

NEW ZEALAND (2016-2017)
***THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR
Protocol of 2014 (P029) to the Forced Labour Convention***

REPORTING	Fulfillment of Government's reporting obligations	YES.	
	Involvement of Employers' and Workers' organizations in the reporting process	2016 – 2017 AR: YES, according to the Government: the Business New Zealand (BNZ) and the New Zealand Council of Trade Unions (NZCTU) have been consulted, and their comments have been included in the Government's report.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2017 AR: Observations by BNZ. 2016 AR: Observations by BNZ.	
	Workers' organizations	2017 AR: Observations by NZCTU. 2016 AR: Observations by NZCTU.	
EFFORTS AND PROGRESS MADE IN REALIZING MEASURES TARGETED BY THE PROTOCOL	Ratification	Ratification status	New Zealand has not yet ratified the Protocol of 2014 (P029) to the Forced Labour Convention.
		Ratification intention	<p>2017 AR: The Government indicated that New Zealand will be able to consider ratification of Protocol 29 upon completion of the update and expansion of the Plan of Action to include forced labour and slavery.</p> <p>BusinessNZ commented that while New Zealand has not ratified the above protocol it was a signatory to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, introduced in 2000 to supplement the UN Convention against Transnational Organised Crime. Prior to that date international law did not provide an exact definition of 'trafficking' which, in New Zealand, was not generally thought of as covering worker exploitation within the country. A transnational definition of trafficking was inserted in to the Crimes Act in 2002 (s 98D(1) but removed in 2015 making it now possible, in the event of migrant worker exploitation, to pursue trafficking offences committed in New Zealand, not just those of overseas origin.</p> <p>NZCTU commented that it is pleased that the Government is taking steps which may assist in the ratification of P29. The NZCTU supports the development of a National Plan of Action for the prevention of forced labour and slavery and welcomes the government's stated intention to move toward ratification of the Protocol. It notes that the development of national policy and a Plan of Action is envisaged by Article 1 of the Protocol. The process of developing a national plan is therefore not a barrier to immediate ratification of the Protocol. NZCTU further notes that the definition of forced labour, and consequently of trafficking for forced labour, under the ILO framework is somewhat distinct in emphasis and scope from the definition of trafficking in persons under the 2003 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking Protocol). While counter-trafficking programmes under the Trafficking Protocol have</p>

		<p>tended to be coordinated within a law enforcement framework, responding to the issue of forced labour and associated exploitation requires a broader focus on labour inspection and enforcement, in addition to criminal investigations. The NZCTU looks forward to participating in further consultation on this matter.</p>
	<p>Existence of a policy and / or plan of action for the suppression of forced or compulsory labour</p>	<p>2016 - 2017 AR: The Government stated that New Zealand has a National Plan of Action to Prevent People Trafficking (‘Plan of Action’). This is a whole-of-Government approach aimed at preventing trafficking, protecting victims and prosecuting traffickers.</p>
	<p>Measures taken or envisaged for systematic and coordinated action</p>	<p>2017 AR: The Government indicated that the Ministry of Business, Innovation and Employment (MBIE) coordinates an interagency working group on people trafficking which includes the Ministry of Justice, the New Zealand Police, the Ministry of Social Development and other agencies. This group will be overseeing an update and expansion of the Plan of Action to include forced labour and slavery. It is envisaged that this update will move New Zealand towards being able to consider ratification of Protocol 29. The targeted time frame for draft completion of this update is 31 December 2017, and public consultation on the Plan of Action will take place in 2018.</p> <p>Legislative developments: range of relevant new legislation has been enacted over the past few years, including most recently the Immigration Amendment Act 2015 and Crimes Amendment Act 2015. The Employment Relations Amendment Act 2016 introduced (as of 1 April 2016) a range of new and stronger enforcement measures for breaches of minimum employment entitlements. Please refer to New Zealand’s 2017 Article 22 reporting on the Labour Inspection Convention, 1947 (No. 91) for further information on these changes and the Labour Inspectorate’s priorities in respect of these changes. Policy initiatives: As of 1 April 2017, employers that incur a penalty for a breach of employment standards will face a set stand-down period preventing them from recruiting migrant labour for six months, one year, 18 months, or two years, depending on the severity of the breach. MBIE is currently developing formal documentation for its Programme