



## FOURTH ITEM ON THE AGENDA

**Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work****Introduction by the ILO Declaration Expert-Advisers to the compilation of annual reports**

1. The annex to the ILO Declaration on Fundamental Principles and Rights at Work provides for reports to be requested annually of member States under article 19, paragraph 5(e), of the ILO Constitution. The Office is responsible for preparing a compilation of the reports. Paragraph II.B.3 of the annex states: “With a view to presenting an introduction to the reports so compiled, drawing attention to any aspects which might call for a more in-depth discussion, the Office may call upon a group of experts appointed for this purpose by the Governing Body.” At its 274th Session (March 1999) the Governing Body decided to set up such a group of experts, composed of seven Expert-Advisers, whom it most recently appointed at its 282nd Session (November 2001). The Governing Body assigned them to the responsibility, in line with the objectives of the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work as set out in the annex to the Declaration, to –
  - (a) examine the information compiled by the Office on the basis of the replies from Members that have not ratified the relevant Conventions to the report forms sent by the Office in accordance with article 19, paragraph 5(e), of the Constitution, as well as any comments on those replies made in accordance with article 23 of the Constitution and established practice;
  - (b) present to the Governing Body an introduction to the compilation based on those reports, drawing its attention to aspects that seem to call for more in-depth discussion;
  - (c) propose to the Governing Body, for discussion and decision, any adjustments that they think desirable to the report forms.<sup>1</sup>

<sup>1</sup> Governing Body, Minutes of the 274th Session, sixth sitting.

2. The annual reports and related comments of employers' and workers' organizations were compiled by the Office, in accordance with established practice. Following consultations during the November 2002 session of the Governing Body, the compilation is no longer issued in paper form, but can be consulted on the public web site of the InFocus Programme on Promoting the Declaration.<sup>2</sup> The list of governments that have sent reports, and of national and international organizations' comments thereon, can be found in Annex 3 to the Expert-Advisers' Introduction.
3. The compilation was submitted to the Expert-Advisers, who met from 14 to 19 January 2004. This attached Introduction prepared by the Expert-Advisers, is submitted for review by the Governing Body.
4. *The Governing Body may wish to examine the attached Introduction by the Expert-Advisers and take the appropriate decisions on the recommendations in paragraphs 24 to 31 of the Introduction.*

Geneva, 28 January 2004.

*Point for decision:* Paragraph 4.

<sup>2</sup> See [www.ilo.org/declaration](http://www.ilo.org/declaration)

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**Review of annual reports under the follow-up to the ILO  
Declaration on Fundamental Principles and Rights at Work**

**Introduction by the ILO Declaration Expert-Advisers  
to the compilation of annual reports  
Geneva, March 2004**

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## A. Framework of the Introduction

1. The Expert-Advisers' mandate is an essential element of the Declaration follow-up that was meant to be promotional, meaningful and effective.<sup>1</sup> Our task is not to analyse in any depth national legislation relative to the Declaration. While taking account of information on legislation, we must look beyond to see what actually happens in countries – their policies, programmes, the institutions set up to implement measures in the spirit of the Declaration. As independent Expert-Advisers, we believe that we must both highlight situations where there has been progress and indicate others where there has been little or none. A promotional follow-up does not mean a follow-up that closes its eyes to difficulties. Calling attention to them heightens awareness, and such awareness is the first step to tackling them at the national level.
2. The Declaration follow-up has been in operation since 2000, and this is our fifth report. It is timely to take some perspective on what we are doing and what it is achieving. We are supposed to be part of a process that helps to move towards full respect, promotion and realization of the fundamental principles and rights at work:
  - freedom of association and the effective recognition of the right to collective bargaining;
  - the elimination of all forms of forced or compulsory labour;
  - the effective abolition of child labour; and
  - the elimination of discrimination in respect of employment and occupation.
3. The reality in the world today is that since the Declaration and its follow-up came into operation in 2000, reports indicate that progress has been made in a number of countries to realize its potential. The other reality is that since 2000, there is growing poverty, inequalities in income, and new forms of discrimination. There is also continued expansion of export processing zones, trafficking in persons, and movements of people both within and across borders. Under these global conditions, millions of people are anxious to obtain work, preferably decent work. In this context, we are concerned that current economic situations and growing insecurity of employment will lead those who have power to flout the fundamental principles and rights at work. It is against this background and information we received from the various reports, that we submit the following observations and recommendations.
4. Each January, we review the information contained in the reports received from governments not having ratified all of the fundamental Conventions, as well as from national and international employers' and workers' organizations. The edited text of these reports and comments is contained in the compilation that can be consulted on the Declaration Programme's public web site.<sup>2</sup> Our Introduction contains information from the reports and comments, as well as our own observations, recommendations and comments that are based on the compilation.

<sup>1</sup> The reporting processes of the Declaration follow-up are set out in Annex 1 to this introduction.

<sup>2</sup> See [www.ilo.org/declaration](http://www.ilo.org/declaration). The list of governments having sent reports and of national and international organizations' comments thereon can be found in Annex 3 to this introduction. The text of the Declaration itself can be accessed through the ILO's general web site ([www.ilo.org](http://www.ilo.org)) or through the web site of the Declaration Programme or obtained from ILO offices.

