



Governing Body

326th Session, Geneva, 10–24 March 2016

GB.326/LILS/5

Legal Issues and International Labour Standards Section
International Labour Standards and Human Rights Segment

LILS

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FIFTH ITEM ON THE AGENDA

Proposed forms for reports to be requested under articles 19(5)(e) and 22 of the ILO Constitution in relation to the Protocol of 2014 to the Forced Labour Convention, 1930

Purpose of the document

The Protocol was adopted in June 2014 by the International Labour Conference. It complements the Forced Labour Convention, 1930 (No. 29), which is one of the eight core ILO Conventions. In the present document, the Governing Body is invited to examine and approve: (a) the report form to be used by the governments of ratifying States as a basis for their reports on the application of the Protocol of 2014 to the Forced Labour Convention, 1930, in accordance with article 22 of the ILO Constitution; and (b) the report form to be used by the governments of non-ratifying States as a basis for their annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work.

Relevant strategic objective: Promote and realize fundamental principles and rights at work.

Policy implications: None.

Legal implications: Forms to be used in the context of constitutional reporting obligations.

Financial implications: None.

Follow-up action required: None.

Author unit: International Labour Standards Department (NORMES).

Related documents: Protocol of 2014 to the Forced Labour Convention, 1930; Forced Labour Convention, 1930 (No. 29); Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203).

1. In accordance with the usual practice, shortly after the adoption of an international labour Convention or Protocol, the Governing Body is requested to examine the draft form to be used as a basis for the reports that the governments of the ratifying States of the relevant instrument will be required to submit under article 22 of the ILO Constitution. The draft text relating to the Protocol of 2014 is attached as Appendix I.
2. Moreover, in the context of the annual follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, States which have not ratified one or more of the fundamental Conventions are requested to provide, under article 19(5)(e) of the ILO Constitution, a report containing information on any changes which may have taken place in their law and practice in relation to each of the four categories of principles and rights set out in the Declaration, for examination by the Governing Body.
3. At its 325th Session, the Governing Body requested the Office “to prepare and submit for adoption at its 326th Session (March 2016) a questionnaire in relation to the Protocol of 2014 to the Forced Labour Convention, 1930. This questionnaire will be sent to member States in line with their obligations to report under article 19, paragraph 5(e) of the ILO Constitution, with respect to unratified instruments in relation to one of the four categories of fundamental principles and rights at work”.¹
4. The Governing Body is also requested to examine and approve the draft form to be used as the basis of the reports to be submitted, in the context of the annual follow-up to the ILO Declaration on Fundamental Principles and Rights at Work by member States which have not ratified the Protocol of 2014. The draft text is attached as Appendix II.

Draft decision

5. ***The Governing Body approves the report forms for the Protocol of 2014 to the Forced Labour Convention, 1930, as appended to GB.326/LILS/5, to be used as the basis for the preparation of reports due under articles 19(5)(e) and 22 of the ILO Constitution.***

¹ GB.325/PV/Draft, para. 64.

Appendix I

Protocol of 2014 to the Forced Labour Convention, 1930

INTERNATIONAL LABOUR OFFICE, GENEVA

REPORT FORM
FOR THE PROTOCOL OF 2014 TO THE
FORCED LABOUR CONVENTION, 1930

The present report form is for the use of the countries which have ratified the Protocol. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: “Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request.”

The Government may deem it useful to consult the appended text of the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), the provisions of which supplement the Forced Labour Convention, 1930 (No. 29), and the present Protocol, which can contribute to a better understanding of its requirements and facilitate its application.

The matters with which this Protocol deals may be beyond the immediate competence of the ministry responsible for labour affairs, so that the preparation of a full report on the application of the Protocol may necessitate consultations with other interested ministries or government agencies.

PRACTICAL GUIDANCE FOR DRAWING UP REPORTS

First report

1. If this is your Government’s first report following the entry into force of the Protocol in your country, full information should be given on each of the provisions of the Protocol and on each of the questions set out in the report form.

Subsequent reports

2. In subsequent reports, information need normally be given only:

(a) on any new legislative or other measures affecting the application of the Protocol;

(b) in reply to the questions in the report form on the practical application of the Protocol (for example, statistics, results of evaluations or audits, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;

(c) **in reply to comments by the supervisory bodies:** the report must contain replies to any comments regarding the application of the Protocol in your country which have been addressed to your Government by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.

Article 22 of the Constitution of the ILO

Report for the period from _____ to _____

made by the Government of _____

on the

Protocol of 2014 to the Forced Labour Convention, 1930

(ratification registered on _____)

In addition to the information requested in the report form concerning the Forced Labour Convention, 1930 (No. 29), please give detailed information for each of the following Articles of the Protocol.

Article 1

1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour.

2. Each Member shall develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers' and workers' organizations, which shall involve systematic action by the competent authorities and, as appropriate, in coordination with employers' and workers' organizations, as well as with other groups concerned.

3. The definition of forced or compulsory labour contained in the Convention is reaffirmed, and therefore the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour.

