

The elimination of all forms of forced or compulsory labour

L'élimination de toute forme de travail forcé ou obligatoire

La eliminación de todas las formas de trabajo forzoso u obligatorio



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2012)¹: AFGHANISTAN

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

REPORTING	Fulfillment of Government's reporting obligations	YES , since the 2005 Annual Review (AR). No report under the 2011 AR.
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to the Government: Involvement of the Chamber of Commerce of Afghanistan (CCA) (except for the 2006 AR), the Chamber of Commerce of Kabul (CCK), the National Union of Afghanistan Employees (NUAE locally called AMKA) and the All Afghanistan Federation of Trade Unions (AAFTU) through consultations or communication of the Government's reports.
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2009 AR: Observations by CCK. 2007 AR: Observations by the CCA.
	Workers' organizations	2012 AR: Observations by NUAE. 2010 AR: Observations by NUAE. 2009 AR: Observations by NUAE (AMKA). 2007 AR: Observations by the AAFTU. 2006 AR: Observations by the AWA.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex.

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Afghanistan ratified in 1963 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).
		Ratification intention	<p>YES, in process since 2005, for C.29.</p> <p>2012 AR: According to the Government: Ratification of C.29 has received executive approval, but is still being reviewed by the Parliament, which should approve it soon.</p> <p>The NUAE (AMKA) indicated their support to the ratification of all fundamental Conventions.</p> <p>2010 AR: According to the Government: ratification of C.29 is currently being studied by the Parliament. However, ILO's is needed to complete this process.</p> <p>2009 AR: The Government indicated that the ratification of C.29 was still being considered. The CCK and the NUAE expressed their support to the ratification of C.29 by Afghanistan.</p> <p>2008 AR: The Government indicated that the ratification of C.29 was currently under evaluation by the Council of Ministers in consultation with employers' and workers' organizations. Upon approval of the Council of Ministers, the document will be submitted to Parliament.</p> <p>2007 AR: According to the Government: C.29 has been integrated into national laws and will be submitted to Parliament for ratification.</p> <p>The CCA supported ratification of C.105 by Afghanistan.</p> <p>The AAFTU supported ratification of C.105 by Afghanistan, and hoped that the Government would accelerate this process.</p> <p>2005-2006 ARs: According to the Government: C.29 is in the process of ratification.</p>
	Recognition of the principle and right (prospect(s), means of action, main legal provisions)	Constitution	<p>YES.</p> <p>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.</p>
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy: <p>2005 AR: 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.</p> <ul style="list-style-type: none"> • Legislation: <p>2006 AR: According to the Government: section 11 of the 1987 Labour Code prohibits all forms of forced or compulsory labour.</p>
		Basic legal provisions	(i) Constitution (article 41); (ii) Labour Code (1987), section 11.
		Definition of forced or compulsory labour	2005 AR: According to the Government: Forced or compulsory labour is defined in its various forms in national legislation and or judicial decision.
		Judicial decisions	NIL.

	Exercise of the principle and right	Special attention to particular situations and human trafficking	2005 AR: According to the Government: Special attention is given to the situation of young boys and girls.
		Information/ Data collection and dissemination	2005 AR: According to the Government: Statistics are not collected but the Government intends to do so.
	Prevention/monitoring, enforcement and sanctions mechanisms	2005 AR: 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.	
	Involvement of the social partners	2005 AR: According to the Government: There is a tripartite examination of related issues to realize the PR.	
	Promotional activities	<p>2012 AR: According to the Government and the NUAE (AMKA): A national tripartite workshop on international labour standards (ILS) including fundamental principles and rights at work (FPRW) was organized in May 2011 in cooperation with the ILO. Other similar workshops on labour laws and the principle and right were organized in cooperation with the Asian Foundation.</p> <p>2010 AR: A Senior Officer of the Ministry of Labour and Social Affairs, Martyrs and Disabled has participated in the ILO/Turin Course on International Labour Standards during which issues concerning the Declaration and its follow-up have been addressed, including those relating to C.29. At national level, a tripartite workshop on international labour standards and the 1998 ILO Declaration will be organized in cooperation with the ILO.</p> <p>2007 AR: According to the Government: A national tripartite workshop on ILS, the Declaration and social dialogue was organized in 2006 in cooperation with the ILO.</p> <p>The CCA stated that it participated in this workshop and in the labour law review process.</p> <p>The AAFTU confirmed that it participated in this workshop.</p> <p>2005 AR: 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.</p> <p>A national commission on children's rights is responsible for the identification, emancipation and/or rehabilitation of people subject to forced labour.</p>	
Special initiatives/Progress	<p>2007 AR: The AAFTU mentioned that it was working to improve workers' rights in Afghanistan, and its major objective was the realization of the FPRW in the country.</p> <p>2006 AR: According to the Government: A national tripartite seminar on International Labour Standards was organized in May 2005 with ILO technical assistance.</p> <p>2005 AR: According to the Government: As a successful example, a national project has been designed for the rehabilitation of street children and child soldiers.</p>		

CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	2009 AR: According to the CCK: Child trafficking is a big challenge in the country because of the high rate of unemployment. Children are also forced to work in drug production and trafficking.
		Workers' organizations	2012 AR: According to NUAE (AMKA): The main challenges are: (i) war; (ii) corruption; (iii) poverty; (iv) trafficking; and (v) lack of transparency. 2008 AR: The AAFTU indicated the following challenges: (i) unemployment and poverty; (ii) illiteracy; (iii) lack of capacity and professional staff, vocational training, educational and health centres; (iv) has to face multiple unions with very diverse ideas, which makes it difficult for social dialogue; (v) political insecurity; (vi) lack of rule of law, and conformity with international labour standards, especially with regards to workers' rights. 2007 AR: The AAFTU mentioned that the Government did not consult with it in the labour law review process.
	According to the Government		2008 AR: According to the Government: it has to face multiple unions with very different ideas, which make it difficult for social dialogue. It also mentioned that some children were subject to forced labour on the border of Afghanistan with Pakistan and fewer cases with the Iranian border. Finally, it added that although the Government does not recognize the AAFTU as a trade union as they are not legally registered as a union in the Ministry of Justice, it does not interfere with its activities. 2005 AR: 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.
TECHNICAL COOPERATION	Request		2012 AR: The Government reiterated the request it made under the 2008 AR to carry out a national survey on children victims of forced labour in the country, in cooperation with ILO According to the NUAE (AMKA): There is a need for ILO technical cooperation in capacity building, awareness raising campaign on forced labour and human trafficking. 2010 AR: The Government reiterated the request it made under the 2009 AR while mentioning that ILO assistance is really needed in the ratification process of C.29. According to the NUAE: There is a need for ILO technical cooperation to facilitate the realization of this PR in Afghanistan, in particular in the following areas: (i) training of officials dealing with labour law enforcement/administrative; (ii) strengthening capacity of workers' and employers' organizations; (iii) legal reform (labour law and other relevant legislation); (iv) awareness-raising campaign to help the stakeholders to better understand the ILS; (v) assistance to the Ministry of Labour and Social Affairs in the implementation of the core Conventions. 2009 AR: The Government reiterated its request for ILO's and UNICEF's assistance to carry out a survey on children victims of forced labour in the country. The CCK and the NUAE supported this request. 2008 AR: The Government requested ILO's and UNICEF's assistance for the realization of a national survey on children victims of forced labour in the country.

		<p>2007 AR: 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>2005-2006 ARs: 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>2006 AR: The AWA requested ILO technical cooperation to promote the PR among its members.</p>
	Offer	ILO (awareness raising activities), the Asian Foundation
<p>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAS) listed Afghanistan among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step forward towards universal ratification. In particular, the IDEAS encouraged the Government of Afghanistan (and four other governments) to initiate or finalize their national labour law review processes. In strengthening and reforming their legal framework in compliance with international labour standards, these countries would allow a better implementation of the principle and right. Finally, the IDEAS noted that a number of governments, employers' or workers' organizations in various countries, including Afghanistan, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO (cf. paragraphs 41, 43 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAS encouraged the Government of Afghanistan (and three other governments) that had expressed their intention to ratify C.29 and/or C.105 to complete the process. The IDEAS also welcomed the significant increase in the reports of action to combat forced labour in several countries, including Afghanistan, and noted that an increasing number of States were recognizing that forced labour does exist in their country [...]. For the IDEAS, such recognition was indispensable to combating forced or compulsory labour, as it was undoubtedly the first step in what in a daunting but essential task (cf. paragraphs 40 and 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p>2006 AR: The IDEAS hoped that Afghanistan (and another State) would consider ratification of C.29 (cf. paragraph 44 of the 2006 AR Introduction – ILO: GB.295/5).</p> <p>2005 AR: The IDEAS noted with particular interest the reporting from Afghanistan in spite of the serious difficulties that this country had to face. They also noted with interest that even in a post-war context, the Government of Afghanistan had endeavoured to rehabilitate children who were victims of trafficking and had established a national tripartite commission in this respect (cf. paragraphs 8 and 187 of the 2005 AR Introduction – ILO: GB.292/4).</p>	

<p>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</p>	<p>2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/-ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf.</p>



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2008-2012)¹: BRUNEI DARUSSALAM

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

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2011 Annual Review (AR). Brunei Darussalam joined the ILO in 2007.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the employers' organizations (the National Chamber of Commerce and Industry, NCCI) and workers' organizations (the Brunei Oilfield Workers Union, BOWU) by means of consultation and communication of a copy of the Government's report and country baseline.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2012 AR: Observations by the NCCI and its three affiliates. 2010 AR: Observations by the NCCI. 2008 AR: Observations by the NCCI and its three affiliates.	
	Workers' organizations	2012 AR: Observations by the BOWU. 2010 AR: Observations by the BOWU. 2008 AR: Observations by the BOWU.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Brunei Darussalam has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29) nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).
		Ratification intention	Under consideration for both C.29 and C.105. 2009, 2010 and 2012 ARs: The Government indicated that it is still reviewing the possibility to ratify C.29 and C.105 in consultation with the employers' and workers' organizations. The NCCI and the BOWU reiterated their support to the ratification of both C.29 and C.105 by Brunei Darussalam. 2008 AR: The Government indicated its intention to ratify C.29 and C.105. The BOWU and the NCCI supported the ratification of these two Conventions by Brunei Darussalam.

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	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	NO.
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Legislation: <ul style="list-style-type: none"> (i) The Penal Code (Cap. 22); (ii) The Women and Girls Protection Act (Cap. 120); (iii) The Children and Young Persons Order, 2006; (iv) The Trafficking and Smuggling of Persons Order, 2004; (v) Employment Agencies Order, 2004; and (vi) The Children and Young Persons Order, 2006 (will repeal the Children’s Order, 2000 once it is in force).
		Basic legal provisions	(i) The Penal Code (Cap. 22), sections 367-374; (ii) The Women and Girls Protection Act (Cap. 120); (iii) the Trafficking and Smuggling of Persons Order, 2004, sections 2-12 and 9-24; (iv) the Employment Agencies Order, 2004, section 31 (e); (v) Children Order, 2000; and (vi) the Children and Young Persons Order, 2006 (will repeal the Children’s Order, 2000 once it is in force).
		Judicial decisions	NIL.
		Definition of forced or compulsory labour	2008 AR: According to the Government: A definition of unlawful compulsory labour is given under section 374 of the Penal Code, i.e.: when a person is unlawfully compelled to labour against his will. Moreover, the Trafficking and Smuggling of Persons Order, 2004 (section 2) defines: (i) “exploitation” as including any forms of sexual exploitation (including sexual servitude and exploitation of another person’s prostitution), forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs; (ii) “people smuggling” as arranging or assisting a person’s unlawful entry into any receiving country including Brunei Darussalam, of which the person is not a citizen or permanent resident of the receiving country, knowing or having reason to suspect the person’s entry is unlawful, in order to obtain a financial or other material benefit; and “people trafficking” as the recruitment, transportation, transfer, harbouring or receipt of a person for the purpose of exploitation, as set out in sections 4 and 5 of this Order (i.e., by means of threat, use of force or other forms of coercion, abduction, fraud, deception, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person and children trafficking as the recruitment, transportation, transfer, harbouring or reception of a child by any means for the purpose of exploitation).
		Judicial decisions	NIL.
	Exercise of the principle and right	Special attention to particular situations and human trafficking	According to the Government: Women, girls, children and young persons are specially protected under the Penal Code (Cap. 22), the Women and Girls Protection Act (Cap. 120), the Children and Young Persons Order, 2006 and the Trafficking and Smuggling of Persons Order, 2004.
	Information/ Data collection and dissemination	NIL.	

	Prevention/Monitoring, enforcement and sanctions mechanisms	2008 AR: According to the Government: Cases of forced or compulsory labour, including trafficking and smuggling of persons, can be identified by the Ministry of Home Affairs (including the Labour Department and the Immigration Department), by the Police, or by any institution or individual person. Such cases can be reported to the Police and subsequently referred to the Attorney General's Chambers for prosecution. In case of forced or compulsory labour, sanctions, including fines and imprisonment, are provided under the Penal Code (Cap. 22), the Trafficking and Smuggling of Persons Order 2004, the Employment Agencies Order 2004, etc.
	Involvement of the social partners	2009 AR: According to the Government, the employers' and workers' organizations are being involved in the ratification process of the ILO fundamental Conventions.
	Promotional activities	<p>2012 AR: The Government indicated that a series of government workshops concerning trafficking in persons were conducted at national and regional levels under ASEAN. Moreover, it stated that Royal Brunei Police Force was in the process of setting up an intergovernmental agency task force to deal with cases related to human trafficking.</p> <p>2009 AR: The Government indicated that one of its senior officers participated in the May 2008 Turin Course on International Labour Standards and the 1998 ILO Declaration.</p> <p>2008 AR: According to the Government: In November 2007, officials of the Labour Department of the Ministry of Home Affairs and of the Attorney General's Office worked with the ILO on the fundamental principles and rights at work (FPRW), ILO fundamental Conventions and reporting issues.</p> <p>The NCCI stated that it was promoting the FPRW, decent work and sustainable enterprises through discussions among its members and with the Government.</p> <p>The BOWU stated that it organizes a monthly meeting to develop the knowledge on ILO and the FPRW among its members.</p>
	Special initiatives/Progress	<p>2012 AR: According to the Government: The Children's Order 2000 was repealed by the Children's and Young Person's Order 2006 which promotes better safeguards against any forms of mental, physical or emotional abuse of children.</p> <p>The NCCI, BOWU and the Government indicated that the celebration of Labour Day in 2011 was for the first time initiated by employers and workers and supported by the Government.</p> <p>2009 AR: The Government stated that it had celebrated the Labour Day on 3 May 2008, including ILO's participation concerning Decent Work issues, and a walkathon.</p> <p>2008 AR: According to the Government: The Government is considering ratification of C.29 and C.105. In addition, it has adopted a number of laws and regulations to realize the PR, including a Penal Code (Cap. 22), the Trafficking and Smuggling of Persons Order, 2004; a Woman and Girls Protection Act (Cap. 120); and the Employment Agencies Order, 2004. The Trafficking and Smuggling of Persons Order, 2004 also provides for the establishment of a Trafficking and Smuggling of Persons Fund. This fund is financed by the Government and will serve in particular to: (i) finance the cost of repatriation of smuggled persons and trafficked persons; (ii) promote information and education of the public in preventing, suppressing or otherwise of people trafficking and people smuggling; and (iii) reward any person in preventing or suppressing these illegal activities.</p>

CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	2008 and 2012 ARs: According to the NCCI: No problems of forced or compulsory labour are being encountered in the country.
		Workers' organizations	2008 and 2012 ARs: According to the BOWU: There are no problems of forced or compulsory labour in the country. The BOWU is not aware of such practice in Brunei Darussalam.
	According to the Government	2008-2010 and 2012 ARs: According to the Government: (i) Lack of public awareness on the PR; (ii) Lack of information and data; (iii) Lack of capacity of responsible government institutions; (iv) Lack of capacity of employers' and workers' organization; and (v) Lack of social dialogue on this principle. No cases of forced or compulsory labour have been reported so far in the country.	
TECHNICAL COOPERATION	Request	<p>2008-2010 and 2012 ARs: According to the Government: ILO technical cooperation will be needed to facilitate the realization of the PR in Brunei Darussalam, in particular in the following areas, by order of priority: (1) awareness-raising, legal literacy and advocacy; sharing of experiences across countries/regions; capacity building of responsible government institutions; training of other officials (e.g. police, judiciary, social workers, teachers); strengthening capacity of employers' and workers' organization; cross-border cooperation mechanisms; (2) strengthening data collection and analysis; cross-border cooperation mechanisms; legal reform (labour law and other relevant legislation); policy advise; coordination between institutions (e.g. various ministries and relevant commissions); (3) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle; employment creation, skills training and income generation; rural development policies (for example, land reform, rural infrastructure, agricultural extension, marketing, microfinance). These priorities may be satisfied through the preparation of survey/seminar to promote and realize the FPRW in Brunei Darussalam, in consultation with the employers' and workers' organizations.</p> <p>The NCCI and the BOWU supported the Government's requests and emphasized the need for ILO technical assistance to strengthen the employers' and workers' organizations and prepare of a survey/seminar to promote and realize the FPRW in Brunei Darussalam.</p>	
	Offer	ILO (consultations on Decent Work Country Programme and assistance in reporting under the AR); ASEAN; INTERPOL.	
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	2008 AR: The ILO Declaration Expert-Advisers (IDEAs) listed Brunei Darussalam among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step towards universal ratification. The IDEAs further noted that a number of governments, employers' or workers' organizations in various countries, including Brunei Darussalam, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO. (cf. paragraphs 41 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).		
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99 th Session (2010) of the International Labour Conference.		
INTERNATIONAL LABOUR CONFERENCE RESOLUTION	2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99 th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work On 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the Resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf .		



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2012)¹: CHINA

THE ELIMINATION OF ALL FORMS OF FORCED OR COMPUSORY LABOUR (FL)

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2001 Annual Review (AR).	
	Involvement of Employers' and Workers organizations in the reporting process	YES, 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.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2011 AR: Observations by the CEC. 2009 AR: Observations by the CEC. 2008 AR: Observations by the CEC. 2007 AR: Observations by the CEC.	
	Workers' organizations	2011 AR: Observations by the ACFTU. 2009 AR: Observations by the ACFTU. 2008 AR: Observations by the ACFTU. 2001 AR: Observations by the International Confederation of Free Trade Unions (ICFTU).	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	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).
		Ratification intention	NIL.
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	YES. 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.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex.