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## B. Expert-Advisers' overall observations

### 1. The Declaration framework

5. The follow-up to the Declaration consists of three major elements. In this process, the system of Global Reports on the separate principles and rights of the Declaration should be recalled. A full first cycle has been completed, with one Global Report now available on each principle and right. There is a mechanism of technical cooperation, which brings together demand for and supply of technical cooperation. This may be the life-line of the Declaration follow-up, in the sense that it is the *quid pro quo* for countries coming forward and for assistance in implementing the Declaration. The third part of the follow-up is the annual review of reports by countries not having ratified all the fundamental Conventions.
6. We believe our responsibility is important in the whole process. However, we are dependent upon the reports provided to the Office under the annual review, which are limited in information. In tandem with the second cycle of Global Reports and technical cooperation, the annual review should be the occasion to go beyond descriptions of legislation in order to assess progress in realizing the fundamental principles and rights at work.
7. Where we have received information, and a willing government has decided to change, and the Office has been able to provide the necessary cooperation, there has been encouraging change. Such change comes about typically as a result of a combination of internal and external pressures upon governments. Thus, in the cases of the Gulf Cooperation Council governments moving forward in the area of freedom of association and collective bargaining, and of **China** moving ahead with regard to the elimination of forced or compulsory labour, the ILO's interaction with them since the beginning of the annual review process certainly seems to have helped. We are encouraged by this process.
8. While such examples are indicative of important change, at least as far as legislation is concerned, we have limited information about actual application of the law. Despite four years of work, it is clear that millions and millions of people are still denied the basic rights of the ILO standards related to the Declaration.
9. The Declaration speaks about respecting, promoting and realizing fundamental principles and rights at work. It is worth reflecting upon these concepts. Respect is about the political will to achieve the principles, not mere lip-service. Promotion is advocacy, backed by action and programmes toward positive change. Realization means achieving improvement in the daily lives of individual women and men, their families, workplaces and communities. Thus, the promotional aspect of the Declaration is about change, and it is about evaluating progress, in both legislation and practice. All this work requires a continuous effort in awareness raising. Promotion is about initiating progress from a given starting point – no matter how low that initial point might be – towards full realization of the Declaration principles and rights.
10. We are concerned that under some principles, up to 20 per cent of countries indicate there has been no change since their last report. While there may be no change in legislation, there may be changes in practice or programmes to prepare for change, which are important to be informed about. At the same time, we are conscious of the demands placed upon reporting officers in Ministries of Labour. Often these are the same persons or units that fill out forms relating to the application of ratified Conventions (under article 22 of the ILO Constitution), which request whether legislation and practice are in conformity with the provisions of ratified Conventions. Answering questions under the Declaration is

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fundamentally different, requiring information on advocacy and promotional activities, and wide consultation with the social partners.

11. From the beginning of our process, we have appealed to the social partners to engage in it, in order to enrich the information base. It is unacceptable that the number of comments provided by the social partners is so limited. In the few instances where the national organizations have provided information, this has clearly added to the richness of the information and discussion on the national follow-up to the Declaration. Employers and workers and their representative organizations need to be the cornerstone of this process of broadening both the information base and the action taken in respecting, promoting and realizing the principles and rights.
12. Increasingly, categories of unorganized people are left out of the limited circuit of social dialogue and labour relations. In this respect, it is necessary to revisit how employers' and workers' organizations interact with other groups in civil society, to provide richer information – and to prepare better solutions to promoting the principles of the Declaration. Technical cooperation provides the winning formula for moving forward in the Declaration follow-up. It is therefore disturbing to note that not all requests are met by the ILO, and that more regular and extra-budgetary funds are slow in materializing.
13. The information received shows that most needs for technical cooperation are under the principle of eliminating child labour.<sup>3</sup> Discrimination has the least requests. This may be due to various factors – more and more countries have agreed to overcome child labour, with the long-standing IPEC programme, and there is donor interest in this area. In the case of discrimination, there is less consensus on what constitutes various forms of discrimination, perhaps less willingness by governments to address the sensitive issues relating to this principle, and there is no single important ILO programme as yet. All four principles require equal attention, both in countries requesting assistance and by the donor community.
14. We are convinced that the Declaration principles and rights need to be mainstreamed into all ILO work. This needs to be considered within the broader strategic framework of decent work, which seeks to make principles and rights at work as important as the creation of jobs and enterprises, as social protection at work, and as social dialogue. This requires greater cooperation between different sectors of the ILO at headquarters and in the field.
15. Finally, we would like to express our appreciation to the ILO in general and the InFocus Programme on Promoting the Declaration, in particular for the way in which the 1998 Declaration is being implemented and the careful preparation of the compilation, and for the services provided during our meeting (14-19 January 2004).

## 2. Reporting

### (a) General

16. The Experts-Advisers appreciate the highest reporting rate (64 per cent) ever reached by governments under the Declaration's annual review, which reflects the efforts, time and resources that have been devoted by more than 50 governments, including **Mongolia** and **Sao Tome and Principe** that have sent their first reports under the annual review in

<sup>3</sup> cf. table 4.

cooperation with the Office. However, we are very concerned that since the start of the annual review exercise in 1999, five governments have never fulfilled their reporting obligations, namely **Afghanistan, Kyrgyzstan, Sierra Leone, Solomon Islands and Somalia**. We again suggest that the Director-General continue to mobilize the Office's resources in view of getting in touch with these countries and assisting them in taking stock of their situation and move forward in the reporting process.