Paragraph 2. Please describe the national policy against all forms of forced or compulsory labour and the measures envisaged under the national plan for the effective and sustained suppression of forced or compulsory labour, indicating how coordination of action by the competent authorities is ensured so that these measures are implemented. Please also indicate the manner in which employers' and workers' organizations are consulted.

Paragraph 3. Please provide information on the specific measures taken to combat trafficking in persons for the purposes of forced or compulsory labour and on the results achieved.

Article 2

The measures to be taken for the prevention of forced or compulsory labour shall include:

- (a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;
- (b) educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;

- (c) undertaking efforts to ensure that:
 - (i) the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and
 - (ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened;
- (d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;
- (e) supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and
- (f) addressing the root causes and factors that heighten the risks of forced or compulsory labour.

Please describe all the measures taken to prevent all forms of forced or compulsory labour in each of the areas described in subparagraphs (a) to (f) of this paragraph, indicating the institutions responsible for their implementation and the resources at their disposal, as well as the organizations involved.

Article 3

Each Member shall take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support.

Please indicate the measures taken to ensure that the competent authorities are able to identify and release all victims of forced or compulsory labour. Please describe the measures taken to provide victims with comprehensive, immediate and long-term protection with a view to their recovery and rehabilitation.

Article 4

1. Each Member shall ensure that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation.

2. Each Member shall, in accordance with the basic principles of its legal system, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.

Paragraph 1. Please indicate the remedies that have been established to enable victims of forced or compulsory labour to claim their rights and obtain reparation, including compensation, as well as the measures taken to ensure that such remedies are accessible to all victims, irrespective of their presence or legal status in the national territory.

Paragraph 2. Please indicate the measures taken to enable the competent authorities not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour. Please also indicate how the competent authorities are made aware of these measures and apply them in practice.

Article 5

Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.

Please indicate how, and in which areas, cooperation has been established with other member States to ensure the prevention and elimination of all forms of forced or compulsory labour.

Article 6

The measures taken to apply the provisions of this Protocol and of the Convention shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned.

Please describe the manner in which the effective application of national laws or regulations providing for the measures to be taken to apply the Protocol and the Convention is ensured. Please also indicate the action by the competent authorities to ensure the implementation of these measures and their effectiveness.

Please describe the manner in which the employers' and workers' organizations concerned have been consulted.

Appendix: Text of Recommendation No. 203.

Appendix II

ILO DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK
ANNUAL FOLLOW-UP CONCERNING NON-RATIFIED FUNDAMENTAL CONVENTIONS

REPORT FORM

The effective and sustained suppression of all forms of forced labour through prevention, victim protection and access to remedies

Introduction

The ILO Declaration on Fundamental Principles and Rights at Work and its follow-up, adopted by the International Labour Conference on 18 June 1998 at its 86th Session, recalls that all Members, even if they have not ratified the Conventions recognized as fundamental, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions.

In order to give the Organization and its Members the opportunity to regularly review the efforts made to promote these principles, the Declaration is accompanied by a promotional follow-up, one element of which seeks to obtain information from Members which have not ratified one or more of the fundamental Conventions, through reports requested on an annual basis under article 19(5)(e) of the Constitution, on any changes which may have taken place in their law and practice in relation to each of the categories of principles and rights set out in the Declaration.

The present report form, approved by the Governing Body of the International Labour Office for States which have not ratified the Protocol of 2014 to the Forced Labour Convention, 1930, is part of the follow-up to the Declaration.

To be completed for the principles concerning the fundamental rights which are the subject of the Protocol of 2014 to the Forced Labour Convention, 1930, to which your State is not party.

Please reply to the questions on a separate sheet of paper, if necessary, indicating the question number.

1.1. Is there a national policy and plan of action aimed at realizing the principle of effective and sustained suppression of all forms of forced labour through prevention, victim protection and access to remedies?

_____ Yes _____ No

1.2. If so, please describe the measures envisaged, the established objectives and the authorities responsible for the implementation, coordination and assessment of these measures. Please attach any relevant documents under Q.1.

1.3. Please also indicate the manner in which employers' and workers' organizations have been consulted.

1.4. If not:

(a) Does the Government envisage adopting a national policy and/or plan of action in this regard?

_____ Yes, by _____ (date) _____ No

(b) Does the Government wish to receive ILO assistance in developing one?

_____ Yes _____ No

1.5. Have specific measures been taken or are measures envisaged in your country to combat trafficking in persons for the purposes of forced or compulsory labour? If so, please describe these measures.

1.6. Does the Government collect and analyse statistical data and other information on the nature and extent of forced or compulsory labour?

_____ Yes _____ No

1.6.1. If so, please describe these data.

1.6.2. If not, does the Government envisage collecting data on forced or compulsory labour and does it wish to receive ILO assistance for this purpose?