		<p>Policy, legislation and/or regulations</p>	<ul style="list-style-type: none"> • Policy: 2005 AR: 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. • Legislation: <ul style="list-style-type: none"> (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>2012 AR: According to the Government section 244 of the Criminal Law had been amended and adopted at the 19th Session of the Standing Committee of the Eleventh People's Congress on 25 February 2011 and came into force on 1 May 2011. The amended section 244 of the Criminal Law provides that: <i>Whoever forces, by violence, threat or restriction of personal freedom, others to work shall be sentenced to imprisonment or detention of no more than 3 years with a fine imposed on as well or, where the crime is committed under aggravating circumstances, shall be sentenced to imprisonment of no less than 3 years but no more than 10 years with a fine imposed on as well. Whoever knowingly recruits or transports persons for the others who commit the acts mentioned in the preceding paragraph or otherwise assists in forcing others to work shall be punished in accordance with the provision of the preceding paragraph. Where an entity commits the crimes as provided for in the preceding two paragraphs, a fine shall be imposed on, and its executive officers directly responsible and others individuals directly liable shall be punished in accordance with the provision of paragraph 1 of this Section.</i></p> <p>2008 AR: The Government indicated that the Labour Contract Law was adopted at the 28th Session of the Standing Committee of the 10th National People's Congress on 29th June 2007, which will enter into force on 1st January 2008. Article 38 provides that <i>if an employer uses violence, threat or unlawful restriction of personal freedom to compel an employee to work, or if he is instructed in violation of the rules and regulations or peremptorily ordered by his employer to perform dangerous operations which threaten his personal safety, the employee may terminate his employment contract forthwith without giving prior notice to the employer.</i></p> <p>Article 88 stipulates that if an employer: <i>(a) uses violence, threat or unlawful restriction of personal freedom to compel an employee to work; (b) instructs in violation of rules and regulations or peremptorily ordered by his employer to perform dangerous operations which threaten his personal safety; (c) insults, corporally punishes, beats, illegally searches or detains an employee; or (d) provides odious working conditions or a severely polluted environment, resulting in serious harm to the physical or mental health of employees, it shall be subjected to administrative punishment; if the said conduct constitutes a criminal offense, criminal liability shall be pursued according to the law; if the employee suffers harm as a result of the said conduct on the part of the employer, he will be liable for damages.</i></p> <ul style="list-style-type: none"> • Regulation: The Regulation Forbidding The Use of Child Labour (section 11).
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		Basic legal provisions	(i) Constitution of the People's Republic of China (article 37); (ii) The Labour Law (sections 32 and 96); (iii) the Criminal Law (sections 240-244); (iv) the Law on the Protection of Rights and Interests of Women (sections 37-39); (v) the Employment Promotion Law (section 6); (vi) the Law on the Protection of Disabled Persons (revised) (section 40); (vii) the Regulation on Workers' Paid Annual Leave (section 6); and (viii) the Regulation Forbidding The Use of Child Labour (section 11).
		Definition of forced or compulsory labour	2007 AR: 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. 2003 AR: 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".
		Judicial decisions	Judicial Explanation of the Supreme Court, 2001 (section 15).
	Exercise of the principle and right	Special attention to particular situations and human trafficking	2003 AR: According to the Government: Special attention is given to the situation of women and girls.
		Information/ Data collection and dissemination	2004-2005 ARs: The Government indicated that it was planning to collect statistics or other relevant information on the PR.
	Prevention/monitoring, enforcement and sanctions mechanisms	<p>2012 AR: According to the Government: The All China Women's Federation has launched a Campaign for Preventing Trafficking for Labour Exploitation in China to help the children under 16 years old complete compulsory education and the youth beyond 16 years old enjoy safe mobility and decent employment.</p> <p>2009 AR.: According to the Government: A Labour Inspection Bureau was established within the Ministry of Human Resources and Social Security in July 2008 with a view to strengthening labour inspection in the country.</p> <p>2008 AR: According to the Government: A Special Action Plan on Punishing the Illegal Employment and Combating the Relevant Infringements and Crimes was elaborated by various Ministries and the All-China Federation of Trade Unions (ACFTU) in order to protect substantively the rights and benefits of workers in rural and urban areas as well as the young professionals.</p> <p>2007 AR: 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>2003-2004 ARs: 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>2000 AR: According to the Government: Labour inspections have increased to detect and deal with cases of forced labour.</p>
	<p>Involvement of the social partners</p>	<p>2011 AR: The Government mentioned that the Office for Special Campaign on Fighting Against Illegal Use of Labour and Related Breaches of Law was working together with the CEC and the ACFTU in the framework of the special campaign to overlook the use of labour in small kilns, mines and quarries.</p> <p>2005 AR: 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>2003-2005 ARs: According to the Government: The ACFTU has been involved in the development and implementation of Government measures.</p>
	<p>Promotional activities</p>	<p>2011 AR: According to the Government: The Office for Special Campaign on Fighting Against Illegal Use of Labour and Related Breaches of Law organized, together with the CEC and the ACFTU, a special campaign to overlook the use of labor in small kilns, mines and quarries.</p> <p>2009 AR: According to the Government: Research and training activities on C.29 and C.105 were carried out in various provinces in 2007.</p> <p>2008 AR: According to the Government: a Special Action Plan on Punishing the Illegal Employment and Combating the Relevant Infringements and Crimes was elaborated by the Ministries of Labour and Social Security, Public Security, the Inspection, Civil Affairs, Land and Resources, Health, State Administration of Work Safety and the ACFTU in order to substantively protect the legislative rights and benefits of workers in rural and urban areas as well as the young professionals. The Government added that the plan also aims to strengthen all the relevant forces so as to focus on the rural small brick kilns, coal mines, mines and workshops during the months of July and August 2007.</p> <p>Furthermore, series of seminars and awareness raising activities have been conducted in the Zhejiang, Fujian and Jilin provinces and a major technical cooperation project entitled CP-TING on prevention of trafficking of young girls and women is currently ongoing.</p> <p>The CEC indicated that it would publish, in collaboration with the ILO, a guide on forced labour for employers. It added that there was a session organized on forced labour during the 4th China Employment Forum in October 2006.</p> <p>2007 AR: The CEC mentioned that it had held two seminars on International Labour Standards and Forced Labour in Beijing City and Guangzhou City in March 2006, in cooperation with ILO.</p> <p>2006 AR: 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>2005 AR: According to the Government: In January 2004, a seminar was held in Beijing on C.29 and C.105.</p> <p>2003-2004 ARs: According to the Government: The All-China Federation of Women has cooperated with the ILO in the Mekong Sub regional Project to Combat Trafficking in Children and Women. Other governmental bodies also cooperated with UNICEF on actions against trafficking.</p> <p>2003 AR: 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>2000 AR: The Government indicated that it promotes the relevant legislations and regulations, strengthens the enforcement of the laws, increases cooperation with the ILO and widely disseminates international labour standards.</p> <p>The ILO has held many seminars in China on international labour standards in which it promotes the PR.</p>
	<p>Special initiatives/Progress</p> <p>2012 AR: The Government indicated that: (i) section 244 of the Criminal Law amended on 25 February 2011, provides for more severe penal sanctions (from 3 to 10 years imprisonment) in cases of human trafficking.</p> <p>2009 AR: According to the Government: The Employment Promotion Law adopted on 30 August 2007 provides that workers shall have the right to equal employment and to choose job on their own initiative in accordance with the law (section 6). The Law on the Protection of Disabled Persons (revised) provides that the employer cannot force the disabled persons to work under violence, threat or illegal restriction of personal freedom (section 40). The Regulation on Workers' Paid Annual Leave adopted on 7 December 2007 provides that trade unions shall protect workers' rights to annual leave in accordance with laws and regulations (section 6).</p> <p>According to the CEC: In cooperation with the ILO, the CEC has developed a Guiding Book for Employers on Combating Forced Labour at the Workplace, from which employers can learn all the essential information on combating forced labour, including positive and negative cases. The CEC and the ILO have planned to hold a roundtable meeting involving experts and stakeholders to develop a Code of Conduct for Employers on Combating Forced Labour. Once this code of conduct is finalized and printed together with some other advocating materials such as posters, three workshops will be organized in different regions of China so as to use and test this code of conduct.</p> <p>2008 AR: The ACFTU indicated that the protection of workers is more comprehensive in China and sanctions pertaining to forced labour are more severe. It added that the country was undertaking a national special action on the issue of illegal employment, including forced labour.</p> <p>2007 AR: According to the Government: In order to reform rehabilitation through Labour mechanism (Laojiao), the 19th Meeting of the Standing Committee of the 10th National People's Congress held on 29th December 2005, proposed to formulate a "Law on Correction of Minor Offences", and had included the proposal into its national legislation plan.</p> <p>According to the CEC: The CEC delegates at the International Labour Conference (June 2006) discussed a possible cooperation with the ILO Special Action Programme to Combat Forced Labour (ILO/SAP-FL), and have decided to undertake a survey on working time and wages in China.</p> <p>2005 AR: According to the Government: The major change concerning this PR relates to the cooperation started with the ILO in the form of a study tour concerning minor offences in 2003 and a seminar on forced labour in 2004.</p> <p>2003 AR: According to the Government: The major changes concerning the PR are as follows: (i) the Government initiated large-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).</p>

CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	2008 AR: The CEC indicated the following challenges: (i) awareness on human rights is lacking; (ii) productivity is not very high; and (iii) economic development is not well balanced in some regions.
		Workers' organizations	2001 AR: 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.
	According to the Government		2009 AR: The Government indicated that time was needed to adapt national legislation to the PR. 2008 AR: The Government indicated the following challenges: (i) the capacity building of the Labour Inspection Department is still needed; (ii) public awareness activities should be sustained; and (iii) inter-institution cooperation and dialogue should be strengthened. 2005 AR: The main difficulties encountered in realizing this PR in the country are the lack of information and capacity as well as data, 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.
TECHNICAL COOPERATION	Request		2012 AR: According to the Government: ILO technical cooperation would be needed to provide assistance in launching public campaigns and training on the Forced Labour Convention to enhance the understanding of public officials, entrepreneurs, workers and the general public on the issue of forced labour, and to increase the public awareness against forced or compulsory labour. 2011 AR: The Government requested ILO technical assistance to organize training workshops for government officials. 2009 AR: The Government indicated that ILO technical cooperation on the PR was needed in the fields of legal reform, awareness raising, training and labour inspection. The CEC requested the ILO's assistance to organize more training workshops on the PR for employers. 2008 AR: The Government indicated that ILO assistance is needed for the capacity building of the labour inspection Department. The CEC requested ILO assistance on awareness raising projects. 2007 AR: The Government reiterated its previous request for continuing ILO technical cooperation (i.e., legal reform, awareness raising, training, etc.) 2005 AR: 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. 2003-2004 ARs: The Government expressed its intention to adopt a national policy to realize the PR and requested ILO assistance in this regard.
	Offer		ILO and ILO/SAP-FL (policy advice, awareness raising activities and case studies).

<p>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries such as in China (as well as in the Gulf States and new member States in the South Pacific) had made important efforts during this process. However, according to them, more needed to be done. The IDEAs were also concerned that China (and another State) had not yet expressed their intention to ratify C.29 and/or C.105. However, they welcomed the adoption of new laws relating to forced or compulsory labour in China (and another State). Finally, while understanding that in China the provisions of the Labour Contract Law and the Criminal Law also cover the State as an employer, the IDEAs reminded all the governments that it was of their primary responsibility to ensure that forced labour does not exist in their countries for any reason (cf. paragraphs 12, 42, 43 and 44 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAs welcomed the significant increase in the reports of action to combat forced labour in several countries, including China, and noted that an increasing number of States were recognizing that forced labour exists in their country [...]. For the IDEAs, such recognition was indispensable to combating forced or compulsory labour, as it was undoubtedly the first step in what in a daunting but essential task (cf. paragraph 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p>2005 AR: The 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 (cf. paragraph 192 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p>2004 AR: 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 (cf. paragraph 113 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p> <p>2003 AR: The IDEAs commended China for requesting the ILO's technical cooperation, through the Annual Review process (paragraph 4 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p>
<p>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</p>	<p>2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf.</p>



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2012)¹: JAPAN

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

REPORTING	Fulfillment of Government's reporting obligations	YES , since the start of the Annual Review (AR) in 2000, but “no change” reports under the 2009-2011 ARs.
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to the Government: Involvement of employers' (Japan Business Federation (KEIDANREN (former NIKKEIREN)) and workers' organizations (the Japanese Trade Union Confederation (JTUC-RENGO)) through communication of the Government's report.
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2001 AR: Observations by the NIKKEIREN.
	Workers' organizations	<p>2012 AR: Observations by the JTUC-RENGO.</p> <p>2008 AR: Observations by the JTUC-RENGO.</p> <p>Observations by the International Trade Union Confederation (ITUC).</p> <p>2007 AR: Observations by the JTUC-RENGO.</p> <p>2006 AR: Observations by the JTUC-RENGO and by the International Confederation of Free Trade Unions (ICFTU).</p> <p>2005 AR: Observations by the JTUC-RENGO.</p> <p>2004 AR: Observations by the JTUC-RENGO.</p> <p>2003 AR: Observations by the JTUC-RENGO and by the ICFTU.</p> <p>2002 AR: Observations by the JTUC-RENGO.</p> <p>2001 AR: Observations by the JTUC-RENGO and by the ICFTU.</p> <p>2000 AR: Observations by the JTUC-RENGO.</p>

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

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Japan ratified in 1932 of the Forced Labour Convention, 1930 (No. 29) (C.29). However, it has not yet ratified the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).
		Ratification intention	<p>Under consideration since 2000 for C.105.</p> <p>2012 AR: The JTUC-RENGO indicated its support to the ratification of C.105 by Japan and reiterated the comments it made under the 2009 AR.</p> <p>2010 AR: The JTUC-RENGO reiterated its statement under the 2009 AR.</p> <p>2009 AR: According to the Government: No change. Further study is needed in view of, for instance, reviewing the relations between C.105 and national laws and regulations. According to the JTUC-RENGO: The Government should ratify C.105. The JTUC-RENGO believes it is necessary for the Government to strengthen its efforts to promote Diet Members' understanding of the importance of ratification of a core C.105 so as to activate discussion at the Diet toward ratification of this Convention (for instance, the Government can make thorough explanation about the purport and background of the convention, and importance of ratifying core Conventions, etc.).</p> <p>2008 AR: According to the JTUC-RENGO: The Government should ratify C.105.</p> <p>2000-2004 and 2006 ARs: 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.</p> <p>2001 AR: NIKKEIREN encouraged Japan in examining the issue with a view to ratifying C.105.</p> <p>2000-2005 ARs: The JTUC-RENGO supported ratification of C.105 by Japan.</p>
	Recognition of the principle and right (prospect(s), means of action, main legal provisions)	Constitution	<p>YES.</p> <p>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".</p>
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy: <p>2004 AR: 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"> • Regulations: <p>2000-2006 ARs: 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 Maritime Bureau in the Ministry of Land, Infrastructure, Transport and Tourism and the 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>

		Basic legal provisions	<p>2007 AR: According to the Government:</p> <ul style="list-style-type: none"> (i) The Constitution of Japan, articles 14, 18-21, 28, 31, 32, 34 and 36; (ii) The Penal Code (Law No. 45 of 1907), sections 193-196; (iii) The Labour Standards Law (Law No. 49 of 1947) sections 5 and 117; (iv) The Mariners Law (Law No. 100 of 1947), section 6; (v) The National Public Service Law (Law No. 120 of 1947), sections 98,102 and 110; (vi) The Rule of National Personnel Authority 14-7 (1949), sections 1-8; (vii) The Mail Law (Law No. 165 of 1947), section 79; (viii) The Trade Union Law (Law No. 174 of 1949), section 1; (ix) The Local Public Service Law (Law No. 261 of 1950), sections 36, 37 and 61; (x) The Gas Undertakings Law (Law No. 51 of 1954), section 53; (xi) The Electric Undertakings Law (Law No. 170 of 1964), section 115; and (xii) The Telecommunications Business Law (Law No. 86 of 1984), section 180.
		Definition of forced or compulsory labour	NIL.
		Judicial decisions	NIL.
	Exercise of the principle and right	Special attention to particular situations and human trafficking	NIL.
		Information/ Data collection and dissemination	<p>2008 AR: The ITUC observed that according to statistics from public institutes, 106 persons were confirmed as victims of trafficking from January to October 2006.</p> <p>2004-2006 ARs: 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 in the Ministry of Land, Infrastructure, Transport and Tourism.</p>
	Prevention/Monitoring, enforcement and sanctions mechanisms	<p>2004 AR: 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>2000-2004 ARs: 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, “correction” is provided by the Ministry of Health, Labour and Welfare.</p>	

	Involvement of the social partners	2004-2005 ARs: According to the Government: Employers’ and workers’ organizations and other stakeholders have been involved in the Labour Policies Commission.	
	Promotional activities	2004 AR: According to the JTUC-RENGO: A tripartite consultation was held on 10 th April 2007 and the ratification of C.105 was argued.	
	Special initiatives/Progress	NIL.	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers’ organizations	2001 AR: 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.
		Workers’ organizations	<p>2010 and 2012 ARs: The JTUC-RENGO reiterated its appeal to the Government to ratify C.105, and regretted that no progress was made in this regard. It believed that it would be necessary for the Government to promote Diet Members’ understanding of the importance of a core Convention such as C.105 so as to activate discussion at the Diet toward ratification of this instrument (for instance, the Government could make thorough explanation of purport and background of the Convention, the importance of ratifying core Conventions, etc.).</p> <p>2009 AR: According to the JTUC-RENGO: The Bill Stipulating Civil Service Reform was enacted on 6 June 2008. This Bill provides, “the Government should show the people the whole picture of the reform, including the costs and benefits in such a case that the range of public service employees who have the rights to conclude collective agreements were expanded, and with the people’s understanding, the Government should provide the transparent autonomous labour–management relations system (section 12)”, and “the Government should take necessary legislative measures within three years after this Bill be enforced (section)”. However, this law does not refer to the issue of penal servitude of public employees who engaged in political acts, or participated in/conspired/instigated/incited strike actions. Also, it seems this issue has not been raised as a point to be resolved. Therefore, there have been no progress on this issue and no solution of the issue yet in sight.</p> <p>2008 AR: The JTUC-RENGO indicated that during the tripartite consultation of April 2007, the Ministry of Labour and Welfare listed the following points where further study was needed as regards to compliance between C.105 and national laws: (i) sections 102.1 and 110.19 of the National Public Service Law (NPSL) prescribes penal servitude to public workers engaged in political acts; (ii) section 53.3 of the Gas Business Act, section 115.3 of the Electricity Business Act and article 79 of the Postal Act, which provide that workers who have not performed without justifiable grounds be punished by imprisonment with labour; and (iii) sections 98.2 and 110.17 of the National Public Service law (NPSL) and sections 37.1 and 61.4 of the Local Public Service Law (LPSL) provide that public workers who attempt, conspire, instigate or incite strike action be punished by imprisonment with labour.</p>