17. While the few comments received from employers' and workers' organizations proved very useful, we are again disappointed by the very low participation of national employers' and workers' organizations and the almost non-existent one of international employers' and workers' organizations. We therefore reiterate our appeal to these organizations to make their voices heard and play a key role in the Declaration and its vital follow-up in the future of a globalized world.
18. We thank the Governing Body for having formally endorsed the recommendations we formulated in 2003 with regard to the above issues, and for having called upon the international employers' and workers' organizations to reinforce their collaboration with the Declaration Programme, notably by providing their own comments and by encouraging national organizations to take similar action. We also appreciate the Governing Body's support in launching an appeal to the donor community for substantial and durable extra-budgetary support to ILO technical cooperation in view of meeting the high demands expressed under the Declaration's annual review by governments, and employers' and workers' organizations.

## (b) Data

19. Whilst noting with interest the global increase of 5 per cent in the reporting rate for the 2004 annual review (64 per cent) in comparison to last year's figures (cf. table 1 and boxes 1 and 2, below), we also note that the only slight drop (1 per cent) in this year's reporting, relates to the principle of the effective abolition of child labour (though **Uzbekistan** reported for the first time under this principle). We hope that the five remaining countries that have never submitted a report will make a positive move in this respect, with ILO support as the need may arise.

Table 1. Reports due and received by category of fundamental principles and rights, 2000-04

Category	Number due					Number due and per cent received										Difference in per cent received			
	2000	2001	2002	2003	2004	2000		2001		2002		2003		2004		2000 2001	2001 2002	2002 2003	2003 2004
						No.	%	No.	%	No.	%	No.	%	No.	%				
Freedom of association/ collective bargaining	52	47	42	38	37	35	67	33	70	35	83	27	71	37	73	+3	+13	-12	+2
Forced labour	41	36	28	27	23	21	51	19	53	17	61	14	52	23	65	+2	+8	-9	+13
Child labour	92	72	102	72	56	47	51	50	68	57	56	40	56	56	54	+18	-13	0	-2
Discrimination	43	38	31	26	22	24	56	28	74	21	68	15	58	22	68	+18	-6	-10	+10
<b>Total</b>	<b>228</b>	<b>193</b>	<b>203</b>	<b>163</b>	<b>138</b>	<b>127</b>	<b>56</b>	<b>130</b>	<b>67</b>	<b>128</b>	<b>63</b>	<b>90</b>	<b>59</b>	<b>138</b>	<b>63</b>	<b>+11</b>	<b>-3</b>	<b>-5</b>	

**Box 1. Governments that fulfilled their reporting obligations under the Declaration follow-up for the 2004 annual review by category of principle and right**

Freedom of association and the effective recognition of the right to collective bargaining (*27 countries*): Bahrain, Brazil, Canada, China, El Salvador, India, Islamic Republic of Iran, Jordan, Republic of Korea, Kuwait, Lebanon, Malaysia, Mauritius, Mexico, Morocco, Myanmar, Nepal, New Zealand, Oman, Qatar, Saudi Arabia, Singapore, Sudan, Thailand, Uganda, United Arab Emirates and United States.

Elimination of all forms of forced or compulsory labour (*15 countries*): Canada, China, Japan, Republic of Korea, Latvia, Madagascar, Malaysia, Myanmar, Nepal, Oman, Philippines, Qatar, Sao Tome and Principe, Singapore and United States.

Effective abolition of child labour (*31 countries*): Australia, Bahrain, Bangladesh, Cambodia, Canada, Chad, Colombia, Cuba, Czech Republic, Eritrea, Estonia, Ethiopia, India, Islamic Republic of Iran, Israel, Latvia, Lithuania, Mexico, Myanmar, New Zealand, Oman, Qatar, Sao Tome and Principe, Saudi Arabia, Singapore, Suriname, Thailand, Trinidad and Tobago, United States, Uzbekistan and Venezuela.

Elimination of discrimination in respect of employment and occupation (*15 countries*): Bahrain, China, Estonia, Japan, Kuwait, Malaysia, Myanmar, Namibia, Oman, Qatar, Singapore, Suriname, Thailand, Uganda and United States.

**Box 2. Governments that failed in their reporting obligations under the Declaration follow-up for the 2004 annual review by category of principle and right**

*Governments that did not report during the current round (31 countries)  
and THOSE THAT NEVER REPORTED (5 countries)*

Freedom of association and the collective recognition to the right to collective bargaining (*10 countries*): AFGHANISTAN, Armenia, Guinea-Bissau, Iraq, Kenya, Lao People's Democratic Republic, SOLOMON ISLANDS, SOMALIA, Uzbekistan and Viet Nam.

Elimination of all forms of forced or compulsory labour (*8 countries*): AFGHANISTAN, Armenia, Bolivia, Ethiopia, Lao People's Democratic Republic, Mongolia, SOLOMON ISLANDS and Viet Nam.

Effective abolition of child labour (*26 countries*): AFGHANISTAN, Armenia, Azerbaijan, Cape Verde, Comoros, Djibouti, Gabon, Ghana, Guinea-Bissau, Haiti, Jamaica, Kiribati, KYRGYZSTAN, Lao People's Democratic Republic, Liberia, Mongolia, Pakistan, Paraguay, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, SIERRA LEONE, SOLOMON ISLANDS, SOMALIA, Tajikistan and Turkmenistan.

Elimination of discrimination in respect of employment and occupation (*7 countries*): Comoros, Djibouti, Kiribati, Lao People's Democratic Republic, Liberia, SOLOMON ISLANDS and SOMALIA.

