



Information Note

on

**ASEAN Member States and
International Labour Standards**

November 2004

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1. Background

At the ASEAN Senior Labour Officials Meeting held in Mataram, Indonesia on 5-6 May 2003, the ILO was requested to provide “an assessment of ASEAN countries’ ratification of core conventions, for ASEAN’s reference to identify and build on areas of strength”.

This Information Note has been prepared in response to this request. It is intended to serve as a discussion opener at the ASEAN Senior Labour Officials Meeting in Brunei (10-11 May 2004) and as a basis for further consideration by ASEAN countries of the ratification of fundamental Conventions. The ILO will, at the request of Member States, will provide technical assistance in relation to the ratification and implementation of Conventions.

2. Recent developments in the area of fundamental principles and rights at work

Introduction

Over the last decade, fundamental principles and rights at work¹ have gained pride of place on national and international development agenda’s. At least four factors explain this increased interest.

- Since 1995 and at various fora, the international community has identified fundamental labour standards with the “social floor” to globalization in at least two respects :
 - they ensure an opportunity for all men and women to obtain a fair share of the wealth generated by globalization, and without which globalization is devoid of its purpose (the “social dimension of globalization”) ;
 - they constitute “fair rules” governing global competition, trade and investment.
- Sovereign states perceive formal adherence to fundamental labour standards (or the process leading up to it) to mark the beginning of a new era characterized by respect for human rights (e.g. Cambodia), democratic reform (e.g. Indonesia) or respect for the rule of law and transparency necessitated by “internationalization” (e.g. in transition economies such as China or Viet Nam).
- Producers in developing countries feel that their international trade opportunities are enhanced by responding to calls for more “corporate social responsibility”.
- Multilateral organizations outside the ILO are undertaking research on the potential synergies between trade and investment liberalization, respect for fundamental labour standards, development and poverty reduction.

Fundamental Labour Standards as the Social Floor to Globalization

The Social Dimension. Core labour standards have become increasingly perceived as critical to ensuring social cohesion, eradicating poverty and securing decent work. In 1995, the World Summit for Social Development in Copenhagen lead to a high-level commitment to “...enabling all men and women to attain secure and sustainable livelihoods through freely chosen and productive employment and work”. Its Programme of Action governments considered that eliminating poverty and attaining sustainable and equitable growth are dependent *inter alia* on respect of fundamental principles at work, and that it was therefore necessary to “...pursue the goal of ensuring quality jobs, and safeguard the basic rights and interests of workers and to this end, freely promote respect for relevant International Labour Organization Conventions, including those on the prohibition of forced and child labour, the freedom of association, the right to organize and bargain collectively, and the principle of non-discrimination.”²

Capitalizing on the momentum generated by the World Summit, the ILO launched a campaign for the universal ratification of seven “fundamental human rights Conventions”.³ In 1998, the Organization adopted the *ILO Declaration on Fundamental Principles and Rights at Work*, recalling constitutional obligations of ILO member States “to respect, to promote and to realize” the following fundamental principles and rights at work:

- freedom of association and the effective recognition of the rights to collective bargaining;
- elimination of all forms of forced or compulsory labour;
- effective abolition of child labour;
- elimination of discrimination in respect of employment and occupation.

The Follow-Up Mechanism (Box 1) required member States, unless they had ratified both fundamental Conventions pertaining to one of the fundamental principles, to report annually on the efforts undertaken and difficulties encountered in realizing the fundamental principle concerned. Thus, the Declaration established a platform for dialogue and narrowed the accountability gap on fundamental principles and rights at work, while adding a promotional dimension by pledging to mobilize resources to help member States attain the objectives set out in the Declaration.