			<p>During the WTO Trade Policy review in Japan in January-February 2007, the ITUC observed that there trafficking of people into Japan for the purpose of forced prostitution and forced work is still a problem. Women and girls, primary from Asian countries are trafficked into the country for sexual exploitation. Women sometimes enter legally under entertainer visas and many of those are exploited by criminal groups. According to statistics from public institutes, 106 persons were confirmed as victims of trafficking from January to October 2006. According to the ITUC, the Government of Japan revised the Immigration Control Law and Criminal Law in order to prevent and prohibit trafficking of persons in the country.</p> <p>2007 AR: According to 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: (i) <i>“Personnel shall not strike or engage in delaying tactics or other acts of dispute against the public represented by 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>; and (ii) <i>“A person who conspires to effect, instigates or incites the illegal action defined in the first part of paragraph 2 of section 98 (NPSL) and the in the first part of paragraph 1 of section 37 (LPSL) or attempts such action shall be sentenced to panel servitude not to exceed three years or fined not to exceed one million yen (section 110, NSPL) and one hundred thousand yen (section 61, LSPL)”</i>.</p> <p>2006 AR: According to JTUC-RENGO: During consultations in May 2005 between the Prime Minister and 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>2000-2005 ARs: 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 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>
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	<p>According to the Government</p>	<p>2009 AR: In response to the ITUC’s observations reflected under the 2007 AR, the Government indicated the following: Japan established the Inter-Ministerial Liaison Committee (Task Force) at Cabinet Secretariat in April 2004, and the Task Force adopted the National Action Plan in December 2004, which focuses on preventive measures, law enforcement and support for victims of human trafficking. Thus, also based on the Action Plan, the Government of Japan has taken various actions to combat human trafficking. The Diet approved the conclusion of the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime on 8 June 2005. Trafficking in persons shall be prohibited and punished by the “Penal Code”, “the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children”, the “Child Welfare Law” and other statutes. The Penal Code was amended to criminalize the conduct of buying and selling of persons, and a statutory penalty of Kidnapping of Minors is raised. Furthermore, sexual or labour exploitation shall be punished by the “Penal Code”, the “Prostitution Prevention Law”, the “Child Welfare Law”, the “Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children”, the "Employment Security Law", the “Labour Standards Law”, etc. Because the Government of Japan has detected and prosecuted those crimes, its efforts produce the effect to eliminate those contraventions. The Immigration Control and Refugee Recognition Act was also amended to stipulate the definition of the term “trafficking in persons” and that a special permission for landing or residence can be given to a victim of trafficking in persons even if the person violates the above Act such as illegal entry in perspective of the purpose of protection, as well as a foreign national who is a perpetrator of trafficking in persons is to be refused landing in Japan or deported. With regard to the prevention, in order to rigorously deal with the application case of entrance and residence in the purpose of activities as the residence status of “Entertainer” which is included victims of trafficking in persons, a part of the ministerial ordinance relating to “Entertainer” was amended twice in 2005 and 2006 and as the result, the number of foreign nationals entering as “Entertainer” drastically decreased from about 135,000 in 2004 to about 35,000 in 2008, and continuously decreased to about 28, 600 in 2010. In addition to the revision of the ordinance explained above, Japanese embassies and consulates-general overseas have introduced regime of examination of “Entertainer” visa applications. Furthermore, in order to prevent the usage of forged immigration document for trafficking in persons, most of Japanese embassies and consulates-general have introduced a system to produce machine-readable visa (MRV) stickers with bearer’s photograph which possesses high advanced anti-forgery techniques. Regarding the number of victims of trafficking in persons, there is significant factual in the figures given by the ITUC as 58 persons were concerned in 2006, as has been released by the National Police Agency of Japan.</p>
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		<p>2007 AR: In response to the JTUC-RENGO's observations, the Government stated the following: 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 C.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. 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 regarded Civil Service Reform as an important issue that 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. 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 [2006], 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>2006 AR: In response to the JTUC-RENGO's observations, the Government stated that during the May 2005 meeting, it acknowledged it was necessary to continue to hold meetings with JTUC-RENGO on the Civil Service Reform.</p> <p>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>2004 AR: In response to JTUC-RENGO's comments, the Government raised 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>2001 AR: In response to the JTUC-RENGO's comments, the Government raised 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 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>
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TECHNICAL COOPERATION	Request	<p>2009, 2010 and 2012 ARs: According to the JTUC-RENGO: ILO technical cooperation is needed in order to ensure consistency between C.105 and the national laws. Also, if ILO expert(s) could visit Japan and illustrate the importance of ratification of this instrument to the Members of Diet, the situation toward ratification will be very much improved.</p> <p>2008 AR: According to JTUC-RENGO: The interpretation of the precise scope for forced labour prohibited by the Convention is not clear and ILO technical support would be needed in that regard.</p> <p>2004-2007 ARs: According to 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>
	Offer	NIL.
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) noted that Japanese Trade Union Confederation (JTUC-RENGO) had reported that tripartite consultations held in April 2007 had led to the conclusion that some national labour laws did not comply with the provisions of C.105. However, given that the Government of Japan sent a no change report for the 2008 Annual Review, the IDEAs requested it to provide updated information concerning the JTUC-RENGO's observations (cf. paragraph 44 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAs welcomed the significant increase in the reports of action to combat forced labour in several countries, including Japan, and noted that an increasing number of States were recognizing that forced labour does exist in their country [...]. For the IDEAs, such recognition was indispensable to combating forced or compulsory labour, as it was undoubtedly the first step in what in a daunting but essential task (cf. paragraphs 40 and 41 of the 2007 Annual Review Introduction – ILO: GB298/3).</p> <p>2005 AR: The IDEAs reiterated that in cases where countries faced difficulties in identifying the precise scope of forced or compulsory labour, the Government should turn to the ILO for assistance in clarification. They further requested that Japan carry out the study it mentioned in this regard. The IDEAs also considered that the example of regular and constructive contributions by JTUC-RENGO and the AFL-CIO (United States) should be expanded upon, in particular among other national workers' organizations, as well as employers' organizations (cf. paragraph 190 of the 2005 Annual Review Introduction - ILO: GB.292/4).</p> <p>2004 AR: The IDEAs mentioned that in cases where governments were in doubt, they should turn to the ILO, for assistance in clarification. Japan may usefully do so with regard to better clarifying the precise scope of forced labour, and indeed carry out the study it mentions in this respect. The results of such studies would be illuminating (...) (cf. paragraph 112 of the 2004 Annual Review Introduction).</p>	
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	<p>2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>	
INTERNATIONAL LABOUR CONFERENCE RESOLUTION	<p>2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the Resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf.</p>	



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2012)¹: REPUBLIC OF KOREA

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

REPORTING	Fulfilment of Government's reporting obligations	YES , except for the 2003 Annual Review (AR).
	Involvement of Employers' and Workers' organizations in the reporting process	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.
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2012 AR: Observations by the KEF. 2009 AR: Observations by the KEF. 2004 AR: Observations by the KEF.
	Workers' organizations	2012 AR: Observations by the KCTU. 2010 AR: Observations by the FKTU. Observations by the KCTU. 2007 AR: Observations by the KCTU. Observations of the International Trade Union Confederation (ITUC). 2004 AR: Observations by the KCTU. 2002 AR: Observations by the KCTU. 2001 AR: Observations by the International Confederation of Free Trade Unions (ICFTU). 2000 AR: Observations by the FKTU.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex.

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	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).
		Ratification intention	<p>Unable to ratify C.29 and C.105 at this time.</p> <p>2012 AR: The KEF reiterated that it had no objection as concerns the ratification of C.29 and C.105. by the Republic of Korea</p> <p>The KCTU expressed its support to the ratification of C.29 and C.105. by the Republic of Korea</p> <p>2010-2012 ARs: According to the Government: It is inevitable to maintain the mandatory conscription as long as the confrontation on the Korean peninsula continues. If the ILO does not consider military service under this system as one of a purely military character, it would be difficult to ratify C.29.</p> <p>2009 AR: The Government indicated that it was carrying out inter-ministerial consultations, which is considering possible future changes in the military system.</p> <p>The KEF reiterated that it had no objections to the ratification of C.29 and C.105 by the Republic of Korea.</p> <p>2007 AR: 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.</p> <p>The KEF and the KCTU had no objection to the ratification of C.29 and C.105 by the Republic of Korea.</p> <p>2006 AR: 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 to ratifying both Conventions.</p> <p>2000 AR: 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>
	Recognition of the principle and right (prospect(s), means of action, main legal provisions)	Constitution	<p>YES.</p> <p>The Constitution:</p> <ul style="list-style-type: none"> - 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”. - 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”. - Article 15 (freedom to choose occupations): “All citizens shall enjoy freedom of occupation”.

		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy: 2004-2005 ARs: 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. • Legislation: 2000 AR: 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.
		Basic legal provisions	(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.
		Definition of forced or compulsory labour	YES , 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 and confinement or by any other means, which unjustly restrict mental or physical freedom”.
		Judicial decisions	2006 AR: According to the Government: there are no cases of judicial decisions resulting from the violation of the PR (under section 6 of the LSA).
	Exercise of the principle and right	Special attention to particular situations and human trafficking	NIL.
		Information/ Data collection and dissemination	2004 AR: 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.

	<p>Prevention/monitoring, enforcement and sanctions mechanisms</p>	<p>2004-2007 ARs: 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>2001 ARs: 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>2000-2005 ARs: 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"> - 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); - 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 - 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). <p>The responsibilities for taking action against forced labour are assumed by the police, prosecution and courts.</p> <p>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.</p> <p>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.</p> <p>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>
	<p>Involvement of the social partners</p>	<p>2004-2007 ARs: According to the Government: Tripartite examination of related issues has been implemented in realizing the PR.</p> <p>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>

	<p>Promotional activities</p>	<p>2012 AR: According to the Government: In March 2009 and 2010, meetings between the ILO and the Government were organized to discuss the ratification of C.29. In addition, the Ministry of Employment and Labour carried out consultations with relevant ministries on the ratification prospects of C.29 and C.105. The KCTU stated that it had been organizing advocacy campaigns for promotion and ratification of C.29 and C.105. 2010 AR: The Government indicated that it had been cooperating with the ILO since October 2006 concerning the possibility to ratify C.29 taking into account the national context (military service system and current public interest service system). 2009 AR: According to the Government: The Ministry of Labour has requested the Ministry of National Defense and the Ministry of Justice to consider ILO Conventions in the reform of relevant system. 2004-2007 ARs: 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>	
	<p>Special initiatives</p>	<p>2008 AR: According to the Government: The Government has requested the advisory assistance of the ILO on provision of interpretation on special types of military system in Korea and received comments from the Office. Moreover, the Government is carrying out inter-ministerial consultation on long-term basis, which is considering possible future changes in the military system. 2007 AR: The Government organized the International Labour Policy Advisory Board with a view to accelerate the ratification process for these instruments.</p>	
<p>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</p>	<p>According to the social partners</p>	<p>Employers' organizations</p>	<p>NIL.</p>
		<p>Workers' organizations</p>	<p>2012 AR: According to KCTU: The main challenge to the ratification of C.29 and C.105 is the mandatory military service which has exemptions for inapt individuals who are then reoriented towards public services (national parks, teaching, etc.) without any pay or benefits for over two years. However, political will is needed to adjust the military service activities so to make it non-contradictory to C.105. Although forced labour is not widely spread in the country, it has been experienced by trade union members participating in strikes. 2010 AR: The FKTU and the KCTU observed that despite the general prohibition of forced labour in the country, various forms of forced/compulsory labour were observed (for example, compulsory duties for public servants). 2004 AR: 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. No particular challenges were raised in the ITUC's comments. 2001 AR: No particular challenges were raised in the ICFTU's comments. 2000 AR: 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>

	According to the Government	<p>2010-2012 ARs: According to the Government: The challenges remain as follows: (i) the military service system; (ii) the current public interest service system; and (iii) the fact that the criminal punishment of political criminals and workers' strikes includes forced prison labour.</p> <p>2008 AR: With regards to the KCTU's observations in the 2004 AR alleging that various forms of forced/compulsory labour were found at workplaces involving especially foreign workers, the Government indicated that in 1992, in order to respond to labour shortage and to reduce the number of undocumented workers, Korea introduced the Industrial Trainee System (ITS), which was in force until January 2007. However, as the ITS was a system which was more focused on training foreign trainees, it had certain limits as an employment system for foreign workers. Therefore, in 2004 the Korean Government introduced a new system for foreign workers' employment, the Employment Permit System. Under this system in force since 2004, the rights of foreign workers was significantly reinforced and much of the problems have been resolved, thanks to the provision on non-discrimination against foreign workers in the EPS Act, which allowed labour-related laws to be applicable equally to foreign workers and nationals, providing equal level of protection in case of infringement of foreign workers' rights.</p> <p>2007 AR: 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>2004 AR: 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>2002 AR: 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>
TECHNICAL COOPERATION	Request	<p>2012 AR: According to the Government: ILO advisory assistance would be requested concerning the compliance of domestic legislation to the PR, when considering the ratification of the C.29 and C.105.</p> <p>The KEF requested the ILO to provide training on the PR.</p> <p>According to the KCTU: ILO's technical assistance is needed in finding a solution to how the Government should deal with the issue forced labour as concerns military services.</p> <p>2010-2011 ARs: According to the Government: ILO's technical support concerning the compliance of the current military system vis-à-vis the PR may be needed, and would be requested by the Government in due course.</p> <p>According to the KCTU: ILO's technical cooperation is needed for public awareness raising campaign and for a better understanding of the PR.</p> <p>2008 AR: According to the Government: the Government requests further advisory assistance in its process of considering the ratification of the conventions including the interpretation of whether special types of military services constitute compulsory labour or not.</p> <p>2007 AR: The Government requested the ILO to provide advisory assistance in interpreting special types of military service.</p>
	Offer	ILO, ILO/IPEC.

<p>EXPERT-ADVISERS' RECOMMENDATIONS</p>	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) listed the Republic of Korea among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step forward towards universal ratification. In particular, the IDEAs encouraged the Government of the Republic of Korea (and four other governments) to initiate or finalize their national labour law review processes. In strengthening and reforming their legal framework in compliance with international labour standards, these countries would allow a better implementation of the principle and right. Finally, the IDEAs noted that a number of governments, employers' or workers' organizations in various countries, including the Republic of Korea, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO. (cf. paragraphs 12, 41, 43 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAs encouraged the Government of the Republic of Korea (and four other governments) that had expressed their intention to ratify C.29 and/or C.105 to complete the process. The IDEAs also welcomed the significant increase in the reports of action to combat forced labour in several countries, including the Republic of Korea, and noted that an increasing number of States were recognizing that forced labour does exist in their country [...]. For the IDEAs, such recognition was indispensable to combating forced or compulsory labour, as it was undoubtedly the first step in what is a daunting but essential task (cf. paragraphs 40 and 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p>2005 AR: The IDEAs 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 (cf. paragraph 13 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>
<p>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</p>	<p>2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf.</p>



COUNTRY BASELINE UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2012)¹: LAO PEOPLE'S DEMOCRATIC REPUBLIC

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

REPORTING	Fulfillment of Government's reporting obligations	YES , except for the 2005, 2006 and 2011 Annual Reviews (ARs).
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to the Government: Involvement of the Lao National Chamber of Commerce and Industry (LNCCI) and the Lao Federation of Trade Union (LFTU) through consultations or communication of Government's report.
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2012 AR: Observations of the LNCCI comprised of 28 affiliates. 2008 AR: Observations of the LNCCI comprised of 23 affiliates. 2006 AR: Observations of the LNCCI.
	Workers' organizations	2012 AR: Observations of the LFTU. 2010 AR: Observations of the LFTU. 2008 AR: Observations of the LFTU. 2006 AR: Observations of the LFTU.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex.

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	<p>The Lao People's Democratic republic has ratified the Forced Labour Convention, 1930 (No. 29) (C.29). However, it has not ratified the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).</p>
		Ratification intention	<p>YES, since 2002, for C.105.</p> <p>2012 AR: The Government indicated that ratification of C.105 would be in the agenda of the Tripartite Committee for Labour Relations in July 2011.</p> <p>The LNCCI reiterated its support to the ratification of C.105 while indicating that it would refer the results of the forthcoming tripartite discussions.</p> <p>The LFTU reiterated its support to the ratification of C.105 by Lao PDR</p> <p>2010 AR: The Government reiterated its commitment to ratify C.105.</p> <p>The LFTU indicated that it had no objection to the ratification of C.105, which was expected.</p> <p>2009 AR: According to the Government: Ratification of C.105 is expected shortly.</p> <p>2008 AR: The Government confirmed its intention to ratify C.105.</p> <p>The LNCCI and the LFTU expressed their support to the ratification of C.105 and indicated that a tripartite consultation would accelerate the process.</p> <p>2006 AR: The Government confirmed its intention to ratify in a near future C.105.</p> <p>The LNCCI and the LFTU supported the ratification of all the fundamental conventions by Lao PDR, particularly C.105.</p> <p>2001 AR: Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): the Government intends to ratify C.105.</p>
	Recognition of the principle and right (prospect(s), means of action, main legal provisions)	Constitution	<p>YES.</p> <p>The Constitution (article 6) guarantees the right to freedom and democracy that is inviolable. Pursuant to this article, any authoritative act and harassment that could jeopardize one's physical or moral integrity, dignity, life, conscience or property, is prohibited. According to the Government, the principle and right (PR) is enshrined in the Constitution by prohibiting any forms of compulsory or forced labour.</p> <p>According to the Government: The provisions of the Constitution are in compliance with the PR.</p>
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy: <p>2005 AR: According to the Government: the PR includes every category of persons or activities and there is also a national policy for its realization.</p> <ul style="list-style-type: none"> • Legislation: <p>2008 AR: a new Labour Code was adopted in 2006 with specific provisions on the prohibition of forced labour.</p> <p>2006 AR: According to the Government, the PR is expressly recognized in the Labour Code, which prohibits any forms of compulsory and forced labour.</p>
		Basic legal provisions	<p>(i) Constitution (article 6); (ii) Labour Code (articles 1 et 4); and (iii) Penal Code (article 5).</p>

		Definition of forced or compulsory labour	2005 AR: According to the Government: forced labour is defined as all work, which is exacted from any person and for which the said person has not offered himself voluntarily in violation with the law.
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Exercise of the principle and right	Judicial decisions	NIL
		Special attention to particular situations and human trafficking	2005 AR: According to the Government: the situation of girls and boys.
		Information/ Data collection and dissemination	NIL.
	Monitoring, enforcement and sanctions mechanisms	2005 AR: According to the Government: The PR is realized through: (i) inspection and monitoring; (ii) penal, civil and administrative sanctions.	
	Involvement of the social partners	2005 AR: According to the Government: tripartite consultations are being envisaged.	
	Promotional activities	<p>2010 AR: The Government indicated that a Senior Officer of the Ministry participated in the May 2009 ILO/Turin Course on International Labour Standards during which issues concerning the Declaration and its follow-up had been addressed, including those relating to C.105.</p> <p>2008 AR: The LNCCI indicated that it collaborates with the Government and trade unions on that issue and participates regularly to activities and workshops organized by the Government of Lao PDR.</p> <p>2005 AR: According to the Government: the following measures have been taken for the realization of the PR: (i) employment creation, skills training and income generation; (ii) teaching programmes; (iii) re adaptation of persons subjected to forced labour; (iv) international cooperation programmes and projects.</p>	
	Special initiatives/Progress	<p>2006 AR: The Government indicated that is had organized several national workshops on C.29, C.105 and the other fundamental conventions, in collaboration with the ILO.</p> <p>According to the LNCCI: it stated that it had initiated its awareness raising activities in 2003 with the support of the ILO and the Australian Chamber of Commerce, and particularly activities on the national legislation and international labour standards (ILS) have been undertaken for the members of the LNCCI since 2004.</p>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to social partners	Employers' organization	2008 AR: The LNCCI indicated that the issue of migrant workers is affecting the employers and that they need a larger workforce.
		Workers' organization	NIL.
	According to the Government	2010 AR: According to the Government: The informal sector is a major problem for the country. In the aspect of ratification, according to Government, the ratification of C.105 expected to be done shortly. Promotional activities are nil.	