20. For further information on the reporting rate under each principle and right, refer to paragraphs 32, 86, 114 and 153 of this report.
21. Despite receiving very late reports or observations from **Estonia, Ethiopia, Israel, Republic of Korea, Nepal, Singapore, Thailand, Uganda** and **United States**, it has been possible to compile them so as to enable these countries to be taken into account in this annual review. We would nevertheless urge the countries to send their reports with the prescribed time frame, so as to ensure the smooth running of the annual review process.
22. Ratification of core Conventions explicitly denotes a commitment by a member State to observe their provisions in law and practice. It is encouraging to note that more and more countries are ratifying these fundamental ILO instruments (cf. box 3) or taking specific steps toward this end. For further information, refer to paragraphs 36-37, 91-92, 119-120 and 157-158 of this report).

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### Box 3. Ratification of ILO fundamental Conventions in 2003

- Convention No. 87: **Zimbabwe** (bringing the total ratifications to 142 by 31 December 2003).
- Convention No. 98: **Armenia and New Zealand** (bringing the total ratifications to 154 by 31 December 2003).
- Convention No. 29: **Ethiopia and Mozambique** (bringing the total ratifications to 163 by 31 December 2003).
- Convention No. 105: **Serbia and Montenegro, The former Yugoslav Republic of Macedonia and Sri Lanka** (bringing the total ratifications to 161 by 31 December 2003).
- Convention No. 138: **Côte d'Ivoire, Fiji, Grenada, Guinea, Jamaica, Lebanon, Mozambique, Sudan, Uganda and Viet Nam** (bringing the total ratifications to 131 by 31 December 2003).
- Convention No. 182: **Bolivia, Côte d'Ivoire, Ethiopia, Grenada, Guinea, Jamaica, Kazakhstan, Liberia, Lithuania, Mozambique, Russian Federation, Serbia and Montenegro, Sri Lanka, Sudan, Syrian Arab Republic and Trinidad and Tobago** (bringing the total ratifications to 147 by 31 December 2003).
- Convention No. 100: **Antigua and Barbuda** (bringing the total ratifications to 161 by 31 December 2003).
- Convention No. 111: **Grenada** (bringing the total ratifications to 159 by 31 December 2003).

23. While ratification intention remains a positive sign, it should not stop or delay all efforts to promote the fundamental principles and rights at work. Nor should it relieve a country from its obligation to report under the Declaration's follow-up.

## C. Expert-Advisers' recommendations

### 1. Recommendations to the Governing Body in relation to its own work

24. Because of the centrality of the ILO's fundamental principles and rights to the Organization and its Decent Work Agenda and to sustainable economic and social development at national and international levels, the Expert-Advisers reiterate their recommendation that, during discussions of programme and budget proposals, the Governing Body allocate sufficient regular budget resources for the effective implementation of the 1998 Declaration by both headquarters and field units.

25. We also recommend that the Governing Body launch an appeal to the donor community for substantial and durable extra-budgetary support for ILO technical cooperation under all four principles, in order to meet the high demands expressed by governments and employers' and workers' organizations.

### 2. Recommendations to the Governing Body in relation to employers' and workers' organizations

26. The Expert-Advisers strongly recommend that the Governing Body again draw the attention of international employers' and workers' organizations to the need to provide comments under the Declaration's annual review. In view of their important contribution in the elaboration and adoption of the Declaration, these organizations have a particular responsibility in this respect. They enjoy independence from national authorities, and can provide synthetic comparative views. They should also encourage national employers' and workers' organizations to provide comments.

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27. The Governing Body should ask both international and national employers' and workers' organizations to make special efforts to promote and facilitate the organization of workers and their engagement in collective bargaining, as regards those who tend to be excluded from enjoying the Declaration principles and rights. These include agricultural workers, workers in export processing zones (EPZs), migrant workers, domestic workers, workers in the informal economy, and some workers in the public sector.

### 3. Recommendations to the Governing Body in relation to the Office

28. The Expert-Advisers recommend that the Office develop further the means for countries to assess their progress in moving towards fuller realization of the fundamental principles and rights at work. This should allow countries to better determine where they are starting from, where they want to reach, and how to get there. We would expect individual countries to volunteer to collaborate in such a process and to lead the way in any assessment. Information for developing and taking forward such an assessment approach would come from a variety of sources, in particular the three main activities under the Declaration follow-up: Annual review, Global Reports and technical cooperation.
29. The positive measures taken by countries in the Gulf Cooperation Council (GCC) should be expanded upon.
30. There are still a number of countries that have never fulfilled their reporting obligations under the Declaration annual review: **Afghanistan, Kyrgyzstan, Sierra Leone, Solomon Islands** and **Somalia**. We reiterate the need for greater engagement with those countries to enable them to report. There are other countries that are able to report only irregularly, such as the **Lao People's Democratic Republic**, which should be further assisted.
31. We recommend that the Office seek new means of engaging with governments to obtain both quantitative and qualitative information for the reporting process. One idea would be to undertake, for instance, pilot exercises in selected countries and subregions, to broaden the base of information brought to bear upon the annual review. These could be in the form of multistakeholders meetings, where the Ministry of Labour would interact with other ministries and employers' and workers' organizations, as well as appropriate civil society groups.