to Support Victims of Human Trafficking, which describes in detail the operational framework, responsibilities of agencies, and options available to victims. Judicial decisions: In September 2016 New Zealand secured its first people trafficking conviction. The individual was found guilty of 15 human trafficking charges involving Fijian nationals, and sentenced in December 2016 to nine years and six months in prison, and ordered to pay a total of \$28,167 reparation to his victims. The maximum penalty for a human trafficking conviction is imprisonment for a term not exceeding 20 years, a fine not exceeding \$500,000, or both. A second individual, who employed some of the trafficked persons from the case above but was not complicit in the trafficking, pleaded guilty to four representative charges involving worker exploitation. This individual was sentenced in February 2017 to a term of home detention for 12 months, and ordered to pay \$55,000 in reparation to the victims.</p> <p>BusinessNZ commented that it should be noted that in the two cases cited, the persons subject to trafficking had consented to leave their own country to come to New Zealand. It should also be noted that the offenders in both cases were from the same country as the individuals trafficked. Consent is now taken as irrelevant to a charge of trafficking but the fact that consent is often involved will at times create a degree of tension when determining the nature of an alleged offence. While too narrow a definition might impede prosecutions and convictions, a too wide definition could cover practices that might not necessarily be thought of as trafficking. Therefore, it is reasonable that provision should also be made (as New Zealand has) for some cases to be dealt with other than as trafficking offences – as employment- or immigration offences, for example.</p> <p>2016 AR: According to the Government: Section 98AA of the Crimes Act 1961 provides for a specific offence for a person who deals with a person under 18 years of age for the purpose of forced labour. Section 98, dealing</p>

		<p>in slaves has a similar maximum penalty and is not age specific. The offence of enslaving another person makes perpetrators liable to imprisonment for up to 14 years everyone who employs or uses any person as a slave, or permits any person to be so employed or used, or induces any person to sell, let or give any other person into debt-bondage or serfdom. Trafficking in people by means of coercion or deception is an offence with a penalty of a term of imprisonment up to 20 years and a fine up to \$500,000 or both.</p> <p>The Corrections Amendment Act came into force in May 2013. Information on this Act and its provisions can be found in the Government’s 2012 report on Convention 29 (the Forced Labour Convention).</p> <p>There are also provisions in immigration legislation (section 351 of the Immigration Act 2009) which address exploitation of migrant employees unlawfully in New Zealand. The Immigration Amendment Act 2015 makes it an offence to exploit temporary migrant workers. Previously, it was only an offence to exploit unlawful workers. Employers who exploit temporary workers face a jail sentence of up to seven years, a fine not exceeding \$100,000, or both. The Act also created a new offence for employers who exploit legal temporary or unlawful workers and are reckless as to their immigration status. This offence carries a jail sentence of up to five years, a fine not exceeding \$100,000, or both. In addition, exploitative employers who hold residence visas will also be liable for deportation if the offence was committed within 10 years of gaining residence.</p> <p>The passing of the Organised Crime and Anti-Corruption Bill in 2015 prompted an updated definition of people trafficking under the Crimes Act. Exploitation and coercion within New Zealand now constitutes an offence, not just when victims cross a border. In this context, exploitation includes sexual exploitation, forced labour (and other forced services), slavery (and like practices), and servitude. Each of these terms has an established meaning which is defined to varying degrees in international and New Zealand law. The new definition of people trafficking only applies to conduct on and from 7 November 2015. The old definition applies (if at all) to events before that date.</p> <p>The Fisheries (Foreign Charter Vessels and other Matters) Amendment Act 2014 came into force on 7 August 2014. The legislation strengthens the regulation of foreign-owned fishing vessels operating in New Zealand waters. From 1 May 2016, all foreign charter vessels (FCVs) have been required to be New Zealand flagged and to operate under full New Zealand legal jurisdiction. FCV fishing in New Zealand’s Exclusive Economic Zone (EEZ) is now subject to New Zealand employment and labour law which will help ensure fair standards for all fishing crews working in our waters. Key features include:</p> <ul style="list-style-type: none"> • Enabling the Ministry for Primary Industries (MPI) to consider employment, pollution/waste discharge issues, and vessel safety matters as well as