TECHNICAL COOPERATION	Request	<p>2012 AR: The Government, the LNCCI and the LFTU requested ILO's support in organizing a national tripartite workshop on the Declaration and its follow-up so as to sensitize tripartite bodies on the fundamental principles and rights at work (FPRW), with a focus on unratified fundamental Conventions. This tripartite activity should be preceded by separate workshops for labour administration, employers' associations and trade unions.</p> <p>2010 AR: The Government would welcome any ILO technical support in policy advice, capacity building to tripartite partners and dissemination of the FPRW. In particular, Labour Inspection capacity should be strengthened with a view to better ensuring the realization of these principles and rights at national level.</p> <p>The LFTU requested ILO technical assistance for the training and capacity building of workers' organizations.</p> <p>2009 AR: According to the Government: Technical cooperation is needed to bring national compliance with the PR and disseminate it.</p> <p>2008 AR: According to the Government: ILO technical assistance is needed for conducting a country assessment and seminars on the PR and the Declaration follow-up.</p> <p>2006 AR: The Government called for ILO technical assistance for the realization of the PR and ILO fundamental conventions in Lao PDR. It supported moreover the requests mentioned by the LNCCI and the LFTU.</p> <p>The LNCCI requested ILO support for the strengthening of sensitization activities on the national legislation and international labour standards.</p> <p>The LFTU requested ILO technical cooperation for the realization of the PR among the workers.</p> <p>EA 2005: According to the Government: ILO technical cooperation is needed in the following areas, in order of priority: (1) Awareness-raising, legal literacy and advocacy; strengthening data collection and capacity for statistical collection and analysis; training of other officials (e.g. police, judiciary, social workers, teachers); development of social protection systems; (2) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle; sharing of experiences across countries/regions; policy advice; legal reform (labour law and other relevant legislation); capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; employment creation, skills training and income generation for vulnerable workers; cross-border cooperation mechanisms; rural development policies (for example, land reform, rural infrastructure, agricultural extension, marketing, microfinance).</p>
	Offer	<p>2005 AR: ILO-IPEC Mekong Sub-regional Project to Combat Trafficking in Children and Women.</p>
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) listed the Lao PDR among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step forward towards universal ratification. The IDEAs welcomed the adoption of new laws relating to forced or compulsory labour in the Lao PDR (and another country). Finally, they further noted that a number of governments, employers' or workers' organizations in various countries, including the Lao PDR, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO (cf. paragraphs 41, 43 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAs welcomed the significant increase in the reports of action to combat forced labour in several countries, including the Lao PDR, and noted that an increasing number of States were recognizing that forced labour does exist in their country [...]. For the IDEAs, such recognition was indispensable to combating forced or compulsory labour, as it was undoubtedly the first step in what in a daunting but essential task (cf. paragraph 41 of the 2007 Annual Review Introduction - ILO: GB.298/3).</p> <p>2005 AR: The ILO Declaration Expert-Advisers (IDEAs) 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). They recommended that the Special Action Programme to combat forced labour (SAP-FL) receive a substantive additional support from donors in order to help the country make further progress in promoting and realizing the PR (cf. paragraph 192 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	

<p>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</p>	<p>2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/--ed_norm/--relconf/documents/meetingdocument/wcms_143164.pdf.</p>



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2012)¹: MALAYSIA

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

REPORTING	Fulfillment of Government's reporting obligations	YES , except for the 2000 Annual Reviews (AR). No-change report for the 2002 and 2012 ARs.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to the Government: Involvement of the Malaysian Employers' Federation (MEF) and the Malaysian Trade Union Congress (MTUC) and the National Union of Bank Employees (NUBE), through communication of the Government's report.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2012 AR: Observations by the MEF. 2010 AR: Observations by the MEF. 2007 AR: Observations by the MEF.	
	Workers' organizations	2012 AR: Observations by the MTUC. Observations by the NUBE. 2007 AR: Observations by the International Confederation of Free Trade Unions (ICFTU) (late observation for the 2006 AR). 2001 AR: Observations by the ICFTU.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	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".

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex.

		<p>Ratification intention</p>	<p>Under reconsideration for C.105 since 2009.</p> <p>2012 AR: According to the MEF: The reasons why the ratification of C.105 has been denounced are mainly related to differences in interpretation of C.105 between the ILO and the Government. There is no forced labour in Malaysia.</p> <p>According to the MTUC and the NUBE: The MTUC and the NUBE jointly express their full support to the ratification of C.105 by Malaysia, and welcome the Government's decision to open a dialogue with employers' and workers' organizations, with a view to reconsidering its decision concerning the denunciation of this instrument. Furthermore, the MTUC and the NUBE look forward to the ratification of C.105 before the next Review. The MTUC mentions in particular that the ratification process of C.105 was close to finalization, but then denounced by the Government, arguing that the country's rehabilitation programme for prisoners is in contradiction with C.105. However, what is important for the MTUC is to amend this rehabilitation programme with a view to bringing it into conformity with the principle and right (PR).</p> <p>2009 AR: The Government indicated that it would open a dialogue with employers' and workers' organizations with a view to reconsider its decision concerning the denunciation of C.105. The MEF indicated that it had no objection to the ratification of C.105.</p> <p>2001 AR: The ICFTU mentioned that the Government should provide legal guarantees for protection against forced labour and again ratify C.105.</p>
	<p>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</p>	<p>Constitution</p>	<p>YES.</p> <p>2001 and 2004 ARs: 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.</p>
		<p>Policy, legislation and/or regulations</p>	<ul style="list-style-type: none"> • Policy: <p>2007 AR: 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>2001 AR: 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> <ul style="list-style-type: none"> • Legislation: <p>2003-2005 ARs: 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>

		Basic legal provisions	The Federal Constitution of Malaysia (article 6); the Anti-Trafficking in Persons Act (ATIP) 2007; Anti-Smuggling of Migrants Act 2007 (Act 670).
		Definition of forced or compulsory labour	According to the Government: Malaysia made comprehensive amendments to the Anti-Trafficking in Persons Act 2007 and Anti-Smuggling of Migrants Act 2007 (Act 670). Under this Act trafficking in persons is defined as follows: the recruiting, transporting, transferring, providing or receiving of a person for the purpose of exploitation. Exploitations would mean to cover all forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, any illegal activity or the removal of human organs.
		Judicial decisions	NIL.
Exercise of the principle and right		Special attention to particular situations and human trafficking	2011 AR: According to the Government: Special attention is paid to human trafficking and the eradication of forced labour and slavery.
		Information/ Data collection and dissemination	2006 AR: According to the Government: the number of cases of abuse reported to the Labour Department has decreased.
Prevention/Monitoring, enforcement and sanctions mechanisms	<p>2011 AR: According to the Government: In order to eradicate forced labour and slavery, it has included in its recent amendment labour officers into their list of enforcement officers to combat forced or compulsory labour which already included police officer, immigration, any officer of customs and any officer of the Malaysian Maritime Enforcement Agency.</p> <p>2006 AR: The Government stated that the Ministry of Human Resources was responsible for enforcing the labour laws.</p> <p>2003-2005 ARs: According to the Government: The following measures have been implemented to realize the 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>		
Involvement of the social partners	<p>2012 AR: According to the MEF: Employers are working closely with the Government by assisting it in rehabilitation processes for prisoners, which include labour. The purpose of this rehabilitation is for the prisoners to acquire technical skills, and this should not be regarded as forced labour.</p> <p>2010 AR: According to the MEF: The Decent Work Agenda is being implemented in Malaysia on a voluntary tripartite basis.</p> <p>2009 AR: The Government indicated that it would open a dialogue with employers' and workers' organizations with a view to reconsider its decision concerning the denunciation of C.105.</p>		
Promotional activities	<p>2012 AR: According to the MTUC: In June 2011, an amendment of the Employment Act was presented to Parliament to cover the concerns of domestic workers. At this stage, situations of forced labour are regulated in the national legislation, allowing the Government to take actions against this phenomenon, except for when it comes to domestic workers.</p> <p>2010 AR: According to the MEF: The Decent Work Agenda is being implemented in Malaysia on a voluntary tripartite basis.</p> <p>2003-2005 ARs: 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>2001 AR: According to the Government: Rehabilitation programmes are organized for prisoners.</p>		

	Special initiatives/Progress	<p>2012 AR: According to the Government: The Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 have been strengthening the implementation of the PR through: (i) a Council of Anti-Trafficking in Persons, responsible on policy formulation regarding the PR and (ii) the adoption of a National Action Plan on Trafficking in Persons intended to create public awareness. The National Action Plan has also set key performance target to better implement and realize the PR via 9 programmes areas: (i) strengthening the legal mechanism; (ii) integrated actions among enforcement agencies; (iii) public awareness and prevention; (iv) protection and rehabilitation; (v) combating labour trafficking; (vi) capacity building; (vii) information management; (viii) smart partnership; and (ix) measuring performance and sustainability.</p> <p>2011 AR: According to the Government: New amendments to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 have been made to strengthen the implementation of the PR in the country and Malaysia is also venturing into bilateral cooperation with other countries in combating transnational crime, particularly trafficking in persons.</p> <p>2003-2005 ARs: 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>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	<p>2012 AR: The MEF observed that C.105 is at this stage not relevant for Malaysia, as the only case of forced labour in the country, is related to the work of prisoners undertaken during their rehabilitation process.</p> <p>2010 AR: According to the MEF: Forced labour is not an issue in Malaysia.</p>
		Workers' organizations	<p>2012 AR: According to the MTUC: Malaysia has adopted an Anti-trafficking in Persons Act, but this Act is slow in its implementation, and has its own limitations as it only covers the criminal aspect of trafficking in persons. Recently, the Government gave licenses to employers for outsourcing migrant workers, allowing for agents to bring these workers into the country and collect their salary from the employer. Therefore, trafficking in persons is considered to be legitimized and approved by the Government. The issue of forced labour also concerns prison labour and domestic workers, but in practice, forced labour is not a widespread phenomenon in Malaysia.</p> <p>2001 AR: 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.</p>
	According to the Government	<p>2010 AR: The Government also considered that forced labour was not an issue in Malaysia.</p> <p>2006 AR: The Government reiterated that all the workers, local and foreigners were subject to the same laws.</p> <p>2001 AR: 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>	

TECHNICAL COOPERATION	Request	<p>2012 AR: According to the MTUC and the NUBE: ILO support is needed to strengthen the tripartite dialogue for reconsidering the denunciation of C.105 by Malaysia.</p> <p>2010 AR: The MEF indicated that training programme was needed as Malaysia was selected as a model country within the Decent Work Agenda.</p> <p>NIL.</p>
	Offer	NIL.
EXPERT-ADVISERS' RECOMMENDATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) were concerned that the governments of Malaysia (and another government), which earlier denounced C.105, had not yet opened a dialogue with the Office and its employers' and workers' organizations with a view to reconsidering its decision. They urged Malaysia to take action in this regard (cf. paragraph 42 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAs reiterated their hope that Malaysia, which denounced C.105, would open a dialogue with the Office and its national tripartite partners with a view to reconsidering this decision (cf. paragraph 40 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p>2006 AR: The 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 (cf. paragraph 44 of the 2006 Annual Review Introduction – ILO: GB.295/5).</p> <p>2005 AR: The IDEAs hoped that Malaysia, which denounced C.105, would reconsider its position in this respect (cf. paragraph 185 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	<p>2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>	
INTERNATIONAL LABOUR CONFERENCE RESOLUTION	<p>2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the Resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf.</p>	



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2012)¹: MALDIVES

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

REPORTING	Fulfillment of Government's reporting obligations	YES , since the 2011 Annual Review (AR). Maldives joined the ILO in 2009.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to the Government: Involvement of the employers' organizations (the Maldives Fisherman's Union, the Maldivian Association of Tourism Industry (MATI), the Maldivian Association of Construction Industry (MACI), the Maldives National Chamber Of Commerce and Industry (MNCCI), the Restaurant Association, the Liveaboard, the Maldivian Airports Employees Union), and workers' organizations (the Tourism Employees Association (TEAM), the Maldives Nurses Association, the Dhivehi Seafarers and Labour Union (DSLU), the Maldives Civil Servant's Association, the Maldives Medical Association, the Teachers Association, the Maldives Labour Union, the Maldives Journalist Association and the Maldives Association of Travel Agents and Tours Operators (MATATO) by means of consultation and communication of a copy of the Government's report and country baseline.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2012 AR: Observations by the MATATO.	
	Workers' organizations	2012 AR: Observations by the DSLU.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Maldives has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29) nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).
		Ratification intention	Yes, since 2010, for both C.29 and C.105. 2012 AR: According to the Government: Ratification of the eight core Conventions has been submitted to the Parliament and should be adopted by September 2011. In 2010, the political instability had made the ratification process difficult. The MATATO and the DSLU expressed their support and involvement in the ratification process of the eight core conventions. 2011 AR: The Government indicated its intention to ratify C.29 and C.105. The eight core Conventions are in the process of translating into the local language and will be submitted by September 2010 to the Cabinet and the Parliament.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex.

Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	NO.
	Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Legislation: The Employment Act (chapter 2, 3.b)
	Basic legal provisions	The Employment Act (chapter 2, 3.b)
	Judicial decisions	NIL.
	Definition of forced or compulsory labour	AR 2011: According to the Government: A definition of unlawful forced employment is given under chapter 2, 3.b of the Employment Act: forced employment shall mean any services or labour obtained from a person under threat of punishment, undue influence or intimidation.
	Judicial decisions	NIL.
Exercise of the principle and right	Special attention to particular situations and human trafficking	NIL.
	Information/ Data collection and dissemination	NIL.
Monitoring, enforcement and sanctions mechanisms	2011 AR: According to the Government: There is no forced or compulsory labour in Maldives except in two possible cases: (i) Labour carried out by, or services obtained from a person under the control and supervision of the relevant State Authority in pursuance of a court judgment; or (ii) labour or services obtained to the extent deemed reasonable in instances of emergencies which may pose risk to the life or well being of the entire populace or a selection of the population. The Labour Relations Authority is responsible to ensure compliance of the law against forced or compulsory labour and inform the Ministry of any issues arising.	
Involvement of the social partners	<p>2012 AR: According to the Government, the MATATO and the DSLU: A Tripartite consultation has been organised in relation to the ratification of the eight core Conventions.</p> <p>2011 AR: According to the Government, the employers' and workers' organizations are being involved in the ratification process of the ILO fundamental Conventions. Moreover, the Ministry of Human Resources, Youth and Sports held a meeting, inviting all the employers and employees associations and relevant government authorities, to introduce the reports and also to discuss and come to a decision about how to complete the report. After the meeting, the reports were emailed to associations and relevant government authorities who were requested to fill the relevant parts.</p>	
Promotional activities	2012 AR: According to the Government, the MATATO and the DSLU: A Tripartite consultation on C.29 and C.105 was organized.	
Special initiatives/Progress	2011 AR: According to the Government: In order to submit the eight ILO core Conventions to the Cabinet and the Parliament by September 2010, the Ministry of Human Resources, Youth and Sports is in the process of translating the conventions into the local language Dhivehi. Moreover measures are envisaged to promote and realize the PR.	

CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL.
		Workers' organizations	NIL.
	According to the Government	<p>2012 AR: The Government indicated that 2010 political instability had made the ratification of the eight core Conventions impossible.</p> <p>2011 AR: According to the Government: The main difficulties encountered in Maldives in realizing this PR are as follows: (i) Lack of public awareness; (ii) Lack of information and data; (iii) Legal provisions; (iv) Prevailing employment practices; (v) Lack of capacity of responsible government institutions; (vi) Lack of capacity of employers' and workers' organization; and (vii) Lack of social dialogue on this principle.</p>	
TECHNICAL COOPERATION	Request	<p>2012 AR: According to the Government: ILO's support is needed hopefully by August 2011 for tripartite and parliamentary awareness raising as regards reporting procedures and the implementation of the eight core Conventions.</p> <p>2011 AR: According to the Government: ILO technical cooperation will be needed to facilitate the realization of the PR in Maldives, in particular in the following areas, by order of priority: (1) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle; (2) strengthening data collection and capacity for statistical collection and analysis; (3) capacity building of responsible government institutions; and (4) cross-border cooperation mechanisms. These priorities may be satisfied through the preparation of survey/seminar to promote and realize the fundamental principles and rights at work in Maldives, in consultation with the employers' and workers' organizations.</p>	
	Offer	NIL.	
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS			
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	<p>2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>		
INTERNATIONAL LABOUR CONFERENCE RESOLUTION	<p>2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the Resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf.</p>		



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2009-2012)¹: MARSHALL ISLANDS

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

REPORTING	Fulfillment of Government's reporting obligations	YES , for the first time under the 2012 Annual Review (AR), but not under the previous reviews (i.e. 2009-2011 ARs).	
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to the Government: Involvement of the employers' organizations (the Marshall Islands Chamber of Commerce (MICC)) and workers' organizations (Marshall Islands Teachers' Union (MITU)) by means of consultation and communication of a copy of the government reports.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2012 AR: Observations by MICC.	
	Workers' organizations	2012 AR: Observations by MITU.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Marshall Islands has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29) nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).
		Ratification intention	YES, since 2011, for both C.29 and C.105. 2012 AR: The Government mentioned its intention to ratify C.29 and C.105, and make relevant legal reform, in consultation with national stakeholders, and with ILO technical support. In this regard, tripartite capacities on ILO issues should be strengthened, including on fundamental principles and rights at work and international labour standards. According to MICC: It is critical to have C.29 and C.105 ratified by the Republic of the Marshall Islands (RMI), as "RMI needs to have a good business community in a good playing field". According to MITU: As a matter of human rights, human dignity and freedom from slavery or involuntary servitude as per the Bill of Rights in the RMI Constitution, the MITU supports the ratification of all ILO fundamental Conventions by RMI, including C.29 and C.105.

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

	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	YES , the Constitution of the Republic of the Marshall Islands (RMI), 1979, article II (Bill of Rights), section 2 on Slavery and Involuntary Servitude provides that: (1) No person shall be held in slavery or involuntary servitude, nor shall any person be required to perform forced or compulsory labor. In the same Article, section 6 (3) mentions that “[n]o person shall be subjected to torture or to inhuman and degrading treatment, to cruel and unusual punishment, or to excessive fines or deprivations; and that (2) “[n]o sentence of imprisonment at hard labor shall be imposed on any person who has not attained the age of 18 years”. Section 10 observes that “[n]o person shall be imprisoned for debt; nor shall any person be imprisoned for failure to pay a fine assessed as punishment for a crime unless he has been afforded a reasonable time to make payment and has been found to have the means to do so”. Section 11 indicates that “[n]o person shall be conscripted to serve in the armed forces of the Republic of the Marshall Islands except in time of war or imminent danger of war as certified by the Cabinet, and no person shall be conscripted if, after being afforded a reasonable opportunity to do so, he has established that he is a conscientious objector to participation in war”. Finally, The Constitution, article II, section 1, on Freedom of Thought, Speech, Press, Religion, Assembly, Association, and Petition, mentions that “(c) the restrictions do not penalize conduct on the basis of disagreement with the ideas or beliefs expressed”.
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Legislation: (iii) The Penal Code.
		Basic legal provisions	(i) The Constitution, 1979 (article II, sections 2, 6, 10 and 11).
		Judicial decisions	NIL.
		Definition of forced or compulsory labour	AR 2012: There is no legal definition of forced labour in Marshall Islands. However, exceptions to forced labour are defined by the Constitution, 1979, article II, section 2 (2), which provides that “the term “forced or compulsory labor” does not include: (a) any labor required by the sentence or order of a court; (b) any other labor required of a person lawfully detained if reasonably necessary for the maintenance of the place of detention; (c) any service required by law in lieu of compulsory military service when such service has been lawfully required of others”.
		Judicial decisions	NIL.
	Exercise of the principle and right	Special attention to particular situations and human trafficking	NIL.
Information/ Data collection and dissemination		NIL.	
Monitoring, enforcement and sanctions mechanisms	2012 AR: According to the Government: The Labor Division is in charge of monitoring, enforcing and providing sanctions in case of infringement to the legal provisions concerning forced labour. These cases may also be referred to courts for the same purposes. No cases of infringements have been recorded so far in this regard.		