Box 1 Follow-up Mechanism to the ILO Declaration on Fundamental Principles and Rights at Work

The Follow-Up Mechanism is based on the inter-related modalities of:

- An **Annual Review** based on the annual reporting on the status of application of non-ratified fundamental Conventions, reviewed by independent Expert-Advisers, who in turn report to the Governing Body of the ILO on their analysis, findings and highlight the progress and recommend areas for assistance
- A **Global report** provides dynamic global picture of trends and developments with regard to one of the four principles each year, covering all four principles in four –year cycle
- **Technical cooperation** based on the needs of the Members reported under the Annual Review and technical cooperation plans, drawn up after the discussion of the Global report by the International Labour Conference

In the period since the adoption of the Declaration, resources mobilized by the ILO have been directed towards ASEAN States. The InFocus Programme on Child Labour (IPEC) operates country programmes in Cambodia, Indonesia, Lao PDR, Philippines, Thailand and Viet Nam, and is shifting towards time-bound programmes to eliminate the worst forms of child labour in Cambodia, Indonesia and the Philippines. Within ASEAN, the IPEC Mekong Sub-Regional Programme on Trafficking in Women and Children focuses on policy integration and preventive action in Cambodia, Lao PDR, Thailand and Viet Nam. In Indonesia, the ILO is assisting the Government with establishing a legal framework for collective labour relations and the individual employment relationship. In Viet Nam, the ILO is supporting a Tripartite Interministerial Task Force (TITAF) in its analysis of forced labour practices in the national context.

Core labour standards as fair rules for international trade and globalization. Already in 1919, the ILO Constitution observed that “the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries”.⁴ Far less unanimity has prevailed within the international community on the legitimate course of action of a State which feels that the commitments it has undertaken to remove its trade and investment barriers are jeopardizing the high labour standards it has achieved.

Early on, the ILO Director General believed that the Organization should not “...advocate either restrictions to trade or a compulsory equalization of social costs.”⁵ This view was reinforced in 1996, at the WTO Ministerial Meeting in Singapore:

“We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We

reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration.”⁶

In 1998, the ILO Declaration echoed the Singapore position:

“...labour standards should not be used for protectionist trade purposes. And nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, comparative advantage of any country should in no way be called into question by this Declaration and its follow-up.”⁷

A sanction-based linkage between trade and labour standards at the multilateral level has remained moot. Yet, the perception that core labour standards do constitute a minimum set of “fair rules” ensuring that global competition does not turn into a “race to the bottom” has only grown stronger. A positive impact on the rights, livelihoods, security and opportunities of all people has become a key criterion in assessing whether the globalization process is fair.⁸ Demanding respect for core labour standards does not automatically imply questioning a comparative advantage derived from low labour costs:

421. In both the WTO Singapore Ministerial Declaration of 1996 and the ILO Declaration on Fundamental Principles and Rights at Work of 1998, the member States of both organizations affirmed their commitment to the observance of the core labour standards. ... They specifically underlined that these standards should not be used for protectionist trade purposes and that the comparative advantage of any country should not be called into question. Implicit in this pledge, of course, is that no country should achieve or maintain comparative advantage based on ignorance of, or deliberate violations of, core labour standards. These principles have been reaffirmed in very clear terms, in mutually reinforcing ways, in different fora.⁹

Recently, the failure of multilateral negotiations to carry trade and investment liberalization forward, amongst other considerations, has sparked a series of plurilateral, bilateral and regional trade and cooperation arrangements. Many of these agreements (see Box 2) contain provisions on international labour standards, particularly as regards fundamental principles and rights at work. Often as a result, States are requesting the ILO to assist them to apply fundamental and other international labour standards (e.g. on labour inspection services), before as well as after the ratification of the Conventions concerned.

Box 2 Examples of Free Trade and Cooperation Agreements referring to international labour standards

Plurilateral: NAFTA, EU-ACP Cotonou Convention, CARICOM, MERCOSUR, Comunidad Andina,

Bilateral: Singapore-US, Australia-US, Jordan-US, Viet Nam-US Textile Agreement, US-Cambodia Textile Agreement, Canada-Chile, Canada-Costa Rica, EU-South Africa, ...