2.1. Have measures been taken or are measures envisaged for the prevention of all forms of forced or compulsory labour?

2.2. If so, please indicate the type of measures, filling in the appropriate boxes below.

Description of measures taken or envisaged	Population groups benefiting from these measures and the relevant forced labour practices
Information, education and awareness raising Strengthening and broadening of the coverage of legislation, particularly labour law Regulation and supervision of the labour recruitment and placement process Supporting due diligence by the public and private sectors Addressing the root causes that perpetuate forced labour Promotion of safe and regular migration Education/vocational training Capacity building for the competent authorities Other (please specify)	

3.1. Have measures been taken or are measures envisaged for the identification, release and protection of victims of all forms of forced or compulsory labour?

3.2. If so, please indicate the type of measures, filling in the appropriate boxes below.

Description of measures taken or envisaged	Population groups benefiting from these measures and the relevant forced labour practices
Training of relevant actors and identification of forced labour practices Development of forced labour indicators Legal protection of victims Material assistance for victims Medical and psychological assistance for victims Measures for the rehabilitation and social and professional reintegration of victims Specific measures for children Specific measures for migrants Other (please specify)	

4.1. Have measures been taken or are measures envisaged to provide victims of all forms of forced or compulsory labour with access to remedies?

4.2. If so, please indicate the type of measures, filling in the appropriate boxes below.

	Description of measures taken or envisaged	Population groups benefiting from these measures and the relevant forced labour practices
Information and counselling for victims regarding their rights		
Free legal assistance		
Cost-free proceedings		
Provision of a reflection and a recovery period		
Access to remedies and compensation		
Capacity building and enhanced resources for the competent authorities, such as labour inspection, law enforcement, prosecution services and judges		
Provision for authorities not to prosecute victims for acts which they have been compelled to commit		
Stricter penalties imposed on perpetrators, including confiscation of assets and criminal liability of legal persons		
Other (please specify)		

4.3. Please indicate whether the measures aimed at providing access to justice and remedies apply to all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory.

5.1. Does the Government cooperate with other member States, international and regional organizations, or non-governmental organizations to achieve the effective and sustained suppression of forced or compulsory labour?

_____ Yes _____ No

5.2. If so, please briefly describe the modalities of this cooperation.

6.1. Have employers' and/or workers' organizations been consulted in the development and implementation of adopted measures?

6.2. If so, please provide details and attach any relevant documents under Q.6.

7. Please describe any significant changes which have taken place since your last report (for example, changes in the legislative and institutional framework, launching of major programmes, new data, changes in the number of persons in forced labour who have been identified, released and protected, penalties imposed on perpetrators).

8. What are the main obstacles encountered by your country with regard to realizing the principle of effective and sustained suppression of all forms of forced labour through prevention, victim protection and access to remedies? Please fill in the appropriate boxes below.

Nature of the obstacle	Briefly describe the obstacle and the relevant forced labour practice
Lack of awareness	
Lack of information and data	
Social values, cultural traditions	
Social and economic circumstances	
Political situation	
Shortcomings in the legislative framework	
Lack of resources in the institutional framework	
Challenges linked to the labour recruitment and placement process	
Challenges linked to migration policies	
Lack of social dialogue on the principle	
Lack of resources in employers' organizations	
Lack of resources in workers' organizations	
Other (please specify)	

9.1. Does your Government think that it should establish technical cooperation activities with the ILO or pursue those that already exist for the prevention and effective suppression of forced or compulsory labour, victim protection and access to remedies?

___ Yes ___ No

9.2. If so, please indicate the needs in this area, in descending order:

0 = not important; 1 = most important; 2 = important; 3 = less important; etc.

Please attach additional information on the top three needs that you have identified in the elimination of forced labour or compulsory under Q.9.

Technical cooperation needs	Priority
Assessment, in cooperation with the ILO, of the obstacles identified and their impact on the realization of the principle	
Awareness-raising and mobilization activities	
Collection and analysis of data and information	
Guidance on the development of the national policy and plan of action	
Strengthening the legal framework	
Capacity building for the competent authorities	
Inter-institutional coordination	
Promotion of fair recruitment and placement practices	
Promotion of fair migration policies	
Vocational training, job-creation and income-generation programmes for at-risk populations	
Basic social security guarantees	
Guidance on supporting due diligence	
Capacity building for employers' and workers' organizations	
Exchange of experiences between countries or regions; international cooperation	
Other (please specify)	

10.1. When preparing its report, did the Government consult:

- (a) The most representative employers' organizations? _____ Yes _____ No
- (b) The most representative workers' organizations? _____ Yes _____ No
- (c) The competent authorities? _____ Yes _____ No

10.2. If so, please describe the consultation process(es).

11. Comments on this report:

- (a) Did employers' organizations comment on the report?
_____ Yes _____ No
- (b) Did workers' organizations comment on the report?
_____ Yes _____ No

12. To which employers' organizations was the report sent? Please attach the list under Q.12.

13. To which workers' organizations was the report sent? Please attach the list under Q.13.

14. Please attach to the report any new information on efforts made to respect, to promote and to realize the principle of effective and sustained suppression of forced labour through prevention, victim protection and access to remedies.