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Involvement of the social partners	2012 AR: The Government indicated that the MICC and the MITU had been involved in the current process of formulation of the DWCP (including the fundamental principles and rights at work), in cooperation with ILO.	
	Promotional activities	<p>2012 AR: According to the Government: The Government, the MICC and the MITU participated in the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010 where the fundamental principles and rights have been promoted. Moreover, the labour officers of the Labor Division of the Ministry of Foreign Affairs were trained, among others, on the fundamental principles and rights at work and International Labour Standards during ILO's assistance in reporting issues carried out in October 2011.</p> <p>The MICC and the MITU confirmed their participation in such activities and indicated that they had been sensitized on the same issues during this October 2011 ILO Mission.</p>	
	Special initiatives/Progress	NIL.	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	
		Workers' organizations	2012 AR: According to the MITU: (i) Labour laws should be reformed to better cover the principle and right and the lack of definition of forced labour, and (ii) In particular, the Child Abuse and Neglect Act, 1991/130 should be revised to cover forced child labour.
	According to the Government	2012 AR: The Government mentioned the following challenges concerning the realization of the PR in Marshall Islands: (i) Lack of public awareness and/or support; (ii) lack of capacity of responsible government institutions; (iii) lack of capacity of employers' and workers' organizations; and (iv) lack of social dialogue on the PR Moreover, the Government indicated that few cases of prostitution may exist on board ship.	
TECHNICAL COOPERATION	Request	<p>2012 AR: According to the Government: There is a need for ILO technical cooperation to facilitate the realization of this PR in Marshall Islands, 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; awareness-raising, legal literacy and advocacy; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; legal reform (labour law and other relevant legislation); (2) strengthening data collection and capacity for statistical analysis;); developing labour market policies that promote equality of opportunity; developing policies regarding equal remuneration; and (3) sharing of experiences (best-practices) across countries/regions; training of other officials (e.g. police, judiciary, social workers, teachers).</p> <p>The MICC and MITU supported the government's requests for ILO technical cooperation, and in particular the strengthening of their capacity building on the fundamental principles and rights at work and the need for related labour law reform. The MICC further requested a permanent ILO presence in RMI. The MITU stressed the need for a holistic approach on the fundamental principles and rights at work and labour law reform.</p>	
	Offer	ILO (Decent Work Country Programme; and Assistance in fulfilling reporting obligations to ILO, including under the Declaration's AR).	

EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	NIL.
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99 th Session (2010) of the International Labour Conference.
INTERNATIONAL LABOUR CONFERENCE RESOLUTION	2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99 th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the Resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf .



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2012)¹: MYANMAR

THE ELIMINATION OF ALL FORMS OF FORCED OR COMPUSORY LABOUR (FL)

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2000, 2001 and 2002 Annual Reviews (ARs). No change reports under the 2006 and 2007 ARs.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the Myanmar Industrial Association, Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) and the most representative workers' organizations by means of consultations and communication of government reports.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2012 AR: Observations by the UMFCCI. 2010 AR: Observations by the UMFCCI. 2008 AR: Observations by the UMFCCI.	
	Workers' organizations	NIL.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Myanmar ratified in 1932 the Forced Labour Convention, 1930 (No. 29) (C.29). However, it has not ratified the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).
		Ratification intention	YES, since 2009, for C.105. 2010-2011 ARs: According to the Government: The new States Constitution adopted in May 2008 reflects the Government's intention to ratify C.105, and ILO should cooperate with Myanmar for the ratification of all ILO fundamental Conventions. Ratification of C.105 would be considered in appropriate time to do so. The UMFCCI considered that Myanmar was not enough institutionally mature to ratify C.105. 2008 AR: The UMFCCI supported the ratification of C.105.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex.

Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	2010: According to the Government: The new State Constitution adopted in May 2008 reflects the Government's intention to ratify C.105.
	Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy: 2003-2005 ARs: According to the Government: The principle and right (PR) is recognized in Myanmar and is supported by a national policy. • Legislation: the Penal Code, covered by the existing laws, orders and regulations. <p>2012 AR: According to the Government: New drafts are being drawn, to replace the Village Act 1907 and the Town Act 1908 in compliance with C.29.</p> <ul style="list-style-type: none"> • Regulations: Order No. 1/99 of 14/05/199 and its Supplementing Order of 27/10/2000.
	Basic legal provisions	(i) Penal Code (section 374); (ii) Order No. 1/99 of 14/05/1999; and (iii) Supplementing Order No. 1/99 of 27/10/2000.
	Definition of forced or compulsory labour	2005 AR: 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.
	Judicial decisions	NIL.
Exercise of the principle and right	Special attention to particular situations and human trafficking	2011 AR: According to the Government: The Committee for the Prevention of Military Recruitment of Under-Aged Children and the Trafficking in Persons Preventive Committee have been established.
	Information/Data collection and dissemination	<p>2011AR: According to the Government: The ILO Working Group led by Deputy Minister for Labour comprising of the representatives from Supreme Court, Attorney General Office, Ministry of Foreign Affairs, Ministry of Home Affairs disseminate the PR by holding awareness raising seminars around the country cooperating with ILO liaison officer.</p> <p>2004 AR: According to the Government: The Department of General Administration collects statistics and other information relevant to the PR.</p>
Monitoring, enforcement and sanctions mechanisms	<p>2011AR: 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 Penal Code (charges of negligence and public nuisance, respectively). Complaints can be referred to Peace and Development Councils, the Courts and the Police.</p> <p>2008 AR: According to the Government: The Government and the ILO reached an agreement on 26 February 2007 that the Supplementary Understanding (SofU) and others matters relating to C.29 would be covered under the mechanism dealing with the complaint of forced labour under the SofU. Up to June 2007, the liaison officer received 21 cases, and 9 out of them have been transmitted to the Deputy Minister for Labour, Chairman of the Working Group (WG) for further investigations. This WG is headed by the Director General of the Department of Labour and also comprised of officials from related departments.</p> <p>2003-2005 ARs: 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.</p>	

	Involvement of the social partners	<p>2010-2011 ARs: According to the UMFCCI: Promotional activities are being carried out through tripartite consultations.</p> <p>2003-2004 ARs: According to the Government: Employers' and workers' organizations have been involved in the development and implementation of government measures.</p>	
	Promotional activities	<p>2012 AR: According to the Government: In August 2011, ILO Liaison Officer delivered a lecture, organized by the Ministry of Home Affairs, on the promotion and realization of the PR. Moreover, an easily understandable brochure on the PR has been widely distributed in Myanmar language.</p> <p>2011 AR: The Government indicated that training programmes and awareness raising campaigns were jointly organized by the Government and the ILO Liaison Officer.</p> <p>2009 AR: According to the Government: Several training and awareness-raising activities were organized by the Government and the ILO Liaison Officer in 2008.</p> <p>2008 AR: The Government indicated that it had translated the Order No. 1/99 and its Supplementing Order prohibiting the requisition of forced labour into many languages such as Kachin, Kayar, Kayin (Pole, Sakaw), Mon, Shan and Chin (Tetai, Hacha, Matubi, Mintub), and subsequently transmitted to the relevant states and divisions of the country.</p> <p>2003-2004 ARs: According to the Government: Awareness raising/advocacy have been implemented to promote the PR.</p>	
	Special initiatives/Progress	<p>2008 AR: According to the Government: The Government and the ILO reached an agreement on 26 February 2007 that the SofU and others matters relating to C.29 would be covered under the mechanism dealing with the complaint of forced labour under the SofU.</p> <p>2005 AR: According to the Government: Successful example: field inspections were carried out based on allegations and measures were taken.</p> <p>2004 AR: 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>2003 AR: According to the Government: Successful example: Adoption of Order No. 1/99 and its Supplementing Order (in case of negligence, public nuisance, etc.).</p>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	<p>2010-2011 ARs: According to the UMFCCI: The international embargo is the main difficulty that Myanmar is facing.</p> <p>2008 AR: According to the UMFCCI, the economic conjuncture is very fragile due to the economic embargos and sanctions placed on Myanmar by several western countries.</p>
		Workers' organizations	NIL.
	According to the Government	NIL.	

TECHNICAL COOPERATION	Request	<p>2012 AR: The UMFCFI requested ILO's support with a view to strengthen the capacity of employers, in particular in training of trainers (TOT) on the fundamental principles and rights at work (FPRW).</p> <p>2011 AR: According to the Government: Training courses should be provided by the ILO for the capacity enhancement of the responsible governmental institutions.</p> <p>2010 AR: According to the Government: Collaboration between ILO and Myanmar for the ratification of Core Conventions needs to be continued.</p> <p>2005 AR: 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.</p>
	Offer	ILO.
EXPERT-ADVISERS' RECOMMENDATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) were also concerned that Myanmar (and another State) had not yet expressed their intention to ratify C.29 and/or C.105. They also reminded all the governments that it was of their primary responsibility to ensure that forced labour does not exist in their countries for any reason (cf. paragraphs 42 and 44 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAS urged the Government of Myanmar and another government to express their intentions concerning ratification of C.29 and/or C.105 (cf. paragraph 40 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p>	
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	<p>2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>	
INTERNATIONAL LABOUR CONFERENCE RESOLUTION	<p>2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the Resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf.</p>	



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2012) ¹: SINGAPORE

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

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2000 Annual Review (AR). No change reports for the 2005 and 2011 ARs.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the Singapore National Employers' Federation (SNEF) and the Singapore National Trade Union Congress (SNTUC) through communication of the Government's report.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2012 AR: Observations by the SNEF. 2009 AR: Observations by the SNEF. 2008 AR: Observations by the SNEF.	
	Workers' organizations	2012 AR: Observations by the SNTUC. 2009 AR: Observations by the SNTUC. 2001 AR: International Confederation of Free Trade Unions (ICFTU)'s observations.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	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".
		Ratification intention	Ratification of C.105 is under review since 2005, in cooperation with the ILO. 2012 AR: According to the Government: More cross-border experiences would be needed to understand the legislative amendments necessary to implement the PR in relation with C.105. According to the SNTUC: The Government should consider ratifying C.105 and explore the removal of any obstacle(s) to the ratification of this instrument as soon as possible. 2010 AR: According to the Government: Following technical consultations between the ILO and Singapore with a view to exploring options on re-ratifying C.105, Singapore met with the Office on the sidelines of the November 2008 Governing Body session for further discussions on the same topic. The Office offered to provide, for Singapore's reference, examples of clauses adopted by other member States in their legislation that allow detainees to volunteer for work. Singapore will continue to study the issue and consult the ILO on how C.105 can be re-ratified, taking into consideration of Singapore's view and position.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex.

			<p>2009 AR: According to the Government: The ILO and the Ministry of Manpower held technical consultations with a view to exploring options regarding re-ratification of C.105 (cf. GB.300/LILS/7, paragraph 31). Follow-up clarifications with regard to specific provisions of this instrument would be conducted.</p> <p>The SNTUC observed that although there is no forced or compulsory labour, it had been continuing to urge the Government to ratify C.105.</p> <p>2005 AR: The Government indicated that the ratification of C.105 was under review.</p>
<p>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</p>	<p>Constitution</p>	<p>YES, the Constitution, article 10(1), provides that slavery and all forms of forced labour are strictly prohibited.</p>	
	<p>Policy, legislation, and/or regulations</p>	<p>• Legislation:</p> <p>2012 AR: According to the Government: The Destitute Persons Act’s key objective is to provide accommodation, care and rehabilitation of destitute persons. As part of care and rehabilitation, life skills programmes including social and work skills are conducted in the welfare homes. The work skill programmes in the homes are designed to prepare the individuals for reintegration into society by teaching them work-related and independent living skills. Residents are only assigned placements in work schemes in the community after they have been assessed to be medically fit to carry out the work and with their consent. Residents also receive an income or allowance for the work done under the work programmes. Hence, the work programme referred to in the Act is strictly rehabilitative and for the purpose of reintegration with residents’ cooperation and commitment with no coercion involved.</p> <p>2008 AR: The Government indicated that section 13 of the Destitute Persons Act would be subject to regular review very shortly.</p> <p>According to the SNEF: The SNEF understands that Singapore has strict laws and enforcement agencies to prevent the smuggling/trafficking of persons for slavery. As for destitute persons, work performed by them under section 13 of the Destitute Persons Act is not considered forced labour because (i) the person resides in a welfare home; (ii) the person is engaged in suitable work, for which the medical officer of the home certifies him to be capable and (iii) the person is contributing to his maintenance in the welfare home. As for work performed by prisoner under the Prison Rules, it does not constitute “forced labour” under the said Convention, as prisoners are not compelled to work. Furthermore, such work is for the purpose of rehabilitation.</p> <p>2005 AR: The Government indicated that it would review the legislation and design better enforcement procedures in consultation with employers and unions.</p>	
	<p>Basic legal provisions</p>	<p>(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.</p>	
	<p>Definition of forced or compulsory labour</p>	<p>C.29 is ratified.</p>	
	<p>Judicial decisions</p>	<p>NIL.</p>	

	Exercise of the principle and right	Special attention to particular situations and human trafficking	<p>2012 AR: According to the Government: Singapore takes seriously the issue of human trafficking in persons and its related crimes. National laws, policies and enforcement practices are constantly being reviewed to better combat this issue and actions to ensure closer coordination between government agencies. An Inter-Agency Taskforce has been established to coordinate anti-trafficking initiatives, policy alignment and the development of the National Plan of Action in 2012 to combat trafficking in persons.</p> <p>2009 AR: According to the SNEF: SNEF notes that through very strict laws and effective enforcement, the Government has eliminated the smuggling/trafficking in persons for slavery. These include sale and trafficking of children for serfdom, illicit activities and use for armed conflicts.</p>
		Information/Data collection and dissemination	NIL.
	Prevention/Monitoring, enforcement and sanctions mechanisms	<p>2012 AR: According to the Government: The Government actively engages NGOs, as well as the foreign embassies in Singapore, and is looking forward to closer partnerships to improve upstream victim identification and protection, as well as successful enforcement against syndicates of trafficking in persons.</p> <p>2008 AR: According to the Government: There is no forced labour in Singapore. Work in prisons is voluntary and part of the prisoner's rehabilitation programme. The principle of C.105 is well respected although not yet ratified.</p>	
	Involvement of the social partners	<p>2001-2005 ARs: 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>2003 AR: 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>	
	Promotional activities	<p>2009 AR: According to the SNEF: The Government has eliminated the smuggling/trafficking in persons for slavery through very strict laws and effective enforcement.</p> <p>According to the SNTUC: Convening tripartite meetings on labour issues is mandatory.</p> <p>2005 AR: 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>2003 AR: 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>	
	Special initiatives/Progress	<p>2012 AR: According to the Government: An Inter-Agency Taskforce was set up to coordinate anti-trafficking initiatives, policy alignment and the development of the National Plan of Action in 2012. Moreover, the Government actively engages NGOs, as well as the foreign embassies in Singapore, and is looking forward to closer partnerships to improve upstream victim identification and protection, as well as successful enforcement against syndicates of trafficking in persons.</p> <p>2007 AR: 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>	

CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	2012 AR: According to the SNEF: Work performed by destitute persons under section 13 of the Destitute Persons Act and by prisoners under the Prisons Rules does not constitute “forced labour” and is for rehabilitative purposes only.
		Workers' organizations	2009 AR: According to the SNTC: The Government should set the ratification of C.105 as a priority 2001-2002 ARs: 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).
	According to the Government		2001-2002 ARs: 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.
TECHNICAL COOPERATION	Request	NIL.	
	Offer	NIL.	
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAS) were concerned that the governments of Singapore (and another government), which earlier denounced C.105, had not yet opened a dialogue with the Office and its employers' and workers' organizations with a view to reconsidering its decision. They urged Singapore to take action in this regard (cf. paragraph 42 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAs reiterated their hope that Singapore, which denounced C.105, would open a dialogue with the Office and its national tripartite partners with a view to reconsidering this decision (cf. paragraph 40 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p>2006 AR: The 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 (cf. paragraph 44 of the 2006 Annual Review Introduction – ILO: GB.295/5).</p> <p>2005 AR: The IDEAs hoped that Singapore, which denounced C.105, would reconsider its position in this respect (cf. paragraph 185 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>		
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99 th Session (2010) of the International Labour Conference.		
INTERNATIONAL LABOUR CONFERENCE RESOLUTION	2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99 th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work On 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf .		



COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2012) ¹: SOLOMON ISLANDS

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

REPORTING	Fulfillment of Government's reporting obligations	YES , but only under the 2006 and the 2008 Annual Reviews (ARs).
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to the 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 (SIWIBA); 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.
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2012 AR: Observations by the SICCI, the SICA, the SIIBA, the SIWIBA, the ASIM and the SFA. 2008 AR: Observations by the SICCI. 2006 AR: Observations by SCCI, SICA, SIIBA, SIWIBA, ASIM and SFA.
	Workers' organizations	2012 AR: Observations by the SICTU, the SIPEU, the SINUW and its 10 affiliates, and the SINTA. 2008 AR: Observations by the SICTU and SINUW and its 10 affiliates. 2006 AR: Observations by SICTU, SIPEU, SINUW and SINTA.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex.

