [2006] to begin its work.

## **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 you will find some of our promotional efforts through the year [2006].

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

Our main means of engagement in relation to freedom of association remains the Committee on Freedom of the 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.

The IOE was actively involved in the ILO publication on the CFA for employers, which was released last year. The publication is intended to provide employers with useful information about how the CFA can serve their interests. As part of the follow-up activities, in which the IOE has been actively involved, a sub-regional workshop took place in Panama at the beginning of 2006. On the same lines, in collaboration with the ILO International Training Centre (Turin), the ILO Standards department and the IOE, the Federation of Employers of Ukraine hosted a workshop with a special focus on freedom of association.

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

The IOE actively coordinates the participation of employers in activities concerning the elimination of all forms of forced or compulsory labour. The final meeting within the ILO/AGIS project “Combating the forced labour outcomes of human trafficking” was held in Lisbon last June [2006]. The IOE coordinated the participation of an employer representative who has participated in different activities on the subject.

- *The effective abolition of child labour*

This year’s [2006] Global Report addressed the abolition of child labour: “The end of child labour: Within reach”. In the debate, the employers’ group highlighted its satisfaction with the worldwide decline of child labour, especially in the region of South America and the Caribbean. The employers’ group, however, expressed its serious concerns about the fact that the positive lessons learned in regions that had experienced a decline were not reflected in the Report as good practices and helpful examples to other regions and countries.

Recognizing that there are currently no practical guides specifically drafted for employers to address child labour within their workplaces or their supply chain, the IOE and ACT/EMP, are working on a Kit for employers. Work on this kit is gathering pace and it is expected to be available in the coming months.

- *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:

Understanding the challenges faced by migrant workers, the IOE played an active role in the drafting of the ILO Multilateral Framework on Labour Migration.

The IOE has prepared a guidance note on Labour Migration as a reference for its members. The IOE also actively participated in the UN Preparatory Meeting for the High Level Dialogue on International Labour Migration held in Turin.

The XVII annual meeting of Iberoamerican Presidents of Business Organizations will take place in November [2006] in Uruguay. One of the main topics of discussion will be the migration trend. In preparation to this debate, the IOE prepared a questionnaire on the subject and sent it out to all its member federations of Latin America, Spain and

Portugal. The results of this questionnaire will be used as the basis for the employers' position. The main objective of the meeting is to reflect on and adopt a common statement to be submitted to the Heads of State Summit meeting that will also take place in Uruguay.

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. It is important to tackle it in regions that are currently severely affected, but HIV/AIDS must also be addressed in regions where it has not yet reached dramatic proportions but has the potential to do so. In that spirit, the IOE was invited to the Sixteenth International AIDS Conference in Toronto to share the initiatives on HIV/AIDS in a number of panels.

Youth Employment continues to be a key feature of the work of the IOE. The IOE note on Youth Employment released last year [2005] remains a useful document on the subject. The IOE has participated in numerous meetings aimed at increasing job opportunities for young people. The subject of youth employment will be another important topic of debate during the XVII Meeting of Iberoamerican Presidents of Business Organizations, co-hosted by the IOE.

The IOE recognizes the importance of promoting women entrepreneurship in both developed and developing countries. In its publication "Approaches and Policies to Foster Entrepreneurship: A guide for Employers' Organizations", the IOE specifically addresses women's business groups, stating the barriers that limit the potential of women entrepreneurs to develop and expand their business and how the employers' organizations can provide better organization, increased representation, as well as support services.

During the second Business Membership Organization (BMO) Conference, hosted by Business Unity South Africa, the IOE participated actively in the debates. The Conference identified seven priority areas and women entrepreneurship was one of them.

During the UN Economic and Social Council (ECOSOC), the IOE was represented in different panels, one of them being "Innovative Strategy for Developing Women Entrepreneurship and Gender Equality in Nepal". This intervention has been posted on the IOE website for easy access and promotion within our member federations.

The IOE participated in a conference entitled "Combating Discrimination and Promoting Equality for Decent Work" organised by the ILO, the Global Compact Office and the London Development Agency. The IOE's discrimination expert presented the employers' views on the role of the social partners in addressing discrimination.

### **III. Areas of concern**

Our support for the Declaration, its Follow-up and the four fundamental principles remain clear through our activities. However, as we have done in previous years, we take this opportunity to highlight particular concerns to employers in relation to the Declaration and its Follow-up.

#### *1. National Baselines Analysis*

We support the baseline approach since it represents a creative and innovative way to use the information gathered through the Annual Review. However, 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. The IOE would like to take this opportunity to commend the Office for its openness to new ways of working.

#### *2. 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.



### *3. 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' organisations. Donors should also be encouraged to devote a portion of their funding towards the capacity building of the social partners.

### *4. Employers and Freedom of Association*

Much progress in the promotion of this principle remains to be made, which relates to employers. Some employers' organizations still do not fully enjoy freedom of association. Though we are grateful to the Office for its support in ensuring that employers are aware of the ILO supervisory mechanisms, we look forward to continued efforts to ensure that the ILO remains a place to protect the rights of both workers' and employers' organisations.

In particular, we would highlight once again the fact that in a number of transition economies, the fees paid by enterprises to employers' organisations are frequently not tax exempted as are the fees paid by workers to trade unions. This undermines the development of employers' organisations and their ability to effectively represent their members. This issue has been repeatedly raised in many forums.

### *5. Looking ahead*

With every passing year since the adoption of the ILO 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 upcoming 10th anniversary of the ILO Declaration in 2008 may present 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 10 years may help us to refine the follow-ups to ensure that they remain relevant. For its part, the employers' group would greatly welcome an opportunity to engage in such a discussion.

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.