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## D. Efforts made in respecting, promoting and realizing fundamental principles and rights at work<sup>4</sup>

### 1. Freedom of association and effective recognition of the right to collective bargaining

#### (a) Reporting

32. Twenty-seven out of 37 States have submitted a report under the principle of freedom of association and the effective recognition of the right to collective bargaining (73 per cent reporting rate), which is an increase of 2 per cent compared to the 2003 annual review figures on this principle and right. A late report for the 2003 annual review was received from **Armenia**, while **Brazil** and the **Republic of Korea** sent, for the same period, late replies to workers' organizations' observations.
33. The Governments of **Armenia, Guinea-Bissau, Iraq, Kenya, Lao People's Democratic Republic, Uzbekistan** and **Viet Nam** failed in their reporting obligations for the 2004 annual review.
34. Since the start of the annual review exercise in 1999, **Afghanistan** and the **Solomon Islands** have never submitted reports under this principle and right.
35. Seven observations were received from two employers' organizations and five workers' organizations from **Brazil** (the Central Union of Workers – CUT), **Republic of Korea** (the Korean Confederation of Trade Unions – KCTU), **New Zealand** (Business New Zealand – BNZ, and the New Zealand Council of Trade Unions – NZCTU), **Thailand** (the Employers' Confederation of Thai Trade and Industry – ECONTHAI, and the National Congress of Thai Labour – NCTL) and **United States** (the American Federation of Labor and Congress of Industrial Organizations – AFL-CIO). Late observations for the 2003 annual review were received from the **Republic of Korea** (the Federation of Korean Trade Unions – FKTU and the Korean Confederation of Trade Unions – KCTU). The World Confederation of Labour (WCL) sent comments concerning the implementation of the principle and right in **Morocco**, while late observations for the 2003 annual review on the same principle and right with respect to **El Salvador** were received from the International Confederation of Free Trade Unions (ICFTU).

#### (b) Reports mentioning efforts

36. **Ratification.** In 2003, **Armenia** (November) and **New Zealand** (June) ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), while **Zimbabwe** (April) was the sole country to ratify the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) in that period.

<sup>4</sup> The information in sections 1, 3, 5 and 7 of section D is a summary of statements contained in government reports and comments submitted to the Office by national and international employers' and workers' organizations for the 2004 annual review. In sections 2, 4, 6 and 8, the Expert-Advisers have provided comments in relation to the material examined under each category of principles and rights at work. Neither the Expert-Advisers nor the Office have verified the accuracy of the information received and reproduced in the compilation.

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37. The Government of **New Zealand** is continuing to monitor compatibility of national law, policy and practice with the provisions of Convention No. 87 to assess whether ratification of this instrument is possible in the future. The Government of **Thailand** has allocated financial resources to study its readiness to ratify Conventions Nos. 87 and 98.
38. **Recognition and exercise of the principle and right.** All reports mention that the principle of freedom of association and the effective recognition of the right to collective bargaining is recognized, and can be exercised at enterprise, sector or industry, national and international (except for international recognition: **Jordan, Republic of Korea, Malaysia and Myanmar**) levels by all categories of employers and workers, except in the armed forces, paramilitary services, police and prison. However, government authorization is required to establish employers' and workers' organizations in **China, El Salvador, Jordan, Malaysia, Mauritius, Nepal, Oman, Qatar, Thailand, Uganda** and the **United Arab Emirates**. This authorization is not required for workers' organizations in **China and Nepal**. With regard to the conclusion of collective agreements, government authorization is required in **Oman, Malaysia, Qatar and Thailand**, but not in **Armenia, China, El Salvador, Jordan, Republic of Korea, Kuwait, Lebanon, Mauritius, Myanmar, Uganda** and the **United Arab Emirates**.
39. Major efforts reported under this principle and right refer in particular to legislative changes, enforcement and sanctions, special attention to particular situations, promotional or advocacy activities, data collection and dissemination, broad policy reforms, and new initiatives and examples of success.
40. **Introducing legislative changes.** A number of countries have enacted new laws or regulations or are undertaking similar action to support the principle and right. For instance, the Government of **Brazil** states that labour and trade union reform is one of its current priorities. **China** reports that a regulation on collective consultation and collective contract was adopted in June 2003. With respect to collective bargaining, the Government of the **Islamic Republic of Iran** states that some changes in relevant laws and regulations are under way so as to remove possible barriers in this field. In the **Republic of Korea**, the Bill of 23 June 2003 guaranteeing public officials' labour rights is now going through the legislative process. **Kuwait** notes the amendment of article 69 of the 1964 Labour Code regarding the formation of trade unions. According to the Government of **Lebanon**, the amended Labour Code has taken into account international labour standards and fundamental principles and rights at work. In **Morocco**, a draft Labour Code was debated in the Parliament in June 2003. According to the Government of **Mexico**, on 12 December 2002, a draft Amendment dealing with the principle and right was proposed as a Bill initiated by the Institutional Revolutionary Party (PRI), the National Action Party (PAN) and the Mexican Environmentalist Green Party (PVEM). The Government of **New Zealand** points out that it is currently reviewing the Employment Relations Act, 2000. In **Oman**, a new labour law adopted in 2003 provides for the establishment of a labour committee in each company, while in **Qatar** a draft Labour Code is being debated (no indication has been given as to whether this Code includes freedom of association). In July 2003, the Ministry of Justice in **Thailand** approved an amendment to the labour law concerning freedom of association. The Government of the **United Arab Emirates** indicate that an amendment of the labour law to allow the establishment of workers' associations has been submitted to the Cabinet for approval. Finally, the ILO technical cooperation has been requested (for instance, **Mauritius**) or is being implemented in several countries (for instance, **Jordan and Uganda**) to ensure compliance with this principle and right.
41. **Enforcement and sanctions.** States mostly refer to labour inspection and monitoring mechanisms to ensure respect for the principle of freedom of association and the effective recognition of the right to collective bargaining. In instances where this principle and right