fisheries matters when assessing applications for registration of foreign-owned fishing vessels • Allowing MPI Fishery Observers to collect information on employment, pollution/waste discharge, and vessel safety matters, in addition to fisheries data already collected • Conferring new powers to suspend the registration of non-compliant FCVs. <p>The Act is part of a range of measures following a 2012 Ministerial Inquiry into questionable safety, labour, and fishing practices on some FCVs. Other measures include:</p> <ul style="list-style-type: none"> • Compulsory individual New Zealand bank accounts for crew members to audit their remuneration • Observers on all FCVs (one observer per FCV is now mandatory, while those FCVs assessed as being high risk are required to carry two observers) • Independent audits of charter parties to ensure crew visa requirements – including wages – are being adhered to. <p>The Government is making good progress on implementing the other recommendations made by the Ministerial Inquiry on using and operating FCVs in New Zealand:</p>
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	<p>Measures taken or envisaged to prevent all forms of forced labour</p>	<p>2017 AR: According to the Government: Labour Inspectors and Immigration Officers receive training on migrant exploitation. MBIE also provides information resources for workers and employers, and publicises anti-exploitation measures (including its specialised phone service) to encourage victims of migrant exploitation to come forward. Prevention is a main focus of the Government's Plan of Action to Prevent People Trafficking, which provides for a consistent and coordinated response to people trafficking and includes targeted awareness-raising. As noted earlier in this report, the Plan of Action is being updated to include forced labour and slavery, and this process will include public consultation. Prevention is also a key focus for the Migrant Exploitation Prevention Strategy 2015-18, which includes initiatives to raise awareness and educate migrants, employers and the wider community on their rights and obligations.</p> <p>BusinessNZ commented that forced or compulsory labour in ILO terms is not a feature of industrial relations in New Zealand. It is not a case here of 'eliminating' forced or compulsory labour but of preventing it from occurring in the first place. There is a significant difference. No-one in this country can be forced to work, although unemployed persons, for example, might be encouraged to do so.</p> <p>2016 AR: According to the Government: New Zealand recognises the relationship between forced labour, labour exploitation and trafficking, and that enforcement of labour laws and labour inspection are important measures to reduce vulnerability to both labour exploitation and trafficking. From 1 April 2016 the Employment Relations Amendment Act 2016 introduced stronger powers for the Labour Inspectorate, including a new regime to deal with serious breaches of minimum entitlements including; broader powers to pursue third parties involved in breaches of employment standards; power to request a wider range of information from employers; and the ability to issue infringement notices for breaches of record keeping requirements. MBIE's Labour Inspectorate is responsible for monitoring and enforcing minimum employment standards. New Zealand's participation in</p>

		<p>anti-trafficking measures mostly occurs within the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime initiative, of which New Zealand is an active member. MBIE's Migrant Exploitation Prevention Strategy 2015-2018 aims to support the integrity of New Zealand's labour market by ensuring migrant workers are treated fairly. Interventions supporting Strategy outcomes include providing effective education to migrant employees and their employers via communication campaigns and targeted employment guides. MBIE liaises with other government agencies, NGOs and community representatives / associations to ensure victims of migrant exploitation through forced labour and other means receive support and guidance. The Government invests in activities that increase the likelihood of non-compliant employers being caught and held accountable by improving MBIE's ability to detect, investigate and effectively prosecute employers who engage in migrant exploitation and the supply chains of which they are a part. This includes developing Sector Strategies and proactive, intelligence-led targeting of employers who exploit migrants. MBIE's Labour Inspectorate and Immigration New Zealand (INZ) work together to address the exploitation of migrants including focusing enforcement activity on the employer, rather than the migrant. Their approach is based on principles that protect the victims of criminal offending. Targeted joint-agency operations have been undertaken following the Government becoming aware of allegations of poor pay and work conditions in the retail/hospitality industries. ILO indicators on forced labour are utilised in the work of New Zealand labour inspectors. The Government recognises some populations may be at greater