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Solomon Islands ratified in 1985 the Forced Labour Convention, 1930 (No. 29) (C.29). However, it has not yet ratified the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105)
		Ratification intention	<p>YES, in progress since 2005, for C.105.</p> <p>2012 AR: According to the Government: As previously mentioned by the Government, ratification of all unratified ILO fundamental Conventions (7 out of 8), including C.105, has been approved by Cabinet since 17 May 2007. Since Cabinet is the National Authority to approve ratification, the Government will process soon the instruments and other necessary documents to ILO for final registration.</p> <p>The representative employers' organizations (i.e., the SICCI, the SICA, the SIIBA, the SIWIBA, the ASIM and the SFA) and workers' organizations (i.e., the SICTU, the SIPEU, the SINUW and the SINTA) made a common pledge to urge the Government to speed up the communication process of these ratifications to the ILO.</p> <p>2009 AR: The Government indicated that the ratification of C.105 had received executive approval, but was still pending to be discussed by the Parliament.</p> <p>The ASIM and the SICTU reiterated their support to the ratification of C.105.</p> <p>2008 AR: According to the Government: As a result of ILO technical assistance in 2005 to hold consultations with employer's and worker's organizations, the Cabinet approved on 17 May 2007 the ratification of C.105 together with the remaining non ratified ILO fundamental Conventions. It intends at this moment to bring national legislation into compliance with the ILO fundamental Conventions in consultation with the social partners and in cooperation with the ILO.</p> <p>The SICCI expressed its support to the ratification of C.105.</p> <p>According to the SICTU: The Letter of Intent concerning the ratification of the remaining 7 unratified ILO fundamental Conventions was presented by the Government during the Celebration of the 30th years of ILO Presence in the Pacific in Suva (Fiji). The Government should thus finalize this ratification process in cooperation with the ILO.</p> <p>2006 AR: 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 of national laws with the principle and right (PR). It also appreciated the employers' and workers' organizations' (ASIM, SFA, SICCI, SIIBA, SIWIBA, 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.</p>

	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 “no person shall be deprived of his personal liberty save as may be authorized 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"> • Policy: 2008 AR: The Government has received the draft of the Industrial Relations Law elaborated in consultation with the social partners and the ILO. It intends to organize soon a national tripartite workshop on labour law review in cooperation with the ILO. 2006 AR: The Government intended to adopt a policy for the realization of the PR, and requested ILO assistance in this respect.
		Basic legal provisions	(i) The Preamble of Constitution; and (ii) The Constitution (articles 5-7 and 17-18).
		Definition of forced or compulsory labour	NIL.
		Judicial decisions	NIL.
	Exercise of the principle and right	Special attention to particular situations and human trafficking	NO. 2006 AR: According to the Government: The PR applies to all categories of persons or activities.
		Information/ Data collection and dissemination	NO, however: 2006 AR: The Government plans to collect statistics or other information relevant to the PR.
	Prevention/monitoring, enforcement and sanctions mechanisms	<p>2012 AR: The Government indicated that labour inspections were being carried out to monitor the implementation of the PR, but no cases of forced labour were reported.</p> <p>2009 AR: According to the Government: A Principal Labour Officer has just been recruited by the Ministry of Labour. He is in charge of following up the application of international labour standards, including issues pertaining to the PR.</p> <p>2006 AR: According to the Government: No specific government authority is responsible for the identification, emancipation and/or rehabilitation of persons subjected to forced labour.</p> <p>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.</p>	

	<p>Involvement of the social partners</p>	<p>YES.</p> <p>2012 AR: The Government indicated that employers' and workers' organizations were involved in the labour law reform process.</p> <p>2006 AR: According to the 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.</p>
	<p>Promotional activities</p>	<p>2012 AR: According to the Government: A tripartite national Labour Advisory Board (LAB) has been set up since 2010, and will be operational by 2012 as it is also a government priority. National laws are currently being reviewed, in consultation with the employers' and workers' organizations, together with ILO's technical support, so as to bring them into compliance with the Declaration's principles and rights. In terms of operational activities, weekly government awareness-raising radio programmes (15 minutes) on labour standards, including the fundamental principles and rights at work (FPRW) are being organized by the Government since 2009, except for 2011, due to budget constraints. Awareness raising activities are also organized on May 1st, in cooperation with employers' and workers' organizations. In terms of training, the Labour Department and the employers' and workers' organizations have been sensitized on the FPRW and reporting issues during a mission of an ILO official in September 2011.</p> <p>2009 AR: According to the Government: The new Principal Labour Officer has participated in the TURIN Course on International Labour Standards where issues relating to the Declaration and the PR were discussed among others.</p> <p>The SICTU indicated that it was planning to organize a workshop on international labour standards issues, including the PR.</p> <p>2008 AR: The SICCI stated that Labour Day celebrations are organized but more substantial promotional activities should be carried out.</p> <p>2006 AR: According to the 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.</p>
	<p>Special initiatives/Progress</p>	<p>2008 AR: According to the Government: Government financial assistance was provided for the national celebration of Labour Day. These activities included awareness raising programmes on the FPRW, including radio broadcasting. Furthermore, a weekly radio programme on the FPRW is organized.</p> <p>2006 AR: According to Government: (i) ratification intention for C.105 and (ii) labour law reform in cooperation with the ILO.</p>

CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	<p>2012 AR: The representative employers' organizations (i.e., the SICCI, the SICA, the SIIBA, the SIWIBA, the ASIM and the SFA) mentioned a lack of tripartite capacity on standard-related issues (international and national labour standards and the FPRW).</p> <p>2009 AR: According to the ASIM: A change in government attitude is needed for an equitable distribution of resources to promote the PR.</p> <p>2008 AR: The SICCI indicated that the Government lacked capacity in the monitoring and enforcement of the law.</p> <p>2006 AR: According to the employers' organizations, the main difficulties encountered in realizing the PR in Solomon Islands are as follows:</p> <p>SFA: lack of social dialogue; (i) inadequate labour laws; and (ii) lack of public awareness on the PR;</p> <p>SICA: (i) lack of adequate legislation; (ii) lack of information and data; (iii) lack of public awareness-raising; and (iv) lack of ILO support and technical cooperation programmes;</p> <p>SIWIBA: (i) lack of adequate legislation; (ii) lack of education among employers' and workers' organizations; and (iii) lack of public awareness-raising and support;</p> <p>SICCI: (i) lack of adequate legislation; (ii) lack of information and data; (iii) lack of public awareness raising and support; and (iv) lack of ILO support and technical cooperation programmes;</p> <p>ASIM: (i) inadequate enforcement of the legislation; (ii) lack of expertise, resources and capacity and willpower of the Labour Division to enforce laws and regulations and (iii) lack of information and data collection;</p> <p>SIIBA: (i) inadequate legislation; (ii) inadequate enforcement of the legislation; (iii) lack of expertise and resources in the Labour Division; (iv) lack of resources and staff for the labour inspection; (v) lack of information and data collection; and (vi) lack of ILO support and technical cooperation programmes.</p>
		Workers' organizations	<p>2012 AR: The representative workers' organizations (i.e., the SICTU, the SIPEU, the SINUW and the SINTA) mentioned a lack of tripartite capacity on standard-related issues (international and national labour standards and the FPRW).</p> <p>2009 AR: According to the SICTU: There is a need to review national legislation concerning the PR.</p> <p>2008 AR: The SICTU and SINUW mentioned the same challenges they raised under the 2006 AR.</p> <p>2006 AR: According to the workers' organizations, the main difficulties encountered in realizing the PR in Solomon Islands are as follows:</p> <p>SIPEU: (i) lack of public awareness on the PR; and (ii) lack of ratification of both Conventions;</p> <p>SINTA: (i) lack of public awareness on the PR;</p> <p>SICTU and SINUW: (i) lack of public awareness on the PR.</p>

	<p>According to the Government</p>	<p>2012 AR: The Government reiterated that the Labour Division lacked capacity to carry out its monitoring role, sensitize the employers' and workers' organizations and the public on the PR, and report effectively to the ILO.</p> <p>2008 AR: The Government reiterated the same challenges mentioned as those under the 2006 AR. It added that the Labour Division lacked capacity to carry out its monitoring role to operate and report effectively to the ILO. Moreover, the legal framework relating to the principle and right in the country needs to be revised in order to comply with international labour standards.</p> <p>2006 AR: The main difficulties encountered in realizing the PR in the Solomon Islands are as follows: (i) lack of public awareness and support; (ii) lack of information and data; (iii) social values, cultural traditions; (iv) legal provisions; (v) lack of capacity of responsible government institutions; (vi) lack of capacity of employers' organizations; (vii) lack of capacity of workers' organizations; and (viii) lack of social dialogue on the PR.</p> <p>With regard to the current factual situation in the Solomon Islands, some girls under 15 years old are involved in prostitution, due to poverty.</p> <p>In response to the employers' and workers' organizations observations, the Government mentioned the following: The Government hopes that the forthcoming establishment of the Labour Advisory Board will help better realize the principle of the elimination of all forms of forced or compulsory labour in the Solomon Islands and bring together the Government and employers' and workers' organizations in better promoting and realizing the PR, including through: (i) the revision of labour laws in the light of the provisions of Convention No. 105 to be ratified soon; (ii) capacity building of employers' and workers' organizations; (iii) the strengthening of the new Labour Advisory Board and (iv) public awareness-raising on forced labour issues. In this regard, the ILO technical cooperation (preferably through a comprehensive Declaration Programme) would be most appreciated.</p>
<p>TECHNICAL COOPERATION</p>	<p>Request</p>	<p>2012 AR: The Government requested ILO technical cooperation to strengthen the capacity of the Labour Division and the employers' and workers' organizations on the PR. Public awareness raising should also be strengthened in this regard. It further reiterated its request for ILO's technical cooperation to strengthen the capacity of the Labour Division and employers' and workers' organizations on international labour standards and the FRPW.</p> <p>The representative employers' organizations (i.e., the SICCI, the SICA, the SIIBA, the SIWIBA, the ASIM and the SFA) and workers' organizations (i.e., the SICTU, the SIPEU, the SINUW and the SINTA) made a common pledge to support the Government's request and mentioned the following: There is a need for capacity building of the Labour Department and the employers' and workers' organizations on labour standard-related issues (international and national labour standards and the FPRW) in terms of content and effective application, taking into account the employers' and workers' rights.</p> <p>2009 AR: According to the Government: ILO technical cooperation is needed to promote the PR among government officials and employers and workers.</p> <p>The ASIM and the SICTU supported this request and mentioned that the ILO's assistance would be required concerning the PR.</p> <p>2008 AR: According to the Government: The requests made under the 2006 AR remain valid. The Government and the SICCI again request ILO assistance to carry out a country assessment to be validated by a national tripartite workshop on the FPRW. ILO technical cooperation should be sustained with view to guiding the forthcoming national legal reforms.</p>

		<p>2006 AR: According to the 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 Solomon Islands, in particular in the following areas, in order of priority: (1) assessment in collaboration with the ILO regarding the difficulties identified and their implications for realizing the PR; awareness-raising, legal literacy and advocacy; strengthening data collection and capacity for statistical analysis; legal reform (labour law and other relevant legislation); 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, micro-finance); cross-border cooperation mechanisms; cooperation between institutions (e.g. various ministries and relevant commissions); (2) sharing of experiences across countries/regions; policy advice; and (3) training of other officials (police, judiciary, social workers, teachers).</p> <p>These priorities may be satisfied through the preparation (survey and validation seminar) and launching of a National Declaration Programme for the Solomon Islands. Indeed, the forthcoming ratification of ILO Fundamental Conventions by the Solomon Islands needs to be supported by the ILO in terms of labour law reform, capacity building for labour administration, employers' and workers' organizations, tripartite institutions, etc. The ILO support should be comprehensive, preferably through programmes (DECLARATION, IPEC) that can help the Solomon Islands promote and realize all the FPRW.</p> <p>All employers' and workers' organizations (ASIM, SFA, SICCI, SIIBA, SIWIBA, SICA, SICTU, SINUW, SINTA and SIPEU) supported the Government's request for technical cooperation, including the launch of an ILO Declaration Programme to help promote and realize the FPRW in Solomon Islands.</p> <p>According to the employers' organizations, the ILO technical cooperation would be necessary to assist in the realization of the PR in Solomon Islands in the following areas:</p> <p>SFA: (i) capacity building of employers' and workers' organizations on the PR.</p> <p>SICA: (i) legislation; (ii) data collection; and (iii) public awareness raising on the PR;</p> <p>SIWIBA: (i) educational programmes; (ii) capacity building; and (iii) adequate coordination among employers' and workers' organizations concerning the promotion and realization of the PR;</p> <p>SICCI: (i) legal reform; (ii) information/data collection and dissemination; and (iii) public awareness raising and support.</p> <p>ASIM: (i) social dialogue; (ii) labour law reform; (iii) data collection; and (iv) capacity building of Government institutions and of employers' and workers' organizations;</p> <p>SIIBA: (i) labour law reform; and (ii) capacity building of Government and of employers' and workers' organizations'</p> <p>According to the workers' organizations, the ILO technical cooperation would be necessary to assist in the realization of the PR in Solomon Islands in the following areas:</p> <p>SIPEU: (i) labour law reform; and (ii) capacity building of Government institutions and of employers' and workers' organizations;</p> <p>SINTA, SICTU and SINUW: (i) capacity building of Government institutions and of employers' and workers' organizations.</p>
	Offer	ILO (including labour law reform and assistance in reporting under the Declaration's 2006 and the 2012 Annual Reviews).

<p>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) observed that the Annual Review had made it possible to highlight and follow up country situations that required greater attention, and that some countries such as new member States, in particular in the South Pacific (as well as China and the Gulf States) had made important efforts during this process. However, according to them, more needed to be done. The IDEAs listed Solomon Islands among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step towards universal ratification. In particular, the IDEAs encouraged the Government of Solomon Islands (and four other governments) to initiate or finalize their national labour law review processes. In strengthening and reforming their legal framework in compliance with international labour standards, these countries would allow a better implementation of the principle and right. Finally, the IDEAs noted that a number of governments, employers’ or workers’ organizations in various countries, including Solomon Islands, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO. (cf. paragraphs 12, 41, 43 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2005 AR: The IDEAs looked forward to receiving a first reply from the Solomon Islands and other countries that had never reported under the Declaration Annual Review (cf. paragraph 8 of the 2007 Annual Review Introduction – ILO: GB.292/4).</p> <p>2000-2004 ARs: The IDEAs expressed concern that several countries, including Solomon Islands, had never reported under the Declaration Annual review. They recommended that the Office initiate a dialogue with Solomon Islands and other countries that had never reported under the Declaration Annual Review (for example, cf. paragraph 30 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p>
<p>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</p>	<p>2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf.</p>



COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2004-2012) ¹: TIMOR-LESTE

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

REPORTING	Fulfillment of Government's reporting obligations	YES, since the 2006 Annual Review (AR). Timor-Leste joined the ILO in 2003.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the Fórum dos Empresários/Câmara do Comércio de Timor-Leste (Employer's Forum/Chamber of Commerce of Timor-Leste. Employer's organization – resulted of the fusion of the main organizations in the country), the Konfederasaun dos Sindikatu de Timor-Leste (KSTL) (Timor-Leste Confederation of Trade Unions) by means of consultation and communication of a copy of Government's reports.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	NIL.	
	Workers' organizations	NIL.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Timor-Leste ratified in 2009 the Forced Labour Convention, 1930 (No. 29) (C.29). However, it has not ratified the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).
		Ratification intention	YES, in process since 2008 for C.105. 2012 AR: According to the Government: Ratification process for C.105 will eased after the promulgation of the new Labour Code, which provides protection against forced labour. 2008-2009 ARs: According to the Government: ILO technical assistance in order to better understand international labour standards (ILS) and the Declaration and a labour law review are necessary before the process of ratification of C.29 and C.105 can be initiated in Timor-Leste. However, the country has received the appropriate technical support from the ILO and ratification of C.29 has been discussed at tripartite level, submitted and approved by the Council of Ministers and was submitted to Parliament for ratification.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex.

	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	YES. The national Constitution, article 50, provides that “ <i>Compulsory work, without prejudice to the cases provided for under penal legislation, is prohibited.</i> ”
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy: 2006 AR: 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. • Legislation: 2012 AR: According to the Government: The new Penal Code adopted in 2010 and the draft Labour Code contain provisions to fight against forced labour, human trafficking and the worst forms of child labour, such as child slavery and servitude. 2011 AR: According to the Government: The draft Labour Code, approved by the Government in 2010, contains the main principles provided for in foreseen in Convention No. 105. It has been submitted to the Parliament for approval and should become law in 2011. Section 9.2 of the Labour Code (Regulation No. 2002/5) prohibits forced labour – “<i>Forced Labour is hereby prohibited.</i>”
		Basic legal provisions	(i) The Labour Code (sections 2 and 9.2).
		Definition of forced or compulsory labour	YES, 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.”
		Judicial decisions	NIL.
	Exercise of the principle and right	Special attention to particular situations and human trafficking	<p>2012 AR: The Government pays particular attention to the fight against human trafficking, especially across national boundaries, and in cooperation with neighbouring countries.</p> <p>2006 AR: According to the Government: Women and children, including a specific training awareness raising/training programme on women issues.</p> <p>2008: The Government has launched a campaign to raise awareness about human trafficking.</p>
	Information/ Data collection and dissemination	<p>YES.</p> <p>2006 AR: According to the Government: The Government collects demographic data as well as data on forced labour in the country.</p>	

	<p>Monitoring, enforcement and sanctions mechanisms</p>	<p>2011 AR: According to the Government: Decree-Law 19/2010 has established the General Labour Inspectorate that has the mandate to monitor and enforce the application of the Labour Law. Moreover, the Labour Inspection Department has conducted inspections targeting especially foreign workers, however, it has not found any case of forced labour.</p> <p>2006 AR: 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.</p> <p>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.</p>
	<p>Involvement of the social partners</p>	<p>2010 AR: According to the Government: During the Tripartite Meeting on the Decent Work Country Programme and Timor-Leste Challenges on the Implementation of Ratified Conventions organized in 2009, the social partners decided to develop an action plan in cooperation with the ILO. Moreover, tripartite partners are involved in the elaboration of the new draft Labour Code.</p> <p>2006 AR: 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.</p>
	<p>Promotional activities</p>	<p>2011 AR: According to the Government: Seminars and workshops were held throughout the country to promote the PR.</p> <p>2010 AR: According to the Government: A Tripartite Meeting on the Decent Work Country Programme and Timor-Leste Challenges on the Implementation of Ratified Conventions was organized in 2009, in cooperation with the ILO. During this meeting, the social partners decided to develop an action plan in cooperation with the ILO. Moreover, a Senior Officer of the Ministry of Labour participated for the first time in the May 2009 ILO/Turin Course on International Labour Standards during which issues concerning the Declaration and its follow-up had been addressed, including those relating to C.29 and C.105.</p> <p>2009 AR: The Government indicated that with ILO's assistance, a Seminar on "International Labour Standards" and on the "Declaration of Fundamental Principles and Rights at Work" was carried out in Timor-Leste from 29 to 31 October 2008. The Seminar had a massive participation of Government, Employers and Workers representatives.</p> <p>2008 AR: The Government indicated that a government official was trained on International Labour Standards (ILS) and the Declaration Follow-up between May-June 2007 under the sponsorship of the ILO/Turin Centre.</p> <p>2007 AR: According to the Government: A workshop on the Labour Code was organized in 2006.</p> <p>2006 AR: 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 (v) tripartite examination of issues.</p>

	Special initiatives/Progress	<p>2012 AR: According to the Government: The new Labour Code in process of final adoption by Parliament before promulgation by the President of the Republic in 2012 as well as the new Penal Code, 2010, contain explicit provisions against forced labour, human trafficking and servitude, but also dissuasive sanctions against perpetrators.</p> <p>2010 AR: According to the Government: Although forced labour is not common in the country, the Government has included in the scope of the draft new Labour Code the principles of combating forced labour. The process for the establishment of a new Labour Code is undergoing, and the Government will convene a tripartite meeting to finalize the new draft for submission to the Council of Ministers. The Government has received ILO's comments on this draft in March 2009.</p> <p>2006 AR: 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.</p>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL.
		Workers' organizations	NIL.
	According to the Government	<p>2011 AR: According to the Government: Low training skills, human resources development and facilities are for the time being the main challenges faced in realization the PR in the country.</p> <p>2010 AR: According to the Government: There is a general weakness of national labour laws in relation to all the Declaration's principles and rights.</p> <p>2008 AR: The Government indicated the following challenges: (i) legal provisions; (ii) lack of public awareness; (iii) capacity building and (iv) labour inspection is weak.</p> <p>2007 AR: According to the Government: The military crisis has affected the country in the last few months.</p> <p>2006 AR: 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.</p>	

TECHNICAL COOPERATION	Request	<p>2011-2012 ARs: According to the Government: The Government would very much welcome any ILO support to the newly established General Labour Inspectorate so that it better monitor and enforce the application of labour laws and combat and ensure the implementation of the PR. More generally, ILO technical cooperation would be needed to enhance the Government's and the employers' and workers' organizations capacities in realizing the PR.</p> <p>2010 AR: According to the Government: More training and policy advice to tripartite partners concerning the PR, with specific capacity building for the National Division of Labour Relations and the National Division of Labour Inspection so that they can better help promote and realize the Fundamental Principles and Rights at Work (FPRW) in the country. Moreover, ILO technical support would be instrumental in the revision process of national labour laws that include these PRs. Finally, ILO technical cooperation is requested in the process of ratification of other fundamental Conventions and for the development of an Action Plan for the implementation of ratified Conventions, in particular through tripartite workshops/seminars.</p> <p>2008 AR: The Government request ILO assistance to carry out a country assessment to be validated by a national tripartite workshop on the FPRW.</p> <p>2007 AR: According to the Government: Advisors are required on labour as well as training for staff of the Labour Relations and Inspectors.</p> <p>2006 AR: 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>
	Offer	ILO (assistance in reporting (2005), capacity building workshop and labour law revision).
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAS) listed Timor-Leste among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step forward towards universal ratification. In particular, the IDEAs encouraged the Government of Timor-Leste (and four other governments) to initiate or finalize their national labour law review processes. In reforming and strengthening their legal framework in compliance with international labour standards, these countries will allow a better implementation of the principle and right. Finally, the IDEAs noted that a number of governments, employers' or workers' organizations in various countries, including Timor-Leste, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO. (cf. paragraphs 41, 43 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAS urged the Government of Timor-Leste and another to express their intentions concerning ratification of C.29 and/or C.105. However, the IDEAs welcomed the significant increase in the reports of action to combat forced labour in several countries, including Timor-Leste). An increasing number of States are recognizing that forced labour does exist in their country [...]. Such recognition is indispensable to combating forced or compulsory labour, as it is undoubtedly the first step in what is a daunting but essential task (cf. paragraphs 40 and 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p> <p>2005 AR: The IDEAs looked forward to receiving a first reply from Timor-Leste (and few other countries) that had never reported under the Declaration Annual Review (cf. paragraph 8 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>	

GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99 th Session (2010) of the International Labour Conference.
INTERNATIONAL LABOUR CONFERENCE RESOLUTION	2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99 th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/--ed_norm/--relconf/documents/meetingdocument/wcms_143164.pdf .