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has not been respected, the procedures referred to usually involve conciliation and mediation. In case of failure, judicial action, redress and civil, administrative and/or penal sanctions are provided for. For example, in case of violation of the principle and right in **Brazil**, the Government reports the matter to a labour prosecutor, which initiates the appropriate administrative and/or legal proceedings. In the case of **China**, the Government requests the parties involved to find a solution within the existing legal framework. In **El Salvador**, the Government reports that fines are imposed in accordance with article 627 of the Labour Code. In the **Islamic Republic of Iran**, penalties, such as fines and imprisonment, are stipulated under article 178 of the Labour Code. In the **Republic of Korea**, employers who infringe the rights of trade unions to organize or bargain collectively, are subject to legal sanctions under charges of unfair labour practices, in accordance with articles 81 and 90 of the Trade Union and Labour Relations Adjustment Act. In **Kuwait**, a conciliation committee for collective labour disputes is held for conciliation or reference to arbitration, in compliance with the principle and right. In **Lebanon**, the offender is referred to the competent judicial authority. In the public sector in **Malaysia**, National Joint Councils are responsible for discussing and, to some extent, negotiating on a regular basis terms and conditions of employment, including remuneration. In **Mauritius**, the Conciliation and Mediation Department of the Ministry of Labour and Industrial Relations intervenes either by carrying out inquiries at the workplace with employers' and workers' representatives, or by conducting conciliation meetings at the Ministry's headquarters; whenever negotiations fail, the matter is dealt with by the Industrial Relations Commission. As for **Morocco**, in the event of violation of this principle and right, the Government intervenes through social dialogue or the labour inspectorate. In this regard, a National Inquiry and Contracts Commission has been created to stimulate social dialogue, encourage cooperative links between the social partners and settle industrial disputes at the national level. At the local level, the labour inspectorate plays an important role in collective bargaining: it advises the social partners, invites them to engage in social dialogue, reconciles the positions of the two parties and encourages collective bargaining. In addition, in cases of violation of trade union rights, labour inspectors may initiate prosecutions, and the dossier will then be sent to the competent court for trial. In **Oman**, social partners are called for a common meeting with the Government to discuss the issues. In **Thailand**, the Labour Relations Act applies. In the **United Arab Emirates**, in instances where the principle of collective bargaining has not been respected, penal and administrative sanctions are taken by referring the matter to the courts.

42. **Special attention to particular situations.** Many governments state that specific steps have been taken in view of ensuring that specific industries/sectors, particular groups or categories of workers enjoy the rights entrusted in the principle and right. The Government of the **Islamic Republic of Iran** stresses that women have actively participated in all instances, including associations, collective bargaining, seminars and other meetings. In **El Salvador**, the Higher Labour Council has made an analysis of alternatives and mechanisms to strengthen women's organizations in work. In **Uganda**, the draft revised laws (which are still in draft Bill form) have been made gender sensitive. The **United Arab Emirates** report that the participation of women in public life has been emphasized through the formation of women committees and federations. The Authority for Social Development and Social Welfare has been established so as to give special attention to the disabled and other special categories of persons. In **Lebanon**, special attention is given to the situation of specific categories of persons. Under article 50 of the Labour Code, there are immunities, which are granted to members of executive councils of trade unions against any arbitrary layoff. Furthermore, the draft Labour Code amendment includes a provision, which authorizes certain additional categories of persons to enjoy the right to organize. In **Brazil**, special attention is given to the situation of specific industries and sectors, such as those concerning dockworkers, rural workers and small-sized enterprises. In **Morocco**, the Government reports that it pays special attention to vulnerable social

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groups and sectors – such as children at work, women employees, the textile and clothing sectors, urban transport and the canning industry.