The United States and the European Union, under the constraint of domestic legislation,¹⁰ promote labour clauses most actively. Agreements negotiated with

the U.S. feature different commitments depending on the level of development of the trading partner. Recent free trade agreements (FTAs) with Singapore and Australia feature commitments to maintain a high level of national labour standards, to ensure consistency of the national legislation with internationally recognized labour standards as well as their enforcement and institutional arrangements for monitoring.¹¹ FTAs with developing trade partners entail obligations to achieve compliance with internationally recognized core labour standards and ensure their enforcement.¹² References to ILO commitments (and, thus, indirectly the ILO Declaration) feature in bilateral agreements covering the trade in specific manufactured goods, (e.g. textile) to the US market from countries such as Viet Nam and Cambodia.¹³

The European Union's policy is premised on the "constant rejection of protectionism and of a sanction-based approach to the promotion of core labour standards as well as its strong support for an incentive based approach to this issue."¹⁴ The EU puts the relationship between trade and labour standards in the wider context of global governance and coherence in economic policy making.¹⁵ Liberalizing trade with developing countries becomes part of a comprehensive development assistance strategy:

*"(14) The EU should extend the Cotonou approach to other agreements by seeking to include specific provisions on core labour standards and to ensure that their implementation is supported whenever necessary, by development and cooperation programmes."*¹⁶

In the same vein, the United States and the EU rely on unilaterally granted trade preferences (e.g. the Generalized System of Preferences (GSP)) to promote respect for labour standards. The EU professes to use this measure to "...support development in the broader sense, embracing social and environmental concerns and to complement the GATT and foster the integration of the developing countries into the international economy and the WTO".¹⁷ The US GSP program allows duty-free access of certain products on the US market GSP, but among the mandatory criteria to qualify for GSP is the recognition of "internationally recognized worker rights" in the laws of beneficiary countries.¹⁸ The EU and US GSP schemes both have review and complaint mechanisms to monitor compliance.

Resolve of sovereign States

The commitment which sovereign States express to fundamental principles and rights at work must not only be attributed to trade pressures. In 1998, Indonesia became the first country in Asia Pacific to ratify all fundamental ILO fundamental Conventions as an expression of its resolve to establish a democratic society based on the rule of law. In 1999, Cambodia followed suit, determined to put the past marked by gross human rights violations behind it. Outside ASEAN, since then, Fiji, Papua New Guinea and Sri Lanka have all taken the same route, all without there being any specific trade pressure.

Establishment of the rule of law

The rule of law, a transparent legal system, independent judicial processes, and the recognition of private property are essential ingredients of a functioning market economy. For this reason, transition economies find strengthening the rule of law challenging, but absolutely necessary. Upon joining the WTO, China specifically pledged transparency in issuing and enforcing legislation, uniform administration and independent judicial review. In the same vein, Viet Nam considers the ratification of the forced labour Conventions as part of its preparations to join the WTO in the near future. In Lao PDR, the Government's "initiative [to firmly establish the principle of the rule of law] will not only create a legal basis for successful reforms in the state apparatus, but will also provide the legal mechanisms to promote social policies, preservation of national cultural identity and protection of the environment, while facilitating the country's effective participation in the global economy."¹⁹

Corporate Social Responsibility

In recent years, private organizations have joined sovereign states in the quest for fundamental principles and rights at work. In a short period of time, enterprises and international supply chains, sometimes under pressure from civil society organizations, have developed a wide range of economic, social and environmental initiatives.²⁰ Many of these initiatives are voluntary rather than pursuing to observe existing national legislation: workplace initiatives (e.g. corporate codes of conduct); accreditation and certification schemes (e.g. SA 8000); and framework agreements between international trade unions and multinational enterprises (e.g. between IKEA and the International Federation of Building and Woodworkers (IFBWW)). The diffuse nature of these Corporate Social Responsibility (CSR) schemes is also apparent from the involvement of stakeholders beyond employers' organizations and trade unions, e.g. consumer groups or NGOs.

CSR initiatives have the potential to make a much-needed contribution to improve workplace practices in developing countries, and to raise rights' awareness among workers. Because the capacity of these countries to enforce their labour law is often limited, it is sometimes thought that CSR can replace instead of complement labour law. CSR is distinctly not fit for this role, for a number of reasons. Unlike labour law, CSR initiatives are usually not meant to reach workers beyond export-related economic sectors. CSR-promoted standards sometimes find themselves competing in the same workplace with standards touted by other CSR schemes, adding to instead of resolving legal confusion. Finally, CSR-promoted standards are externally crafted, and, unlike labour law, they have not benefited from a tripartite reflection and democratic adoption process that takes national development conditions into account.