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2009-2012)¹: TUVALU

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

REPORTING	Fulfillment of Government's reporting obligations	YES , for the first time under the 2012 Annual Review (AR), but not under the previous reviews (i.e. 2009-2011 ARs). Tuvalu joined the ILO in 2008.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to the Government: Involvement of the employers' organizations (the Tuvalu National Private Sector Organization, TNPSO) and workers' organizations (the Tuvalu Overseas Seafarers' Union, TOSU) by means of consultation and communication of a copy of the government reports.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2012 AR: Observations by the TNPSO.	
	Workers' organizations	2012 AR: Observations by the TOSU.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Tuvalu has ratified neither the Forced Labour Convention, 1930 (No. 29) (C.29) nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).
		Ratification intention	YES, since 2011, for both C.29 and C.105. 2012 AR: According to the Government: Following consultations with TNPSO and TOSU, the Government has expressed its intention to ratify soon C.29 and C.105 and all other fundamental Conventions under the Decent Work Country Programme (DWCP) 2010-2012 being currently implemented. This intention was subsequently confirmed during the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010, and during the First National Tripartite Workshop on Tuvalu and ILO held in Funafuti, and where a tripartite call was also made for a prompt ratification of these 8 instruments by Tuvalu. The TNPSO expressed its full support to the ratification of all ILO fundamental Conventions by Tuvalu, including C.29 and C.105, taking especially into consideration the maritime and fishing industry which is so globalized and so important in Tuvalu. The TOSU supported the ratification of all the 8 ILO fundamental Conventions by Tuvalu, including C.29 and C.105 for the same reasons expressed by TNPSO. It further recalled that the Government had expressed its wish to ratify these fundamental Conventions on three occasions, at least: (i) in the current DWCP; (ii) during the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010, and (iii) during the First National Tripartite Workshop on Tuvalu and ILO held in Funafuti, and where a tripartite call was also made for a prompt ratification of these 8 instruments by Tuvalu.

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

	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	<p>YES.</p> <p>Tuvalu Constitution, Cap. 1.02, 1978 (Revised 2008), section 18 (1)(e)-(f) expressly mentions that no one shall be held in slavery or servitude or be required to perform forced labour. It further prohibits inhuman treatment (section 19).</p> <p>Under Tuvalu Constitution, section 18(2) provides that slavery or servitude includes slavery or servitude within the meaning of any international or multinational convention or treaty prohibiting slavery or servitude to which Tuvalu is a party. However, forced labour is not explicitly defined. However, section 18(2)(b) of the same text provides for some cases that are not included in forced labour (as a result of a court sentence, in case of emergency, calamity or natural disaster, conscientious objection, civic or normal traditional obligations reasonably required, minor communal works lawfully required, etc.).</p>
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Legislation: <ul style="list-style-type: none"> (i) The Employment Act; and (ii) The Penal Code. • Regulations: <ul style="list-style-type: none"> (i) Employment Orders.
		Basic legal provisions	(i) The Constitution (sections 18 and 19); (ii) The Employment Act; (iii) The Penal Code; and (iv) The Employment orders.
		Judicial decisions	NIL.
		Definition of forced or compulsory labour	<p>AR 2008: According to the Government: A definition of unlawful compulsory labour is given under section 374 of the Penal Code, i.e.: when a person is unlawfully compelled to labour against his will. Moreover, the Trafficking and Smuggling of Persons Order, 2004 (section 2) defines: (i) “exploitation” as including any forms of sexual exploitation of another person’s prostitution, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs; (ii) “people smuggling” as arranging or assisting a person’s unlawful entry into any receiving country including Brunei Darussalam, of which the person is not citizen or permanent resident of the receiving country, knowing or having reason to suspect the person’s entry is unlawful, in order to obtain a financial or other material benefit; and “people trafficking” as the recruitment, transportation, transfer, harbouring or receipt of a person for the purpose of exploitation, as set out in section 4 or 5 of this Order (i.e., by means of threat, use of force or other forms of coercion, abduction, fraud, deception, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person).</p>
	Judicial decisions	NIL.	
Exercise of the principle and right	Special attention to particular situations and human trafficking	NIL.	

		Information/ Data collection and dissemination	NIL.
	Monitoring, enforcement and sanctions mechanisms	2012 AR: According to the Government: the Labour Department and courts.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Involvement of the social partners	2012 AR: The Government indicated that the TNPSO and the TOSU were involved in the formulation of the DWCP, in cooperation with ILO.	
	Promotional activities	<p>2012 AR: According to the Government: The Officer of the Labour Department was trained in the ILO/TURIN May-June 2009 Course on International Labour Standards and the Declaration. Moreover, the Government, the TNPSO and the TOSU participated in the High Level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Port Vila, Vanuatu in February 2010 where the fundamental principles and rights have been promoted. Moreover, The new Officer of the Labour Department of the Ministry of Foreign Affairs, Trade, Tourism, Environment and Labour was trained, among others, on the fundamental principles and rights at work and International Labour Standards during ILO's assistance in reporting issues carried out in September 2011. On the same occasion, a first national tripartite workshop on Tuvalu and the ILO was organized where the fundamental principles and rights at work and the Decent Work Country Programme were addressed.</p> <p>The TNSPO and the TOSU confirmed their participation in such activities and indicated that they had been sensitized on the same issues during this September 2011 ILO Mission.</p>	
	Special initiatives/Progress	According to the Government, the TNPSO and TOSU: The reporting exercise and the workshop on Tuvalu and the ILO, supported by the Office were a first successful experience of tripartite activity in Tuvalu. This interesting exercise should continue in the country.	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	2012 AR: According to the TNPSO: No problems are being encountered to exercise the PR in the country. However, employers lack capacity building on the PR.
		Workers' organizations	2012 AR: According to the TOSU: There are no major problems to exercise the PR in the country. However, the issue of freedom of association and the right to collective bargaining needs to be further discussed with the Labour Department so as to strengthen the capacity of employers' and workers' organizations and the Labour Department officials.
	According to the Government	The Government mentioned the following challenges concerning the realization of the PR in Tuvalu: (i) Lack of public awareness and/or support; (ii) lack of capacity of responsible government institutions; (iii) lack of capacity of employers' and workers' organizations; and (iv) lack of social dialogue on the PR.	

TECHNICAL COOPERATION	Request	<p>2012 AR: According to the Government, TNPSO and TOSU: There is a need for ILO technical cooperation to facilitate the realization of this PR in Tuvalu, 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; awareness-raising, legal literacy and advocacy; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; legal reform (labour law and other relevant legislation); (2) strengthening data collection and capacity for statistical analysis; developing labour market policies that promote equality of opportunity; developing policies regarding equal remuneration; and (3) sharing of experiences (best-practices) across countries/regions; training of other officials (e.g. police, judiciary, social workers, teachers).</p> <p>In addition, tripartite partners expressed their appreciation regarding the organization of the First National Tripartite Workshop on Tuvalu and ILO, in September 2011, in cooperation with ILO, but also their hope that this first very interesting and fruitful experience of tripartism and social dialogue in Tuvalu would continue, with ILO support.</p>
	Offer	ILO (Decent Work Country Programme; Assistance in reporting under the AR; First National Tripartite on Tuvalu and the ILO).
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	NIL.	
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99 th Session (2010) of the International Labour Conference.	
INTERNATIONAL LABOUR CONFERENCE RESOLUTION	2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99 th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled "Annex to the 1998 Declaration (Revised)". In particular, the Resolution "[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf .	



COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2012)¹: UNITED STATES

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

REPORTING	Fulfillment of Government's reporting obligations	YES , but no changes to reports for the 2001, 2002, 2004 and 2006 Annual Reviews (ARs).	
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to the Government: Involvement of the United States Council for International Business (USCIB), the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and the Change to Win Federation, by means of consultation and communication of the government's reports. In addition, in keeping with longstanding practice, as well as U.S. obligations under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 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.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	NIL.	
	Workers' organizations	2004 AR: Observations by the AFL-CIO. 2002 AR: Observations by the International Confederation of Free Trade Unions (ICFTU). 2001 AR: Observations by the ICFTU.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	The United States ratified the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105) in 1991. However, it has not ratified the Forced Labour Convention, 1930 (No. 29) (C.29).
		Ratification intention	There are no current plans to ratify C.29. 2012 AR: According to the Government: There are no current efforts to pursue ratification of C.29. 2011 AR: According to the Government: There are no current plans to ratify C.29. 2009 AR: According to the Government: No change
	Recognition of the principle and right (prospect(s), means of action, basic provisions)	Constitution	YES , 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.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex.

		<p>Policy, legislation and/or regulations</p>	<ul style="list-style-type: none"> • Policy: 2003 AR: 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 labor. 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. • Legislation: 2010 AR: According to the Government: Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, Pub. L. No. 110-457, among other things, authorized new measures to combat human trafficking, including new and expanded trafficking and forced labor crimes; increased penalties for trafficking and forced labor crimes; expanded remedies for victims to include actions against those who benefit from their illegal activities; enlarged authority to charge and detain offenders; a prohibition on the availability of certain U.S. funds to governments that recruit or use child soldiers; and the requirement that U.S. missions abroad investigate reports of child soldiers. 2009 AR: According to the Government: section 3205 of the Food, Conservation, and Energy Act of 2008, Pub.L.No. 110-246, was enacted into law on June 18, 2008, establishing a consultative group to develop recommendations on practices that would enable companies to monitor and verify whether the food products they import are made with the use of child or forced labor. 2007 AR: According to the Government: 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) and requiring overtime pay (29 U.S.C.§ 207).
		<p>Basic legal provisions</p>	<p>(i) US Constitution; (ii) the Trafficking Victims Protection Reauthorization Act (TVPRA), 2008, Pub. L. No. 110-457; and the Food, Conservation, and Energy Act, 2008, Pub. L. No. 110-246.</p>
		<p>Definition of forced or compulsory labour</p>	<p>2003 AR: According to the Government: The Victims of Trafficking and Violence Protection Act of 2000 enacted on 28 October 2000 expands the definition of forced labor 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. 2000 AR: According to the Government: The Supreme Court defined involuntary servitude to mean the control of the labor 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>

		Judicial decisions	<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).
	Exercise of the principle and right	Special attention to particular situations and human trafficking	<p>2012 AR: According to the Government: The Attorney General’s report describes measures to increase protection and outreach to populations of workers who are particularly vulnerable to being victims of trafficking. The trafficking in Persons Report (2011) on the United States describes protections furnished to victims of human trafficking who are foreign nationals without lawful immigration status, as well as victims who are citizens. It also describes prevention efforts focused on certain visa categories, such as the A-3 and G-5 categories that allow persons to enter into the country as domestic workers of foreign diplomatic or consular personnel and of officials of international organizations and the J-1 Summer Work Travel Program, which provides foreign students an opportunity to live and work in the United States during their summer vacation from college or university.</p> <p>2011 AR: According to the Government: The Attorney General’s July report describes measures to increase protection and outreach to populations of workers who are particularly vulnerable to becoming victims of trafficking.</p> <p>2009 AR: According to the Government: Focusing on countries identified by the State Department as needing to improve their efforts to combat human trafficking, the US Government provided approximately \$179 million in support during Fiscal Year 2007 to 180 international anti-trafficking programmes in more than 90 countries.</p> <p>2003 AR: According to the Government: the laws are designed to protect all groups.</p>
		Information and data collection	<p>2010 AR: According to the Government: The U.S. Attorney General’s June 2009 report to Congress under the TVPRA of 2003, 2005, and 2008 can be found at http://www.usdoj.gov/olp/pdf/agr-report-fy2008.pdf.</p> <p>2009 AR: According to the Government: The US Attorney-General’s May 2008 report to Congress for Fiscal Year 2007 under the Trafficking Victims Protection Reauthorization Acts of 2003 and 2005 can be found at www.usdoj.gov/ag/annualreports/tr2007/agreporhumantrafficking2007.pdf.</p> <p>2008 AR: According to the Government: The US Attorney-General’s May 2007 report to Congress under the Trafficking Victims Protection Reauthorization Acts of 2003 and 2005 can be found at www.usdoj.gov/ag/annualreports/tr2006/agreporhumantrafficking2006.pdf.</p> <p>2003 AR: According to the Government: The principal storehouse of information concerning any labor statistics is the Bureau of Labor Statistics, Washington, D.C.20212.</p> <p>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).</p>

	<p>Prevention/monitoring, enforcement and sanctions mechanisms</p>	<p>2008 AR: The U.S. Department of Justice established in March 2007 a Human Trafficking Prosecution Unit within the Civil Rights Division, which will enhance its ability to investigate and prosecute important trafficking and slavery cases. The unit will also serve as a resource for training, outreach, and policy development. Moreover, several states have passed laws to establish research commissions and task forces, and to mandate law enforcement training and the provision of victims' services.</p> <p>2007 AR: 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 the following URL address: http://www.usdoj.gov/whatwedo/whatwedo_ctip.html.</p> <p>2004 AR: According to the Government: The Trafficking Victims Protection Reauthorization Act of 2003 allows a victim of trafficking to file a civil action in a district court against his/her trafficker and to recover damages and attorney's fees. The law also allows for the prosecution of sex traffickers whose actions affect commerce.</p> <p>2003 AR: According to the Government: In realizing the principle of the elimination of all forms of forced or compulsory labor, 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.</p> <p>2000 AR: According to the Government: The provisions of 18 U.S.C. §§ 241 and 242 provide criminal penalties for the exaction of forced labor in violation of the Thirteenth Amendment.</p>
	<p>Involvement of the social partners</p>	<p>2003 AR: According to the Government: Tripartite examination of issues in realizing the principle and right (PR).</p>
	<p>Promotional activities</p>	<p>2012 AR: According to the Government: The U.S. Attorney General's Fiscal Year 2010 Report (June 2011) to Congress under the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, 2005 and 2008 can be found at: http://www.justice.gov/ag/publications.htm This report describes the ongoing measures to implement the TVPRA of 2005 and the TVPRA of 2008, including strengthening enforcement, improving training, obtaining research data, and improving public outreach.</p> <p>2011 AR: According to the Government: The U.S. Attorney General's Fiscal Year 2009 Report (July 2010) to Congress under the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, 2005 and 2008 can be found at: http://www.justice.gov/crt/crim/trafficking_report_2009.pdf. This report describes the continuing measures to implement the TVPRA of 2008, including strengthening enforcement, improving training, obtaining research data, and improving public outreach.</p> <p>2008 AR: The Government indicated that the U.S. Department of Justice convened a National Conference on Human Trafficking in 2006, bringing together federal, state, and local law enforcement and prosecution officials, victims' advocates, academics, and non-governmental victim service providers to discuss human trafficking issues and develop strategies for combating slavery and human trafficking more effectively. Moreover, the Human Trafficking Prosecution Unit will also serve as a resource for training, outreach and policy development.</p> <p>2003 AR: According to the Government: In realizing the principle and right of the elimination of all forms of forced or compulsory labor, the following measures have been implemented: (i) awareness raising/advocacy; (ii) employment creation/income generation; (iii) educational programs; (iv) rehabilitation following removal from forced labor and (iv) international cooperation programs/projects.</p>