risk of being exploited by employers in the New Zealand labour market. These include recent migrants who may agree to work under substandard terms and conditions, due to a lack of awareness of New Zealand's minimum employment standards. Also, people working unlawfully may be reluctant to report employers who flout employment standards and seek help due to fear of authorities. In particular, the Government has identified some issues around the treatment of international students by some employers. International students may be particularly vulnerable as they are often young, without existing contacts in New Zealand, and it may be their first time travelling alone or living away from home. They may have financial and family pressures from their home country and they may face language and cultural barriers, including to finding acceptable employment. These factors combined with limited work skills and experience, may cause them to accept any work conditions they are offered. The Government is taking steps to address this vulnerability and to enforce employers' compliance with minimum employment standards.</p> <p>Measures taken include:</p> <ul style="list-style-type: none"> - A number of efforts have been made to advance prevention efforts in New Zealand. - Prevention is a main focus of New Zealand's Plan of Action to Prevent People Trafficking. The Plan provides for a consistent and coordinated response to people trafficking and includes targeted awareness-raising. - MBIE (as the parent agency for both INZ and the Labour Inspectorate) publicises anti-exploitation measures to encourage victims of migrant exploitation to come forward, including a specialised phone queue to the Labour Contact Centre. The channel for making complaints was publicised in multiple languages, through front-line NGOs, unions, community law centres and other migrant support organisations - Prevention is also a key focus for the Migrant Exploitation Strategy. The ongoing programme of work to combat migrant exploitation includes initiatives to increase awareness, including providing links to employment information in key languages in visa approval letters; publications directed to particular sectors (e.g. the construction sector) and community-based awareness raising activities. - INZ provides a number of resources aimed to inform migrants and their employers about living and working in New Zealand. Settlement support information is provided to new migrants and their employers throughout the migration pathway, offshore to onshore. - INZ has developed resources for migrant groups and sectors in which migrants have been identified as vulnerable to workforce exploitation, including international students, Pacific migrants and those working in the dairy farming, construction, or aged care sectors.
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		<p>welfare of workers. The nature of the programme and the surrounding assurances make it very difficult for trafficking to occur.</p> <ul style="list-style-type: none"> - As noted above, INZ provides a number of resources, most of which are online, aimed to inform migrants about living and working in New Zealand. These resources comprise both information and online tools aimed at people who are planning to work in New Zealand. INZ has developed resources specifically targeted at migrant groups and sectors in which migrants have been identified as vulnerable to exploitation in the workforce, including international students, Pacific migrants and those working in the dairy farming, construction, or aged care sector. Some of these resources, translated into migrants’ first languages, are distributed to migrants in their country of origin prior to their departure. The majority of migrants granted work or residence visas are also sent direct emails from INZ to welcome them and provide electronic links to workers’ rights information and to tailored resources. - The Labour Inspectorate is working with several private training institutes to include employment standards components into industry qualifications and continuing professional development. - A specific training module on migrant exploitation has been prepared for use by Labour Inspectorate and Immigration Officers. - A specific training module is also being developed for Immigration Advisors. - Freedom of association and the promotion of collective bargaining are protected in law in New Zealand. New Zealand employment law confirms the right of all employees to exercise freedom of association and engage in collective bargaining if they so choose. New Zealand has ratified ILO Convention 98 on the Right to Organise and Collective Bargaining. - Freedom of association (which includes the right to belong to a trade union) is also affirmed in section 17 of the New Zealand Bill of Rights Act 1990. - Assistance is provided to victims of domestic violence, trafficking or migrants who have been victimised or exploited. <p>BNZ commented that the government report appears to confuse two different situations – migrant labour and forced labour. The lack of statistics on migrant labour exploitation is unsurprising in light not