The Global Compact, which was proposed to the international business community by the Secretary-General of the United Nations in Davos, in early 1999, also adopted the four principles and rights at work.

Research by other multilateral organizations

Particularly in the wake of the World Summit on Social Development, multilateral organizations have sought to identify the synergies between the respect for international labour standards on the one hand, and economic performance, globalization, development and poverty eradication on the other hand. The focus on fundamental labour standards has lifted the profile of these standards. A few examples:

1. In 1996, the Organization for Economic Cooperation and Development (OECD) released a study on “Trade, Employment and Core Workers’ Rights” which it updated in 2001.²¹ The study concluded, for example, that²²:
 - core labour standards can contribute to economic growth and efficiency by improving workers’ skills, which in turn encourages innovation and productivity enhancement; and
 - countries with a lower level of adherence to core labour standards do not necessarily enjoy better export and investment performance.
2. Between 2000 and 2002, the ILO and the Asian Development Bank (ADB) documented synergies between poverty reduction, child labor, gender discrimination in employment, and occupational safety and health issues in selected countries, with a view to strengthening the application of labour standards in ADB-assisted development interventions.
3. In 2003, the World Bank undertook a review of the global research on the economic effects of unions and collective bargaining at the micro- and macroeconomic levels.²³ Its key conclusion was that comparative studies reveal little systematic difference in economic performance between countries that enforce the right to organize and the right to bargain collectively, and countries that do not.

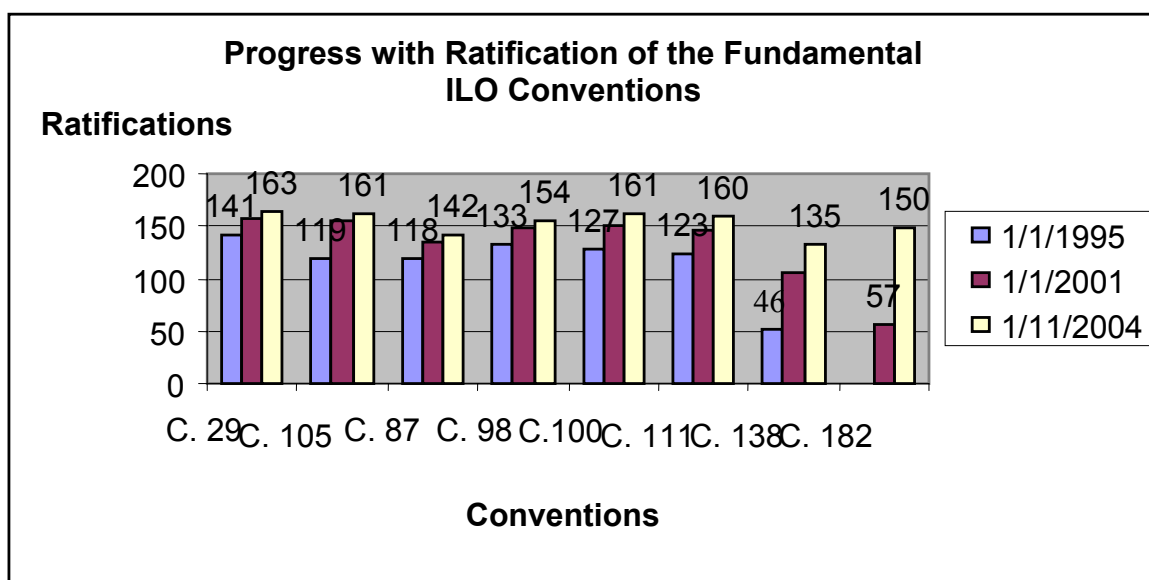
3. ASEAN States’ ratification of fundamental ILO Conventions

(a) Ratification record

The stress which the international community has laid on realizing fundamental principles and rights at work has resulted in a significant rise of the number of ratifications worldwide (see Table 1 below). While progress has been relatively even-handed with respect to the already widely ratified Conventions on forced labour, freedom of association and discrimination, the number of ratifications of the child labour Conventions since 1995 has been impressive : ILO has registered no less than 89 ratifications of the Minimum Age Convention, 1973 (No. 138) since 1995,²⁴ while the Worst Forms of Child Labour Convention, 1999 (No. 182) gathered 150 ratifications in just over five years time.

