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## Preface

### **Part II. Reports received from governments and observations from employers' and workers' organizations**

1. **The Follow-up.** The 1998 ILO Declaration on Fundamental Principles and Rights at Work incorporates a Follow-up that is to be promotional, meaningful and effective. Its purpose is to encourage the efforts by member States to promote the fundamental principles and rights at work. The Follow-up involves an annual review, a global report and conclusions about technical cooperation priorities.
2. The first stage of the Follow-up is the review by the ILO Governing Body of the annual reports, as compiled by the International Labour Office. The compilation which follows contains the government reports and observations from employers' and workers' organizations for the first round of the annual review under the Declaration Follow-up. It is accompanied by an Introduction by the ILO Declaration Expert-Advisers, which appears as Part I of this document and provides more information on the Declaration and its Follow-up (GB.277/3/1).
3. **Basis of reporting.** Reporting under the Declaration Follow-up is based upon the constitutional obligation of ILO member States to provide reports on the position of their law and practice in relation to Conventions they have not ratified (ILO Constitution, article 19(5)(e)). The Follow-up provides an opportunity to review the efforts made in accordance with the Declaration by member States which have not yet ratified all of the fundamental Conventions.<sup>1</sup>
4. **Approach taken to the compilation.** The Follow-up instructs the Office to compile reports received in relation to the Declaration (Para. II.B.2).<sup>2</sup> For the Declaration Follow-up consideration was given by the Office to the possibility of summarizing the information received, but this proved unfeasible due to limited time and resources as well as concerns about respecting the sometimes delicately balanced statements provided by Governments. It is worth mentioning that the compilation approach was taken for early general surveys done under article 19(5)(e), i.e. reproduction of reports basically as received, minus legislative texts which were simply listed.
5. This compilation was prepared in time for the first meeting of the ILO Declaration Expert-Advisers (31 January-3 February 2000). The vast majority of Governments submitted their reports after the 1 November 1999 deadline, restricting what could be done with the information in time for the Expert-Advisers' meeting.
6. **Structure of the compilation.** Different options were considered for presenting the material received. Since not all respondents had followed the questionnaires as they appeared in the report forms, presenting the replies question by question would not have been possible in all cases. Instead, the broad headings in the questionnaire were retained as the structure for the Government reports which are compiled here. Certain questions received very few replies, and many replies under Part II of the report form simply referred to answers given under Part I.

<sup>1</sup> At the time the report forms under the Declaration Follow-up were approved by the ILO Governing Body, there were seven: the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105); the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); and the Minimum Age Convention, 1973 (No. 138). Subsequently, the International Labour Conference unanimously adopted the Worst Forms of Child Labour Convention, 1999 (No. 182), which is considered the eighth fundamental ILO Convention.

<sup>2</sup> Separate report forms for the four categories of principles and rights at work were approved by the ILO Governing Body in March 1999 (GB.274/2(Add.1)); they are available on the ILO website (<http://www.ilo.org>) and appear as an Annex to the Introduction by the ILO Expert-Advisers.

7. Many governments included comments from employers' or workers' organizations in their reports, or referred to tripartite consultations in the drawing up of the reports. For comments provided separately from employers' and workers' organizations, it was thought preferable to place them immediately after the government's report, rather than isolate them in a block. Where Governments subsequently provided additional information or views, these then follow, so that all the information provided for a country in relation to a principle appears together.
8. The option of organizing the material first by category of principle, and within that by country, was taken to provide a better overview. This will also facilitate preparation of the global reports to be submitted to the International Labour Conference in the first four-year period under the Declaration Follow-up. Tables and graphs prepared by the Office depicting various aspects of the reporting under the Declaration and ratification of the fundamental ILO Conventions have been included in an Annex to the Introduction by the Expert-Advisers.
9. **Established practice on comments from employers' and workers' organizations.** Part II.B.1 of the Annex to the Declaration indicates that the annual follow-up will be based on reports requested from Members under article 19, paragraph 5(e), of the ILO Constitution, taking due account of article 23 of the Constitution and established practice. Article 23 refers to the communication of reports on ratified and unratified instruments (referred to respectively in articles 19 and 22 of the Constitution) to representative organizations referred to in article 3 of the Constitution. The term "established practice" refers to the examination of comments made by a national or an international industrial association of employers or of workers in regard to the matters dealt with in a Convention or a Recommendation. The past practice of including information provided by such workers' and employers' organizations in respect of reports under articles 19 and 22 of the ILO Constitution can be seen in the latest special survey carried out within the context of the four-year review referred to under Part II.A.1 of the Declaration's Annex and in the examination of reports in relation to ratified Conventions under article 22 of the Constitution.<sup>3</sup>
10. **Practice under the Declaration Follow-up.** The compilation of reports thus followed the established practice with regard to comments from employers' and workers' organizations. All comments received by the Office from employers' and workers' organizations were transmitted to the Governments concerned so that they might have the opportunity to make their views known should they wish to do so. It must be stressed that the strictly promotional objective of the Declaration Follow-up means that annual reporting cannot serve as a basis for complaints, nor lead to a dual examination of situations that are already or have been the subject of supervisory procedures.<sup>4</sup> The Declaration Follow-up states clearly that it is not a substitute for the established supervisory mechanisms, nor shall it impede their functioning (Annex, Para.I.2).
11. In deciding whether particular comments or observations received from employers' and workers' organizations should or should not be included in the compilation, the Office bore in mind the purpose of the Follow-up as stated in its Para. II.A.1: it refers to an annual review of efforts made by Members which have not yet ratified all the fundamental Conventions. Comments from workers' and employers' organizations which provide relevant information or opinions about the efforts being made by member States have therefore been taken into account in the compilation of Declaration reports. At the same time, Para. I.2 of the Annex to the Declaration states that specific situations within the purview of established ILO supervisory mechanisms shall not be examined or re-examined within the framework of the Declaration Follow-up. Thus any portions of those comments or observations that are of this type have been omitted from the compilation. References to individual persons and enterprises have also been deleted.