	<p>Special initiatives/Progress</p>	<p>2012 AR: According to the Government: The Trafficking in Persons Report (2011), issued by the U.S. Department of State, outlines the challenges for countries across the globe in addressing trafficking in persons and forced labour, including the United States. This report, which may be found at: http://www.state.gov/g/tip/rls/tiprpt/2011/index.htm, also includes, <i>inter alia</i>, special recommendations for improving law enforcement data collection on human trafficking cases at the state and local levels in the United States. Moreover, the U.S Department of Labor (DOL) Bureau of International Labor Affairs (ILAB) published on December 15, 2010 a report in accordance with the TVPRA of 2005 that included a list of products and the country of origin for each that are produced by forced and child labor. The report can be found at http://www.dol.gov/ilab/programs/ocft/TVPRA.htm.</p> <p>2011 AR: According to the Government: The Trafficking in Persons Report (2010), issued by the U.S. Department of State, outlines the challenges for countries across the globe in addressing trafficking in persons and forced labour. For the first time, this report includes a section on the United States. This report, which may be found at: http://www.state.gov/g/tip/rls/tiprpt/2010/index.htm, also includes, <i>inter alia</i>, special recommendations for improving law enforcement data collection on human trafficking cases at the state and local levels in the United States.</p> <p>2010 AR: According to the Government: New Acts concerning the principle and right (PR) have been adopted, such as: (i) the Trafficking Victims Protection Reauthorization Act (TVPRA), 2008, Pub. L. No. 110-457; and (ii) the Food, Conservation, and Energy Act, 2008, Pub.L.No. 110-246. Moreover, the United States published on September 10, 2009 a report pursuant to the TVPRA of 2005 that included a list of products and the country of origin for each that are produced by forced and child labor. The report can be found at http://www.dol.gov/ilab/programs/ocft/PDF/2009TVPRA.pdf.</p> <p>2009 AR: According to the Government: Focusing on countries identified by the State Department as needing to improve their efforts to combat human trafficking, the US Government provided approximately \$179 million in support during Fiscal Year 2007 to 180 international anti-trafficking programs in more than 90 countries.</p> <p>2008 AR: According to the Government: The Office of Victims of Crime in the US Department of Justice in 2006 awarded more than \$12 million to 30 organizations around the country to help them continue working collaboratively with law enforcement task forces to ensure that comprehensive services are provided to victims of human trafficking. Moreover, the US Department of Justice continues to promote a Model State Anti-Trafficking Statute, which would expand anti-trafficking authority to the states. As of November 1, 2006, twenty seven (27) states had passed anti-trafficking legislation and 15 more had legislation pending. Several other states have passed laws to establish research commissions and task forces, and to mandate law enforcement training and the provision of victim's services.</p> <p>2003 AR: 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 labor in the United States.</p>
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CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL.
		Workers' organizations	2004 AR: The AFL-CIO expresses its strong disagreement with the updated report by the Government on this PR.
			2003 AR: Observations of the AFL-CIO: The labour performed by prisoners involving private sector violates the ILO Convention on forced labour
	According to the Government	2012 AR: According to the Government: <i>The Trafficking in Persons Report (2011)</i> issued by the U.S. Department of State, outlines the challenges regarding trafficking in persons and forced labour. This report may be found at: http://www.state.gov/g/tip/rls/tiprpt/2011/index.htm .	
2011 AR: The Government indicated that the challenges regarding trafficking in persons and forced labour were outlined for the first time in <i>The Trafficking in Persons Report (2010)</i> issued by the U.S. Department of State. This report may be found at: http://www.state.gov/g/tip/rls/tiprpt/2010/index.htm .			
TECHNICAL COOPERATION	Request	2004 AR: 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.	
	Offer	NIL.	
EXPERT-ADVISERS' RECOMMENDATIONS/OBSERVATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers were concerned that the United States was not actively considering ratification of Convention No. 29, and urged it to take action in this regard. However, they noted that some reporting States had developed programmes and mechanisms to combat forced labour in their countries, whether it took the form of classic slavery or bonded labour, trafficking, forced child labour, serfdom, or others. In this respect, they considered, in particular, that the United States and another State had taken certain positive measures, and encouraged them to engage in the ratification process of C.29 (cf. paragraphs 42 and 49 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2006 AR: The IDEAs hoped that the United States (and another State) would consider ratification of C.29 (cf. paragraph 44 of the 2006 AR Introduction – ILO: GB.295/5).</p> <p>2005 AR: The IDEAs listed United States 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. They also considered that the example of regular and constructive contributions by AFL-CIO and the JTUC-RENGO (Japan) should be expanded upon, in particular among other national workers' organizations, as well as employers' organizations (cf. paragraphs 13 and 190 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>		

GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	2009 AR: During its March 2009 Session, the Governing Body included the review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99 th Session (2010) of the International Labour Conference.
INTERNATIONAL LABOUR CONFERENCE RESOLUTION	2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99 th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/--ed_norm/--relconf/documents/meetingdocument/wcms_143164.pdf .



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2012)¹: VIET NAM

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

REPORTING	Fulfillment of Government's reporting obligations	YES , except for the 2003 and 2004 Annual Reviews (ARs). No change report under the 2001 AR.
	Involvement of Employers' and Workers' organizations in the reporting process	YES , according to the Government: Involvement of the Viet Nam Chamber of Commerce and Industry (VCCI), the Viet Nam Cooperative Alliance (VCA), 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) and through consultations and communication of government's reports.
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2012 AR: Observation by the VCCI. 2011 AR: Observations by the VCCI. Observations by the VCA. 2008 AR: Observations by the VCCI. 2007 AR: Observations by the VCCI.
	Workers' organizations	2012 AR: Observations by the VGCL. 2011 AR: Observations by the VGCL. 2008 AR: Observations by the VGCL. 2007 AR: Observations by the VGCL. 2006 AR: Observations by the VGCL.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: governments' reports, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex.

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Viet Nam ratified the Forced Labour Convention, 1930 (No. 29) (C.29) in 2007. However, it has not yet ratified the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).
		Ratification intention	<p>YES, since 2000, for C.105.</p> <p>2012 AR: According to the Government: Ratification of C.105, as well as of other unratified Core Conventions, have been submitted to the National Assembly which should hopefully review them in October 2011 and adopt them in May-June 2012.</p> <p>The VCCI and the VGCL expressed their full support to the ratification of C105 by Viet Nam.</p> <p>2011 AR: The Government indicated that ratification of C.105 was scheduled for 2010.</p> <p>The VCCI, the VCA and the VGCL supported this ratification.</p> <p>2009 AR: According to the Government: The final ratification of C.105 will be processed upon completion of the labour law review and the strengthening of the national legal system.</p> <p>The VCCI and the VCA agreed with the Government’s views.</p> <p>2008 AR: According to the Government: the ratification of C.29 was approved by the President on 29 January 2007 and was submitted to ILO on 5 March 2007. As for C.105, amendments are currently being made to the Labour Code in order to comply with the International Labour Standards (ILS). Once the law review is completed, C.105 will be ratified.</p> <p>The VCCI supports the ratification of C.105.</p> <p>The VGCL indicated that the ratification of C.29 had already been completed and supported the ratification of C.105, which is currently being discussed between the social partners.</p> <p>2007 AR: 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.</p> <p>2006 AR: 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).</p> <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>2001 AR: 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>2000 AR: The Government considered that it was “high time” to ratify C.29 and C.105 “in order to prevent misunderstandings”.</p>

Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	NIL.
	Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy: 2005 AR: According to the Government: National policy to eliminate all forms of forced and compulsory labour is enshrined in section 5 of the Labour Code. • Legislation: 2006 AR: According to the Government: The Labour Code prohibits forced labour under any form and manifestation. • Regulations: 2012 AR: Decree on Human Trafficking, 2009. 2006 AR: The Government indicted 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.
	Basic legal provisions	(i) Labour Code (section 5); (ii) Resolution No. 44/2003/ND-CP of 9 May 2003 (provision 1, section 11); and (iii) Decree No. 47/2010/ND-CP of 6 May 2010
	Definition of forced or compulsory labour	2005 AR: “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).
	Judicial decisions	NIL.
Exercise of the principle and right	Special attention to particular situations	<p>2009 AR: According to the Government: poor people and cross-border trafficking in women and children.</p> <p>2005 AR: According to the Government: Women and children.</p>
	Information/ Data collection and dissemination	<p>2007 AR: According to the Government: A survey is being completed to provide more information on the real situation concerning forced labour.</p> <p>2005 AR: According to the Government: A survey on the extent of forced labour in the country is being conducted.</p>
Prevention, monitoring, enforcement and sanctions mechanisms	<p>2011 AR: According to the Government: Decree No. 47/2010/ND-CP dated 6/5/2010 repeals Decree No. 113/2004/ND-CP and reduces the fines to from between 5 million and 15 million VND (i.e., between US\$ 255 and 765).</p> <p>2009 AR: According to the VGCL: Activities to monitor law compliance by trade unions have been conducted on a large scale.</p> <p>2006 AR: 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>2005 AR: 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 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).</p>	

	<p>Involvement of the social partners</p>	<p>2012 AR: The Government, the VCCI and the VGCL indicated that employers' and workers' organizations had been involved in the drafting and revision of the Labour Code and the Trade Union Law, to bring national laws into conformity with C.105.</p> <p>2011 AR: According to the Government: The employers' and workers' organizations have been involved in the reporting process.</p> <p>2009 AR: The VCA indicated that it was working in close cooperation with ministries and agencies and local partners to implement poverty reduction programmes and help poor people improve their living standards.</p> <p>2005 AR: According to the Government: Involvement of the social partners through tripartite examination of related issues.</p>
	<p>Promotional activities</p>	<p>2011 AR: According to the Government: In 2008 and 2009, the MoLISA carried out training activities on C.29 for labour inspectors and officials all over the country (64 provinces).</p> <p>2009 AR: The Government indicated that awareness-raising activities were carried, and that it was paying much attention to programmes for poverty reduction, preventing and combating cross-border trafficking in women and children.</p> <p>The VGCL and the VCA indicated that they had conducted training activities to raise the awareness of their members.</p> <p>2008 AR: According to the Government: a plan of cooperation with the ILO on sensitization on forced labour is already in force. Several trainings are being conducted for labour inspectors, the police and magistrates and two workshops dedicated to workers and employers were organized. Moreover, the current national legal framework is under review for possible ratification of C.105.</p> <p>The VCCI indicated that it was also collaborating in the awareness-raising programmes.</p> <p>The VGCL indicated that it organized on regular basis trainings in order to raise awareness and to explain to workers the PR.</p> <p>2007 AR: According to the Government: Workshops have been organized to raise awareness on the PR, in cooperation with the ILO.</p> <p>2006 AR: The VGCL mentioned its participation in the survey to determine the magnitude of forced labour in the country.</p> <p>2005 AR: According to the Government: In realizing the PR, the following measures have been implemented: employment creation/income generation and educational programmes.</p>
	<p>Special initiatives/Progress</p>	<p>2012 AR: According to the Government: The Labour Code and the Trade Union Bill were revised, in consultation with the social partners and the ILO, which provided several comments that were taken into consideration in the revision process. This national tripartite exercise allowed the harmonization of domestic laws with related ILO instruments, but also the evaluation of which ILO Conventions may be ratified and adopted by Viet Nam.</p> <p>2011 AR: According to the Government: The Ordinance on Community Services was repealed by the National Assembly Standing Committee in 2007.</p> <p>2006 AR: 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.</p>

CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL.
		Workers' organizations	<p>2012 AR: The VGCL indicated that in order for C.105 to be ratified, domestic laws would need to be reviewed.</p> <p>2009 AR: According to the VCA: Poverty rate is still high, especially in rural, remote areas and among ethnic minority groups. More effort is needed to combat cross-border trafficking in women and children.</p>
	According to the Government	<p>2012 AR: According to the Government: The Labour Code needs to be improved taking into consideration the 68 related comments submitted by the ILO.</p> <p>2009 AR: According to the Government: Poverty rate is still high, especially in the rural areas. The prevention and combat against cross-border trafficking in women and children requires time and efforts.</p> <p>2008 AR: The Government mentioned the following challenges: (i) lack of capacity building (ii) poverty (iii) lack of training and education on the definition of forced labour. It added that some forms of labour, which are not exempted by C.105 still exist in the country, such as prison labour, minor communal work and services, rehabilitation labour for drug addicts and prostitutes.</p> <p>2006 AR: 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.</p> <p>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>2005 AR: 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>	
TECHNICAL COOPERATION	Request	<p>2012 AR: According to the Government: ILO technical assistance is needed in the following areas: (i) Capacity building for labour inspectors in law and policy making; (ii) Awareness raising; and (iii) Training and workshops.</p> <p>According to the VGCL: ILO assistance is needed for awareness raising, capacity building and training programme.</p> <p>2011 AR: According to the Government: More ILO technical assistance would be needed to carry out a nationwide survey on forced labour and disseminate and organize training activities on the content of C105 to labour inspectors and labour officials after its ratification.</p> <p>2009 AR: According to the Government: ILO technical assistance is highly needed in strengthening managerial capability of the MOLISA for coordinating efforts to monitor, prevent and abolish forced labour in all its forms and manifestation in Viet Nam, in particular: (i) by providing Viet Nam with the opportunity to study experiences of monitoring, preventing, reducing and abolishing all forms of forced labour in other countries; and (ii) by providing technical assistance in promoting activities for improved compliance of the laws and for reduction and abolition of the forced labour in Viet Nam.</p> <p>The VGCL continued to seek technical support from the ILO to organize workshops, training courses to raise awareness about forced labour, and well as to build capacity for trade unions in supervising and monitoring.</p> <p>The VCA requested ILO assistance to help government officials to study and learn experience from other countries in monitoring, preventing and abolishing all forms of forced labour.</p> <p>2008 AR: The Government requested ILO technical assistance for the elaboration of training programmes on forced labour.</p> <p>The VGCL requested ILO assistance for awareness-raising activities and that a country assessment is undertaken on the Declaration Follow-up.</p>	

		<p>2007 AR: 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>2006 AR: 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.</p> <p>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>2005 AR: 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>
	Offer	ILO (awareness raising activities and case study on the PR).
<p>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</p>		<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAS) welcome the fact that Viet Nam had ratified C.29, and listed Viet Nam among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step towards universal ratification. Concerning the interpretation and application of exemptions by C.105 regarding of some forms of forced labour, the IDEAS requested the Government of Viet Nam to seek ILO assistance for compliance. They further noted that a number of governments, employers' or workers' organizations in various countries, including Viet Nam, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO (cf. paragraphs 41, 45 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAs encouraged Viet Nam to consider ratification of C.105 (cf. paragraph 40 of the 2007 AR Introduction – ILO: GB.298/3).</p> <p>2005 AR: The IDEAs hoped that ratification intentions expressed by Viet Nam would 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 (cf. paragraph 192 of the 2005 Annual Review Introduction – ILO: GB.294/2).</p>
<p>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>		<p>2009 AR: During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p>
<p>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</p>		<p>2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/--ed_norm/--relconf/documents/meetingdocument/wcms_143164.pdf.</p>



**GENERAL OBSERVATION BY THE INTERNATIONAL ORGANISATION
OF EMPLOYERS (IOE) UNDER THE 2012 ANNUAL REVIEW**¹

As in the 2011 Annual Review, the IOE sent a statement outlining its position and activities with regard to the Declaration and its follow-up, which is reproduced here in extenso².

The International Organisation of Employers (IOE) gives the highest priority and continues to fully support the ILO Declaration on Fundamental Principles and Rights at work and its follow up, and [it] again thanks the Office for giving [IOE] an opportunity to give our views under the Annual Follow-up concerning Non-Ratified Fundamental Conventions.

The IOE believes strongly in the Office having the resources allocated to both promote the Declaration as a whole but also to be able, through ACTEMP, to resource technical co-operation activities for Employers. [It] noticed for some years now that such resources are no longer being allocated sufficiently to allow the IOE to support promotional activities based on the 4 principles. [IOE] hope is that this should soon be corrected.

Below are some of the most important activities undertaken by the IOE in its efforts to promote the Declaration and its four principles (for a better explanation, comments are divided into three parts):

- I. IOE efforts to support the Declaration
- II. IOE initiatives in relation to the four Fundamental Principles
- III. Areas of concern

I. IOE efforts to support the Declaration

1. The IOE position paper

The IOE used its updated position paper on the Declaration as a guide for the Employers Group 2010 debate on the future of the follow up. The Employers Group believes it is incumbent on the Office to take the consensus conclusions of that discussion forward as part of its efforts to ensure that the Declaration maintains its visibility and usefulness to Member States.

2. The Global Report. ILC Discussions

The IOE continues its role of supporting the Employers Group in the discussions of the Global Report during the annual International Labour Conference. This debate should be seen as the premier means of promoting the Declaration to the assembled constituents. However, problems persist with the nature of the ILC debate and (IOE) continue to look for ways of working with the Office, Governments and Workers to ensure the Declaration discussion is as dynamic and as useful as possible. The IOE sees the Office as having an important role in realizing this shared constituent objective.

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

² With some light editing by the Office.

3. *Corporate Social Responsibility*

The IOE through its member Employers' Organisations, continues to work to ensure the proper use of the Declaration within CSR activities, recognizing that the Declaration is itself a call to member States to promote the Principles.

The IOE continues to support members in the use of ISO 26000 as a guidance standard that incorporate the principles of the Declaration within its text.

Through ACTEMP TURIN, the IOE was involved in a series of seminars across Europe on Transnational Company Agreements, hosted by Business Europe, BDA, CEOE, MEDEF, FEB, VNO NCW that looked at developments surrounding European and International agreements where the Declaration is often a reference text to the parties concluding such agreements. Further seminars in London and Copenhagen will be undertaken by the end of this year.

In 2011, the IOE Guide for Employers on International Framework Agreements (IFA's) was again revised.

The IOE also continued to work closely with Prof. John Ruggie in the lead up to the UN Council for Human Rights adoption on the Guiding Principles on Business and Human Rights that includes a reference to the Declaration as a tool for companies to be cognisant of in this area. The IOE is developing resource material for its members on the Principles and will continue to ensure the clear identification of the labour rights aspects of the Declaration in conformity with the intent and purpose behind its creation. The IOE expects the Office to be vigilant to its efforts to also ensure the Declaration is used correctly by all actors in the wide human rights debate

4. *Global Compact*

The IOE is fully active in the support to the Global Compact. The IOE Secretary General is a standing member of the Global Compact Advisory Board as well as co-chair of the Global Compact Labour Group that continues to look for ways to promote the 4 labour principles in a manner consistent with the activities and political decisions of the ILO with regards to the promotion of the Declaration itself. The ILO, mainly through IPEC, MNE & ACTEMP, extensively collaborates in the delivery of the Global Compact.

Many IOE members are active regionally and lead the local network offices of the Global Compact.

A guide on the labour principles has been created in conjunction with the ITUC to give practical guidance to Global Compact companies on the 4 labour principles.

II. IOE efforts to promote the four Fundamental Principles

■ *Freedom of Association and the effective recognition of the rights to collective bargaining*

[Reference is made to IOE's position in the Committee on Freedom of Association and in the Governing Body.]. It is important that the ILO itself, in its promotion efforts, recognizes that this principle does not only pertains to Workers' Organisations and that Employers can expect the same levels of ILO engagement and support when their Freedom of Association is infringed.

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

Political events in the Arab region prevented an initiative of the Employers on this principle taking place this year. Notwithstanding this, the IOE continues to promote the joint ILO/IOE publication "Combating Forced Labour: A Handbook for Employers and Business" along with the complementary IOE guide "Forced Labour: Why is it an issue for Employers

■ *The effective abolition of child labour*

The IOE continues to follow the outcomes of the Global Conference on Child labour held in the Hague last year and to work to ensure consistency in work arising from the action plan and the IPEC work programme.

IOE is working with IPEC on a special project concerning the application of due diligence tools to child labour consequent to the adoption of the Guiding Principles on Business and Human Rights.

■ *The elimination of discrimination in respect of employment and occupation*

IOE's long standing work on HIV/AIDS continues and will work closely with the Office on the follow up to the ILC Recommendation adopted in 2010.

The IOE worked with ACTEMP on an initiative to establish two disability networks in the US and Africa to help with the exchange of good practice amongst Employer's Organisations and companies.

Youth unemployment persists and is in fact further deteriorating. IOE and the Employer Group see this as a priority area for IOE action and were pleased to see its proposal for a discussion on youth employment to be included in the ILC agenda of 2012.

III. Areas of concern

The IOE sees the 1998 Declaration as an indispensable tool for the realization of the values of the ILO. It recognizes that this realization can come about regardless of the ratification of the Conventions from which the principles are drawn. Capturing these innovative steps are an important information resource for constituents and the Office to draw upon in their own promotional work.

However, such efforts require the Declaration department and the sections dealing with the 4 principles to have the means to do so, including resources to help Employers and the IOE in their own promotional work.

[IOE] remains ready as [it] always have to work with the Office in delivering Employers' needs with regards to the Declaration and welcome any Office initiative to reach out and better understand what the Employers Group need and expect from the Office with regard to its activities going forward.

This Declaration as a solemn consensus statement of the constituents needs to continue to be seen as a valuable and well supported instrument both within and outside the ILO.