The picture becomes starker when we look at Asia Pacific. In this region, the emphasis on fundamental ILO Conventions has doubled the number of

ratifications since the beginning of 1995. ASEAN States' 25 ratifications of fundamental ILO Conventions registered since the beginning of 1995 stands in marked contrast both to the 18 ratifications registered before that date, and the ratification of only 7 other international labour Conventions (see Table 2 below). Indonesia and Cambodia²⁵ were the first countries in Asia Pacific to have ratified all fundamental ILO Conventions.



Source: November 2004 ILO APPLIS and ILOLEX databases

The development is all the more remarkable, considering that ASEAN States have ratified a low average of 17²⁶ international labour Conventions overall. Similarly, ASEAN States have ratified an average of 5 fundamental ILO Conventions against 7 worldwide.

The resumption of interest in the ILO's standard-setting activity presents another important dimension to the ratification of fundamental ILO Conventions by ASEAN States in recent years. Indeed, the initial ratifications were the first in 36 years (Singapore), 30 years (Thailand), 28 years (Cambodia), 26 years (Indonesia)²⁷, and 23 years (Malaysia). If Lao PDR's intentions to ratify the child labour Conventions materialize in 2004, the ILO will register the first ratifications from that country in 40 years. Myanmar has not ratified a single international labour Convention in nearly half a century (since 1957). Viet Nam resumed its membership only in 1992. The resumption of interest strengthens the hope that the results of the ILO Governing Body's work on a revision policy for international labour standards will gradually be reflected in the ratification record of ASEAN States.²⁸

	ILO membership since	Fundamental Conventions								Priority Conventions ²⁹			
		C. 29	C.105	C.87	C.98	C.100	C.111	C.138	C.182	C.122	C.144	C.81	C.129
<i>Cambodia</i>	1969	1969	1999	1999	1999	1999	1999	1999		1971			
<i>Indonesia</i>	1950	1950	1999	1998	1957	1958	1999	1999	2000		1990	2004	
<i>Lao PDR</i>	1964	1964											
<i>Malaysia</i>	1957	1957	1958		1961	1997		1997	2000		2002	1963	
<i>Myanmar</i>	1948	1955		1955									
<i>Philippines</i>	1948		1960	1953	1953	1953	1960	1998	2000	1976	1991		
<i>Singapore</i>	1965	1965	1965		1965	2002			2001			1965	
<i>Thailand</i>	1919	1969	1969			1999		2004	2001	1969			
<i>Vietnam</i>	1980-1985, 1992					1997	1997	2003	2000			1994	

(b) Ratification prospects

There is scope for further ratifications of fundamental ILO Conventions in the near future. In a number of cases, the Office is actively involved in the preparation process so as to facilitate application once the Convention enters into force:

- *Cambodia* has not yet ratified C. 182. The Office has provided technical advisory services to constituents on various occasions, including the drafting of implementing legislation.

Convention were already reflected in the 1993 Child Law and new legislation would not serve any purpose, pending the drawing up of a new Constitution. Conventions Nos. 98, 100, 105, 111 and 138 would be studied in detail. Due consideration would be given to ratification at the appropriate time.³²