only of the small number of complaints but also of the fact that forced labour in New Zealand is a rare occurrence. Where it does occur, it is usually as a consequence of migrant employers treating their migrant employees in a manner that is unacceptable in New Zealand. Such treatment is subject to the full force of the country’s employment law and, in any case where a crime has been committed, to criminal sanctions as well. This is further recognised in recent immigration legislation that provides for the deportation of any employer who having lived in New Zealand for fewer than ten years, has acted in a way contrary to the legislative protections applicable to all employees. Migrant exploitation is more likely to occur in the migrant’s country of origin (premiums paid for finding work, providing visas and such like) than in New Zealand - behaviour which the New Zealand authorities also seek to prevent. In response to BNZ comment, the Government indicated that it recognises there is a distinction to be made between people in circumstances of trafficking, forced labour, exploitation, and those who may be experiencing substandard working conditions (e.g. underpayment of wages or the failure to meet guaranteed minimum leave entitlements). Substandard working conditions should be distinguished between trafficking, labour exploitation and forced labour, which, in turn, involves the manipulation of the victim, resulting in the serious undermining of the victim’s personal freedom and ability to make choices for themselves through the use of threats, forms of coercion and/or deception.</p> <p>NZCTU commented that it recognises and supports the various measures described in the Government report designed to address migrant exploitation. It commends the Government for recent legislative changes (such as the Fisheries (Foreign Charter Vessels) Amendment Act 2014 Immigration Amendment Act 2015 and the Employment Relations Amendment Act 2016) that introduce stronger enforcement powers in relation to migrant exploitation. It also supports better information sharing.</p>
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	<p>Measures taken or envisaged to protect victims of forced labour</p>	<p>2017 AR: According to the Government, MBIE’s Labour Inspectorate and Immigration New Zealand work together to address the exploitation of migrants, including focusing enforcement activity on the employer rather than the migrant. Their approach is based on principles that protect the victims of criminal offending. MBIE provides a range of resources in a range of languages to inform migrants and their employers about living and working in New Zealand. It has also developed resources for migrant groups and sectors in which migrants have been identified as vulnerable to workforce exploitation. In 2017 this has included new information resources for migrant workers and employers in New Zealand’s hospitality sector. This information is available here: https://www.newzealandnow.govt.nz/resources/working-in-hospitality</p> <p>2016 AR: The Government reported that New Zealand’s National Plan of Action to Prevent People Trafficking is a whole of Government approach aimed at preventing trafficking, protecting victims and prosecuting traffickers. MBIE coordinates an interagency working group on people trafficking which includes the Ministry of Justice, the New Zealand Police, the Ministry of Social Development and other agencies. This group will also oversee the update and expansion of the Plan of Action to include forced labour and slavery. It is envisaged that this update will move New Zealand towards being able to ratify the Protocol of 2014 to the Forced Labour Convention.</p> <p>The Crimes Act 1961 criminalises slavery, including debt bondage and serfdom, and dealing in slaves, in New Zealand. The Government has policies and measures to ensure high risk industries are closely regulated or monitored. In New Zealand these include the sex, horticulture and viticulture industries and work on board FCVs. Targeted joint-agency operations were undertaken following the Government becoming aware of allegations of poor pay and work conditions in the retail/hospitality industries. ILO indicators on forced labour are utilised in the work of New Zealand labour inspectors. New Zealand courts can order reparation to victims at sentencing for offences; civil action could be brought to recover wages and entitlements and/or other damages. All employees may access the employment problem resolution services under the Employment Relations Act 2000 regardless of occupation. The system is a graduated continuum, moving from mediation, to the determination of the issue in the Employment Relations Authority, through to hearings in the Employment Court. Legal access continues regardless of a worker’s immigration status. New immigration instructions provide an avenue for some victims of migrant exploitation to remain in New Zealand while their complaint is being addressed. In some cases the victim will be able to complete the purpose of their visit, e.g. to study or work. In other cases, they may only be able to stay for a more limited time while the employment matter is investigated and resolved.