- 43. Promotional or advocacy activities.** Seventeen countries report that they have adopted measures including awareness raising/advocacy. **Mauritius** states that the Information, Education and Communication Division of the Ministry of Labour and Industrial Relations carries out, on a regular basis, site-level talks and workshops on communication skills, leadership, motivation, negotiation skills, disciplinary and grievance procedures. In **Uganda**, most awareness-raising, advocacy and capacity-building activities have been carried out under the auspices of the ILO/SLAREA (Strengthening Labour Administration and Labour Relations in East Africa) project in the country. In **Thailand**, in view of promoting the principle and right, the following measures are envisaged: (i) a pilot project on the promotion of tripartism and labour relations network; (ii) the best establishment context on labour relations practice; and (iii) the establishment of an assessment for accreditation to conform with the requirements on freedom of association and collective bargaining under the Thai Labour Standards (TLS.8001-2003). As for **Brazil**, a National Labour Forum, proposed by the Government to reform industrial and trade union relations, is operating with the participation of employers' and workers' organizations. According to the Government of **Canada**, the right to collective bargaining continues to be promoted through various programmes of the Federal Mediation and Conciliation Service.
- 44. Data collection and dissemination.** Few governments make reference to the collection and dissemination of data related to the promotion of the principle. In particular, the Government of **Malaysia** provides data that show a decrease of registered collective agreements in 2002, whereas the data sent by the Government of **Thailand** reflect an increase in the formation of employers' and workers' organizations. According to the Government of **Myanmar**, from July 2002 to July 2003, the township-level workers' supervisory committees have heard and settled 305 cases concerning workers' rights that were either collectively or individually bargained for by the workers. In reply to the comments by the Central Union of Workers (CUT) on freedom of association and collective bargaining issues, the Government of **Brazil** has provided extensive national data for 1997-2002, notably on collective agreements, number of strikes and industrial disputes submitted to labour courts.
- 45. Broad policy reforms.** Most countries report that they have held tripartite discussions on specific measures to respect, promote and realize the principle and right (**China, El Salvador, Jordan, Morocco, New Zealand, Oman and Thailand**). Some are envisaging such action (**Islamic Republic of Iran, Republic of Korea, Malaysia, Morocco, Mauritius, Qatar, Uganda and United Arab Emirates**). For instance, in view of assessing ratification prospects, the Government of **New Zealand** is currently monitoring compatibility of national policy and practice with the provisions of Convention No. 87.
- 46. New initiatives and examples of success.** These types of measures are mentioned by various governments for the realization of the principle and right. **Brazil** points out that in the last few years, the Government proposed several Bills that became laws to promote collective bargaining as a means of resolving disputes between employers and workers. In **China**, a tripartite mechanism was established in August 2002 in the construction industry, together with a guideline for the establishment of tripartite mechanism on labour relations was drawn. In June 2003, a Regulation on Collective Consultation and Collective Contract was adopted. The Government of the **Republic of Korea** emphasizes the gradual expansion of the labour rights of public-sector workers, following an agreement at the Tripartite Commission. **Kuwait** notes that article 69 of the 1964 Labour Code has been amended to enable a large participation of government employees in the formation of trade unions. In **Mauritius**, the Government highlights the active role of the Industrial Relations Commission in the promotion of collective bargaining, conciliation and mediation. The

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Government of **Mexico** indicates that it is working on a labour legislation reform that will help promote the training, participation and fair remuneration of workers. The Government of **Morocco** mentions the compliance of the Trade Union Act, (Law No. 11-98 of 15 February 2000) with the principles of Convention No. 98. It also notes that a draft Labour Code was adopted in June 2003, following an agreement between the Government and the social partners. **Oman** emphasizes the establishment of committees in each organization, whereas **Uganda** indicates that five members of its Parliament are representing workers' interests, and that the number of registered trade union organizations has slightly increased. Finally, the **United Arab Emirates** refers to steps currently taken to amend its labour law, so as to enable the establishment of workers' associations. The Government also indicates that a major change consists, at the beginning of May 2003, of a collective bargaining mechanism in which the Conciliation Board and the Supreme Arbitration Board take part.

**(c) Challenges mentioned**

- 47. Legislation.** The following States recognize legal difficulties, and have requested technical support in carrying out legal reforms to promote the principle and right: **Brazil, China, Jordan, Mauritius, Morocco, Uganda** and the **United Arab Emirates**. In this respect, the Government of **Brazil** again refers to the conflict between national laws and the provisions of Convention No. 87, and stresses that labour and trade union reform is one of its current priorities.
- 48. Contextual factors.** The Governments of **Armenia, China, El Salvador, Islamic Republic of Iran, Jordan, Republic of Korea, Malaysia, Mauritius, Morocco, Myanmar, Oman, Qatar, Thailand, Uganda** and the **United Arab Emirates** refer to economic, political, social and/or cultural challenges in the realization of the principle and right. **Thailand** and **Uganda** encounter all the difficulties mentioned in the report form. In this respect, the National Congress of Thai Labour (NCTL) stresses that since there has been no progress in **Thailand** in relation to the principle and right, the Government should accelerate its efforts in adopting relevant measures. In **China**, the Government again reports that the lack of capacity of workers' organizations is the sole difficulty encountered in realizing the principle and right. The **Islamic Republic of Iran** is the only country to mention difficulties due to the political situation. Many governments note the lack of public awareness, and the difficulties faced at the organizational level to gather information and data or to engage in social dialogue.
- 49. Restrictions on freedom of association.** The right to freedom of association cannot be exercised by all categories of persons in **Qatar**. Workers under the age of 18 are also denied this right in **Jordan, Kuwait** and **Uganda**, whereas public servants cannot enjoy it in **China, El Salvador, Jordan, Republic of Korea** (with the exception of workers engaged in manual labour in postal services, railways business, etc.), **United Arab Emirates**, and in **Thailand** where teachers are also concerned. The same applies to domestic workers in **Jordan, Uganda** and in the **United Arab Emirates** for which the "non-professional" workers are also denied this right. In addition, the right to organize cannot be exercised by agricultural workers in **Jordan** and the **United Arab Emirates**. Employers are denied this right in **China**, together with employers of the public sector in **El Salvador** and **Thailand**.
- 50.** Concerning **Brazil**, the Central Union of Workers (CUT) observes that despite the constitutional provisions on freedom of association, the country is far from having an appropriate legal framework for freedom of association and collective bargaining.
- 51.** In reply to these comments, the Government reiterates that freedom of association and the right to organize is legally recognized in the country. However, it hopes to overcome the

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legal obstacle of the single trade union system through constitutional amendment and social dialogue.