- The *Philippines* has not yet ratified Convention No. 29. The Government stated in September 2003 that the Senate Foreign Relations Committee conducted a public hearing on 2 June 2003 on the instrument. A further hearing would be held to provide clarifications requested.³³
- *Singapore* stated in 2003 that it would continue to study the fundamental Conventions not ratified (Nos. 87, 105, 111 and 138) with a view to ratifying them if the requirements for compliance were met.³⁴ In September 2004, Parliament amended the Employment Act to bring national legislation in line with C. 138.
- *Thailand* has not yet ratified Conventions Nos. 87, 98, and 111. Thailand has not yet ratified Conventions Nos. 87, 98, and 111. The Government stated in September 2004 that the study to assess the country's readiness to ratify Conventions Nos. 87 and 98 was due to be completed in December 2004. The Government, in collaboration with the ILO, had carried out a national seminar on the promotion of equality, the outcome of which will be the basis for further ILO assistance with regard to the ratification of Convention No. 111. The next step was to review whether the existing legal and institutional framework corresponds to the requirements of Convention No. 111.³⁵ The Office is proposing a programme of technical advisory services to further the prospects of ratification and application of C. 111, including the development of a legal and institutional framework and the development of statistical indicators.
- *Viet Nam* has not yet ratified Conventions Nos. 29, 87, 98 and 105. The Government stated in its 2000 annual report under the Declaration that it was time for Viet Nam to ratify Conventions Nos. 29 and 105. The Government stated in January 1998 that the ratification of the remaining Conventions (i.e. on freedom of association and collective bargaining) would be considered in the future.³⁶ The Office is conducting a programme of technical advisory services to assist the Tripartite Interministerial Task Force on Forced Labour to carry out an assessment of forced labour in the country. In 2004, the Government also indicated it would soon activate its examination of C. 87 and C. 98.

4. ASEAN States' ratification of ILO Priority Conventions

Employment Policy Convention (No. 122)

The Convention requires, as a major goal, the declaration and pursuit of an active policy designed to promote full, productive and freely chosen employment with a view to stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and

underemployment. Importantly, the Convention requires consultation of representatives of the persons affected by the any type of economic measure to be taken and, in particular, representatives of employers and workers. The ILO supervisory bodies consistently inquire after consultations with rural and informal economy workers.

Only 3 ASEAN States (Cambodia, Thailand and the Philippines) have ratified C. 122 so far.

Labour Inspection Convention, 1947 (No. 81) [and its Protocol of 1995] and Labour Inspection (Agriculture) Convention, 1969 (No. 129)

Conventions Nos. 81 and 129 require the maintenance of a system of labour inspection in industrial, commercial (C. 81) and agricultural (C. 129) workplaces. Such systems must operate according to the standards set in these instruments. The Protocol extends the scope of Convention No. 81 to the non-commercial service sector. The instruments aim at the adequate enforcement of national labour law with a view to protecting workers and improving conditions of work through adequate labour inspection.

Four ASEAN States have ratified C. 81 (Indonesia, Malaysia, Singapore and Viet Nam), none has ratified C. 129 so far.

Tripartite Consultations (International Labour Standards) Convention (No. 144)

The Convention is aimed at the effective consultation between representatives of the government, of employers and of workers on international labour standards. The ratifying State undertakes to operate procedures which ensure effective consultation between representatives of the government, of employers and of workers on:

- government replies to questionnaires concerning items on the agenda of the International Labour Conference and their comments on proposed texts to be discussed by the Conference;
- proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the ILO;
- the re-examination at appropriate intervals of unratified Conventions and of Recommendations to promote their implementation and ratification as appropriate;
- questions arising out of reports on ratified Conventions to be made under article 22 of the Constitution of the ILO;
- proposals for the denunciation of ratified Conventions.

Only 3 ASEAN States (Indonesia, Malaysia and the Philippines) have ratified C. 144 so far.

Annex 1

	C. 29	C.105	C.87	C.98	C.100	C.111	C.138	C.182	C.122	C.144	C.81	C.129
			CFA cases									
Cambodia	OB		DR, OB	3 A, 1 F, 1 C	DR	DR		DR		DR		
Indonesia	OB	DR	DR, OB	2 A, 7 C	OB	DR, OB	DR, OB	DR, OB				
Lao PDR												
Malaysia	OB*			11 C	OB			DR	DR		OB	
Myanmar	DR, REP; COMPLAINT		OB	1 A, 8 C								
Philippines		OB	DR,OB	3 F, 18 C	OB	DR, OB	DR,OB	DR		DR		
Singapore					OB							
Thailand	OB			2 F, 5 C		DR				DR		
Vietnam				5 C			DR				OB	