</p> <p>Measures taken include:</p> <ul style="list-style-type: none"> ▪ The Plan of Action to Prevent People Trafficking offers protection and assistance to victims of trafficking, including health services, housing, social services, and financial assistance. Victims are also provided support during the criminal justice process. See 2.2 on INZ training on trafficking in persons, carried out in September 2015. ▪ New Zealand’s Victims of Trafficking Immigration Policy provides a clear pathway to residence for identified victims of trafficking. Lawful status allows access to funded healthcare and social services and welfare. ▪ In practice, if a person who is liable for deportation indicates that they have an employment matter (including a potential case of exploitation) under consideration, where appropriate INZ will undertake not to deport the person for a specified period to allow for the matter to be investigated and/or resolved. In some cases this may include providing the person with an opportunity to obtain alternative employment and apply for a new visa. INZ strongly encourages victims to come forward at the earliest possible opportunity. ▪ Some financial assistance is available to victims of people trafficking through the social security system. ▪ New Zealand’s Health and Disability Services Eligibility Direction 2011 allows victims and suspected victims of people trafficking offences to be eligible for publicly funded health and disability services
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		<ul style="list-style-type: none"> ▪ New Zealand’s Plan of Action to Prevent People Trafficking ensures support for identified victims, including access to permanent residence (see below) and rehabilitation assistance. ▪ New Zealand agrees that the right to privacy with regard to personal data should be respected. The Privacy Act 1993 aims to promote and protect individual privacy. The Act establishes information privacy principles for: the collection, use, disclosure and storage of personal information by agencies, and access by each individual to their personal information. ▪ In New Zealand everyone has equal access to emergency services and shelters where the circumstances require this. There are also shelters and temporary accommodation services provided by community and NGOs covering a range of circumstances. ▪ New Zealand is a Contracting State to the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption. One of the Convention’s key objectives is guaranteeing safeguards to prevent the abduction, the sale of, or traffic in children. ▪ New Zealand also has a set of Cabinet approved, non-binding Guidelines to direct agencies to respond to international surrogacy. The purpose of these guidelines is to provide safeguards in relation to children born in an overseas country as a result of a surrogacy arrangement – these safeguards include traffic in children. ▪ The Ministry of Social Development works closely with both INZ and the Department of Internal Affairs (Citizenship and Identity) in relation to children that cross borders where there is a surrogacy, child protection or adoption matter. ▪ Where a person holding a temporary visa has claimed workplace exploitation, or has had such a claim accepted as genuine by INZ, where appropriate, the person will not be deported for a specified period to allow for the matter to be investigated and/or resolved. In some cases this may include providing the person with an opportunity to obtain alternative employment and apply for a new visa. INZ wants to strongly encourage victims to come forward at the earliest possible opportunity. ▪ New Zealand’s policy for victims of people trafficking does not extend to other victims of forced labour. Victims of people trafficking are granted a 12-month temporary entry class visa provided they have received certification from the New Zealand Police that they are believed to be victims of people trafficking. Police certification is required to help reduce the risk of immigration fraud. While on the temporary visa, victims of people trafficking will: <ul style="list-style-type: none"> • have access to publicly funded health and disability services • have access to financial assistance provided under the Special Needs Grants Ministerial Welfare Programme, and • be able to work or, if a child, to study. ▪ New Zealand’s Victims of Trafficking Immigration Policy provides a clear pathway to residence for identified victims of trafficking. Adult certified victims of trafficking¹ are able to apply for a resident visa under this policy after they have been granted a special temporary visa. To be eligible for residence, applicants have to: <ul style="list-style-type: none"> • demonstrate that have not obstructed the police investigation during the validity of their temporary entry visa, and • provide evidence that if they returned to their home country they would be endangered, or at risk of being re-victimised, or at risk of suffering significant social stigma and financial hardship as a consequence of being trafficked. ▪ This provision is based on the current cross-national definition of people trafficking in the Crimes Act. These risk factors are unlikely to apply to forced labour victims where their risk is likely to be from perpetrators in New Zealand, not their home country. <p>BNZ recalled that prostitution is legal in New Zealand. If under age prostitution is detected, offenders who profit from it will be dealt with via the criminal law. Adult prostitutes have the protection of both employment law and, if necessary, the criminal law. It further stated that although the Government has developed an Action Plan to prevent people trafficking and although the US Department of States’ July 2015 Trafficking in Persons</p>