<sup>3</sup> During the Conference discussion of the draft Declaration, reference was made to the established practice used by the Committee of Experts on the Application of Conventions and Recommendations (International Labour Conference, 86th Session, 1998, *Provisional Record*, No. 20, para. 148). For examples of that practice, see *Report of the Committee of Experts on the Application of Conventions and Recommendations*, 1999, International Labour Conference, 87th Session, Report III (Part 1A), especially para. 119.

<sup>4</sup> See the Office document submitted to the Governing Body, GB.274/2 (March 1999).

12. Other types of comments that were not reproduced concerned general references to labour or employment situations that were not obviously relevant to the fundamental principles and rights at work under discussion. Finally, since article 19, paragraph 5(e), of the ILO Constitution concerns unratified Conventions, any inference or statement in respect of the application of ratified Conventions has been deleted from observations made by employers' and workers' organizations. Material omitted from employers' and workers' comments is noted with ellipsis and summarized material appears in square brackets.
13. **Electronic reporting.** While the Director-General's letter inviting reports under the Declaration mentioned that they could be sent to an e-mail address, only six countries (Australia, Canada, Sri Lanka, Thailand, the United States and Viet Nam) took up this possibility. Provision of reports in electronic form would speed up the preparation of the compilation and favour accuracy.
14. **Statistics and indicators.** The report forms requested indicators and statistics for purposes of assessing the factual situation (question I. (2)(a) and (b)). Several countries (notably Australia, Canada, Mauritius, Mexico, New Zealand and the United States) provided extensive statistical data, and a number of others provided some statistics (for example, China, Guinea Bissau, India, Kenya, Lebanon and Uganda). While this information has been most welcome, given the time and space constraints, the larger sets of statistics could not be fully integrated into the compilation which follows. They can be provided in hard-copy format upon request to the International Labour Office in Geneva, and in future it should be possible to consult them on the ILO website.
15. **Legislation.** All legislative texts sent with reports have been forwarded to the ILO unit that maintains NATLEX, the database covering national legislation that can be searched through the Internet and is available on CD ROM.
16. **References to Conventions.** In some reports by Governments and observations by employers' or workers' organizations, reference was made to the provisions of ILO Conventions, ratified and unratified. This material has been retained only for reference in relation to the fundamental principles and rights at work involved, and not necessarily as correct references to the scope, content or application of these Conventions. The reproduction of a statement regarding the application of a ratified Convention should not be taken as an indication of whether effect is being given to it or not, since these instruments fall under other ILO constitutional supervisory procedures.<sup>5</sup>
17. **Possible inaccuracies.** The Office cannot take a position on the accuracy of any of the statements made in the context of the annual reports from Governments or in the observations received from employers' and workers' organizations. Light editing has been done only when necessary to facilitate understanding of a reply, to correct an obvious typographical error or to present the compiled material in a consistent format.
18. **Submission to the Governing Body.** The following reports, as compiled by the Office taking into account article 23 of the ILO Constitution and established practice under it, are being presented together with the Introduction by the ILO Declaration Expert-Advisers to the annual reports for purposes of review by the Governing Body at its 277th Session (March 2000).

Geneva, 3 February 2000.

<sup>5</sup> ILO: *Handbook of procedures relating to international labour Conventions and Recommendations*, Rev. 2/1998.



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