NOTE:

Clear box – Convention ratified

Orange box – Convention not ratified

Black box – Convention denounced

Yellow box – Complaints before the Governing Body Committee on Freedom of Association : A = Active ; F = Follow-Up ; C = Closed

OB – Observations by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) published in the report submitted annually to the International Labour Conference

DR – Direct requests by the CEACR are sent directly to the Government concerned, without being published in the report submitted annually to the International Labour Conference

Status of application of ratified ILO Conventions by ASEAN States							
	Direct requests*	Observations*	Comm. Freedom of Association cases**			Art. 24	Art. 26
			active	follow-up	closed		
Cambodia	4, 13, 87, 100, 6, 122, 98, 138	29	2262, 2318, 2374	2222	1934		
Indonesia	98, 105, 138, 87, 19, 27, 106, 111, 100	29, 98, 138, 87, 100, 106, 111	2236, 2336		501, 537, 674, 1431, 1756, 1773, 2116		
Lao PDR	4, 13						
Malaysia	17, 29, 95, 138, 182	98, 81			618, 879, 911, 928, 965, 1022, 1380, 1480, 1542, 1552, 2301		
Myanmar	2, 6, 16, 42, 22, 63, 26	87, 17, 22, 26, 29, 52	2268		74, 107, 135, 163, 193, 243, 269, 1752	C.29	C.29
Philippines	87, 88, 100, 110, 111, 122, 159, 17, 19, 23, 53, 90, 95, 99, 118, 138, 157	87, 100, 141, 94, 98, 150, 105, 111, 17, 89, 90, 23		1826, 2195, 2252	22, 652, 724, 1157, 1192, 1323, 1353, 1426, 1444, 1495, 1529, 1570, 1572, 1585, 1610, 1615, 1718, 1914		
Singapore	5, 8, 22, 94	88, 98					
Thailand	88, 100, 122, 123	127, 29		2181, 2125	202, 1015, 1110, 1142, 1581		
Vietnam	45, 111, 120, 5, 6, 27, 155, 124	81			387, 417, 483, 545, 751		

Footnotes

¹ “Core labour standards” is the more commonly used shorthand to refer to the international labour standards embodying the following fundamental human rights at work : freedom of association and the right to bargain collectively, the elimination of forced labour, the abolition of child labour and the elimination of discrimination at work. The term “core” is somewhat deceptive in that it could be interpreted as meaning that core labour standards enjoy a more elevated status than other international labour standards, e.g. on occupational safety and health or maternity protection. “Fundamental” reflects more accurately the catalytical role of core labour standards for the promotion and sustainable application of other international labour standards.

² The Copenhagen Declaration on Social Development and Programme of Action established a new consensus to place people at the centre of our concerns for sustainable development and pledged to eradicate poverty, promote full and productive employment, and foster social integration to achieve stable, safe and just societies for all.

³ Forced Labour Convention (No. 29), 1930; Freedom of Association and Right to Organize Convention (No. 87), 1948; Right to Organize and Collective Bargaining Convention (No. 98), 1949; Equal Remuneration Convention (No. 100), 1951; Abolition of Forced Labour Convention (No. 105), 1957; Discrimination (Employment and Occupation) Convention (No. 111), 1958; Minimum Age Convention (No. 138), 1973. The Worst Forms of Child Labour Convention (No. 182) became the eighth fundamental Convention upon its adoption in 1999. As it happens, there are two fundamental Conventions to elaborate upon each of the fundamental principles enunciated in the ILO Declaration on Fundamental Principles and Rights at Work.

⁴ Preamble to the ILO Constitution.

⁵ ILO, *Defending values, promoting change*, Report of the Director-General to the International Labour Conference, 1994

⁶ Singapore Ministerial Declaration

⁷ Para. 5 of the ILO Declaration

⁸ World Commission on the Social Dimension of Globalization, *A Fair Globalization – Creating Opportunities for All*, ILO, Geneva, 2004, para. 359 – 360.

⁹ *A Fair Globalization*, para. 421.