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	<p>Measures taken or envisaged to facilitate access to remedies</p>	<p>2016 AR: According to the Government: The Employment Relations Amendment Act 2016 introduced (as of 1 April 2016) a range of new and stronger enforcement measures for breaches of minimum employment entitlements. Significant amongst these is a new regime for addressing serious breaches, including exploitation, to bring sanctions more in line with the migrant exploitation provisions in the Immigration Act 2009.</p> <p>This regime includes:</p> <ul style="list-style-type: none"> ▪ Maximum penalties (per breach) of \$50,000 for an individual and the greater of \$100,000 or three times the financial gain for a body corporate (prior to this new regime the maxima were \$10,000/\$20,000) ▪ Management banning orders for individuals who commit serious and/or persistent breaches. <p>The amendments also significantly increase the ability for third parties (eg, Company Directors) to be held accountable for breaches.</p> <p>In New Zealand, all employees are able to access the employment problem resolution services under the Employment Relations Act 2000.</p> <p>It would be very difficult to ensure that victims can pursue administrative, civil and criminal remedies irrespective of their presence. Prosecutions can, in theory, proceed in the absence of victims, but as a matter of practicality are difficult to pursue.</p> <p>INZ and the Labour Inspectorate have targeted communications for victims of labour exploitation, specifically for migrant workers. A pamphlet for distribution has been developed in plain English and includes a list of indicators of exploitation.</p> <p>(http://www.immigration.govt.nz/migrant/general/generalinformation/migrantexploitation/).</p> <p>The pamphlet encourages migrants or their advocates to come forward to MBIE (including through a free call number) if they have concerns about exploitation, regardless of immigration status. The pamphlet is being translated into key languages, including Chinese, Hindi, Gujarati and Punjabi. The pamphlet will be disseminated to NGOs and other labour advocacy groups, and can be handed to migrants by front-line immigration officers or labour inspectors, for example during a site visit where migrants are identified as being at risk.</p> <p>Community law centres provide information on legal assistance. Legal proceedings regarding criminal charge provide a defendant with all the rights of persons arrested or detained in sections 23 and 24 of the New Zealand Bill of Rights Act 1990, and the criminal procedure rights in section 25 of the Act. These include the right to receive legal assistance without cost if the interests of justice so require and the person does not have sufficient means to obtain that assistance (section 24(f)), and the right to free assistance of an interpreter if the person cannot understand or speak the language used in court (section 24(g)).</p> <p>Both mediation and action from the Labour Inspectorate in New Zealand is free.</p> <p>As stated above, all New Zealand employees can access the employment problem resolution services under the Employment Relations Act 2000.</p> <p>New Zealand law has remedies for victims to seek compensation for damage suffered. Please note the specific remedies and penalties contained within New Zealand’s employment and immigration legislation already described.</p> <p>Where a person has been convicted of an offence, the offender may be ordered by the Court to make reparation to compensate the victim. The Sentencing Act 2002 provides that where a court is entitled to impose an order for reparation, it must impose it unless it is satisfied that the order</p>