¹⁰ Current US policy is shaped by the Trade Acts of 1974 and 2002 which mandate the US Trade Representative to focus trade negotiation objectives on issues such as :

- the promotion of core labour standards consistent with ILO standards (the Trade Act of 2002 extends core labour standards to other conditions of work such as minimum wages, hours of work and occupational safety and health) ;
- enforcement and maintenance of the level of protection afforded by the domestic labour laws ;
- the promotion of universal ratification and full compliance with C. 182.

¹¹ The United States – Singapore Free Trade Agreement, for example, devotes Chapter 17 (plus and Annex) to “Labour”, stipulating a statement of shared commitment to the ILO Declaration and “internationally recognized labour rights” ; the application and enforcement of labour laws ; procedural guarantees and public awareness ; institutional arrangements for dispute settlement, labour cooperation; and labour consultations. The notion of “internationally recognized labour rights” under the agreement includes the following rights, but not the elimination of discrimination : “(a) the right of association; (b) the right to organize and bargain collectively; (c) a prohibition on the use of any form of forced or compulsory labor; (d) labor protections for children and young people, including a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor; and (e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.”

¹⁴ Preamble to the “Common Guidelines” following the Commission's communication on promoting core labour standards, adopted by the EU Council of Ministers in July 2003.

¹⁵ Since 1992, all EU's Economic Partnership Agreements (EPAs) concluded by the EU with developing countries have been based on the respect for human rights, encompassing core labour standards. Since 1995, EPAs agreements have consistently referred to the Copenhagen Declaration on the same footing : *Promoting Core Labour Standards and Improving Social Governance in the Context of Globalization*, Communication from the Commission of the Council, the European Parliament and the Economic and Social Committee, 18.7.2001 COM (2001) 416 final.

¹⁶ Idem, Para. 14 of the Common Guidelines. The Cotonou Approach is aimed at « encouraging the promotion of participatory methods of social dialogue (and) respect of basic social rights », and provides for assistance in the following areas :

- Exchange of information on legislation and work regulation
- Formulation and strengthening of legislation
- Educational and awareness-raising programmes
- Enforcement of adherence to national legislation and work regulation.

¹⁷ Communication from the Commission of the Council and the European Parliament of 1 June 1994. Integration of developing countries in the international trading system – Role of the GSP 1995 [COM (94) 212. The scheme's “Special incentive arrangement for the protection of labour rights” provides for an additional 5% reduction in customs duties for products from countries of which national legislation incorporates the rules adopted in fundamental ILO Conventions. However, all tariff preferences (i.e. both the initial preferences and the 5% incentive) may be withdrawn in the case of

- the practice of any form of slavery or forced labour;
- serious and systematic violation of fundamental social rights and principles of labour law (freedom of association, collective bargaining, child labour);
- export of goods made by prison labour.

¹⁸ See footnote 11 on the definition of “internationally recognized worker rights”.

¹⁹ See Public Service Reform, People's Participation, Rule of Law and Sound Financial Management - A Policy Paper of the Government of Lao PDR on Governance Issues, Roundtable Process, Vientiane, March 2003, 38

²⁰ GB.286/WP/SDG/4, Governing Body, 286th Session, Geneva, March 2003 (updated in November 2003).

²¹ OECD, *Trade, Employment and Labour Standards: A Study of Core Workers' Rights and International Trade*, Paris, 1996; OECD, *International Trade and Core Labour Standards*, Paris, 2001.

²² Other conclusions include :

- democratic institutions, such as core labour standards, can reduce the cost and adversarial impact of transition to more liberal markets ;
- fears about a “race to the bottom” in labour standards are probably exaggerated ;
- the impact of trade on employment and wage inequality is inconclusive ;
- trade interventions may have adversarial effects on the elimination of child labour if not supported by adult employment schemes or education subsidies.

²³ Toke Aidt and Zafiris Tzannatos, *Unions and Collective Bargaining - Economic Effects in a Global Environment*, THE WORLD BANK, Washington D.C., 2002.

²⁴ As at 1 November 2004

³⁵ GB.291/LILS/4
³⁶ GB.291/LILS/4