		<p>would result in undue hardship for the offender or the dependents of the offender, or that any other special circumstances would make it inappropriate. See sections 12 and 32-38 of the Sentencing Act.</p> <p>The Sentencing Act 2002 allows for discharges with or without conviction and commutation from presumptive sentences where it would be unjust to impose them.</p> <p>The Criminal Proceeds Recovery Act 2009 replaced the Proceeds of Crime Act 1991 and established a regime for the forfeiture of property that has been derived directly or indirectly from significant criminal activity; or that represents the value of a person's unlawfully derived income.</p> <p>The Sentencing (Offender Levy) Amendment Act 2009 came into force on 1 July 2010. Its purpose is to ensure that offenders contribute to addressing the harm caused to victims. The levy is an amount each offender is required to pay following conviction for any offence and is paid into the victims' services bank account for use by "approved agencies" providing services to the victims of crime. The levy is separate from (and additional to) a sentence of reparation which is payable to the offender's victim. An offender is required to pay a single levy at the point of sentence, regardless of the number of convictions in respect of which he or she is being sentenced. The court has no discretion as to whether the levy should be imposed. The financial capacity of the offender is irrelevant.</p>	
	<p>Non-prosecution of victims for unlawful acts that they would have been forced to carry out</p>		
	<p>Cooperation with other Member States, international / regional organizations or NGOs</p>		
	<p>Promotional activities</p>		
	<p>Special initiatives/Progress</p>		
<p>CHALLENGES IN REALIZING MEASURES TARGETED BY THE PROTOCOL</p>	<p>According to the social partners</p>	<p>Employers' organizations</p>	<p>2016 AR: NZCTU reported that it agrees with the Government's analysis that most of the issues indicated as possible challenges may come into play in relation to suppression of forced labour. NZCTU also agree that the legislative framework is largely adequate. NZCTU's concerns relate primarily to resourcing. In relation to the inadequacy of Labour Inspectorate resourcing, it is acknowledged that some small increase has been made but this increase is not adequate to the scale of the problem. NZCTU has related concerns regarding the observers placed by the Government on fishing vessels. Observers are tasked with ensuring compliance with employment, health and safety, environmental and maritime law. There is generally only one observer per vessel. It believes that the range of topics that an observer must be expert in and their vulnerability as an individual may hamper their ability to effectively enforce the necessary laws (including forced labour). NZCTU notes the Government's changes to the immigration instructions giving Immigration Officers greater latitude to extend temporary visas where a migrant has assisted Immigration NZ or the Labour Inspectorate in relation to migrant exploitation (as that term is defined in s 351 of the Immigration Act 2009). However, NZCTU considers that these changes do not go far enough to provide a realistic incentive for victims of exploitation to come forward for two reasons. First, migrant exploitation under s 351 requires serious contravention of the various minimum standards. What constitutes serious for the purpose of this offence remains (so far as we are aware) undefined judicially. Second, the</p>

			<p>Immigration Officer has ultimate discretion as to whether to allow a worker to remain. It would be a brave migrant willing to risk their right to remain in New Zealand based on an untested, opaque and arbitrary system. NZCTU calls for a presumption that a migrant who alleges breaches of minimum employment standards be allowed to remain in New Zealand while the investigation occurs and if the allegations of breach are upheld that the migrants be permitted to remain under similar terms. Another helpful step would be the removal of work visas tied to one particular employer- this often exacerbates workers' dependence on their employer and reduces their willingness to stand up for their minimum rights.</p> <p>In response to the NZCTU comment, the Government responded that the number of labour inspectors has increased from 41 in 2014 to 57 in 2016, an increase of 39 percent. New Zealand's Ministry of Business Innovation and Employment takes allegations of migrant exploitation very seriously. If an investigation into migrant exploitation is occurring the migrant is eligible to remain in New Zealand. A number of recent cases have involved charges being laid in relation to exploitation (s.351). Other investigations relating to other cases of migrant exploitation are currently underway.</p>
	<p>Workers' organizations</p>		
	<p>According to the Government</p>	<p>2016 – 2017 AR: The Government reported that while there is a sound legislative framework in New Zealand, all of the following issues could come into play depending on the circumstances of any given instance or case: a) lack of awareness; b) Lack of information and data; c) Social values, cultural traditions; d) Social and economic circumstances; e) Lack of resources in the institutional framework; e) Challenges linked to the labour recruitment and placement process; f) Challenges linked to migration policies; g) Lack of social dialogue on the principle; h) Lack of resources in employers' organizations; i) Lack of resources in workers' organizations. However, New Zealand has not had such an incidence of forced labour cases / practices to be able to determine which might be most relevant.</p>	
<p>TECHNICAL COOPERATION NEEDS</p>	<p>Request</p>	<p>2016 - 2017 AR: According to the Government: ILO technical assistance is not required.</p>	
	<p>Offer</p>	<p>NIL.</p>	