- 52.** With respect to **El Salvador**, the International Confederation of Free Trade Unions (ICFTU) notes that anti-union discrimination is prohibited in law, even extending to the period before a trade union is legally recognized. Workers cannot, in theory, be dismissed if their names are on a union application in the process of registration. However, in practice there is considerable discrimination against workers for trade union membership or activities, and the legal prohibition against such discrimination does not prevent its widespread occurrence. Notwithstanding the long-standing ILO Recommendations to the effect that reinstatement of dismissed workers is a necessary element of defence against unfair dismissal, the Labour Code does not provide for the reinstatement of illegally dismissed workers, but only that employers give the worker a severance payment.
- 53.** In reply to these observations, the Government emphasizes that the principle of freedom of association is recognized in the Constitution and national legislation for different categories of workers. According to the Government, several aspects in the trade union structure such as the decrease from 40 to 35 members as the minimum number for the formation of trade unions and the current procedure for forming a trade-union progress in freedom of association in the country. It stresses that the right to organize and bargain collectively is adequately implemented in the country, including for teachers, migrant workers, informal economy workers, etc., and that national laws provide for sanctions in case of unfair labour practices. The Government emphasizes that it investigates such practices in a fair and rapid manner, with a view to eradicating them.
- 54.** As regards the **Republic of Korea**, the Federation of Korean Trade Unions (FKTU) observes that based on the legal procedure provided for under the current Trade Union and Labour Relations Adjustment Act, the administrative authorities can refuse certification, thereby denying the legal recognition of trade unions, as has been observed in the cases of the Remicon Workers' Union and Golf Caddies' Union. According to the FKTU, freedom of association at industry and occupational levels should be recognized for employers and workers. Moreover, the Korean Confederation of Trade Unions (KCTU) notes that, contrary to the statement by the Government, multiple unions at enterprise level are prohibited by the Trade Union and Labour Relations Adjustment Act (Addenda, article 5, paragraph 1), thus limiting freedom of association at enterprise level. Indeed, the Trade Union and Labour Relations Adjustment Act functions as a prior authorization system, and a union cannot be recognized as such if it fails to submit new elements within the 20 days following the rejection of its application. The KCTU further disagrees with the Government's indication that special measures are being undertaken to bring about freedom of association of government employees in the civil service. It stresses that the current Act on the Establishment and Operation of Public Officials' Workplace Associations provides for the establishment of workplace associations/councils in each of unit offices of the Government, but only for public officials who are below a certain grade (grade 6).
- 55.** In reply to these comments, the Government states that freedom of association at industry and occupational levels has to be guaranteed for employers and workers. Once a reporting organization meets the requirements provided for under the Trade Unions and Labour Relations Adjustment Act (TULRAA), the competent authority issues the certification within three days from reporting, or asks the organization concerned to forward complementary documents within 20 days from reporting. This process is to ensure legitimacy of an organization, not in order to allow or refuse the establishment of an organization at the discretion of an authority, as was alleged by the FKTU. As regards public servants, under article 66.1 of the Public Servants' Act and article 5 of the TULRAA, labour rights are guaranteed to public officials involved in simple skills and

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manual labour, and to categories of officials employed on a contract basis in the Ministry of Information and Communications or the Korean National Railroad. The Government also reports that teachers can freely establish their organizations according to the Act on the Establishment and Operation, etc. of Teachers' Trade Unions enacted in 1998, following an agreement at the Tripartite Commission. In an annex to its report, the Government makes a comparison between the Bill on Public Officials' Trade Unions and the Bill on Public Officials' Workplace Associations with respect to freedom of association and collective bargaining.

- 56. Restrictions on the right to strike.** In the **Republic of Korea**, the Korean Confederation of Trade Unions (KCTU) notes that, contrary to the Government's statement, workers employed in "essential public service" enterprises are governed by a "compulsory arbitration" mechanism, which can be activated when negotiations are deadlocked. Once arbitration is requested by the Labour Relations Commission, no industrial action is possible within 15 days, and once an arbitration award is delivered, it has the same effect as a collective agreement. According to the KCTU, this system has been abused by employers who have learned that arbitration is in their favour and thus do not feel compelled to bargain collectively. "Compulsory arbitration" thus derails the right to bargain collectively and at the same time, prohibits all kinds of industrial action, such as strike, go-slow or work-by-rule actions. Trade union activities, including strikes, are dealt with in the same category of "subversive actions".
- 57.** In reply to these observations, the Government mentions that compulsory arbitration is requested in case of industrial conflicts in public interest services, such as hospitals, which have a large influence on the national economy or daily lives of the public, and where the workers are difficult to replace in case of a strike. When arbitration is requested, industrial action is prohibited for 15 days, and when an award of arbitration is confirmed, it has the same effect as a collective agreement. However, the Labour Relations Commission is not willing to invoke arbitration as long as labour and management are willing to negotiate or the damage of the strike to the public interest is not considered as very serious. Starting from 2003, the requirements and procedure for arbitration in cases of essential public services have been improved, and the Labour Relations Commission encourages labour and management to negotiate, rather than having recourse to arbitration. From January to November 2003, only one workplace was subject to arbitration, which is a neutral process and as such, should not be considered as favourable to employers only. According to the Government, the Tripartite Commission is planning to discuss the possible abolition of the exceptions and arbitration system, but to maintain a minimum level of service in the event of strike in government services.
- 58.** In **Morocco** the World Confederation of Labour (WCL) indicates that in January 2003, it organized, with its two affiliated organizations, the Moroccan General Workers' Union (UGTM) and the Democratic Confederation of Labour (CDT), a "think tank" seminar on national compliance with Convention No. 87. In this respect, there is currently a legal vacuum concerning the protection of the right to strike, and the trade unions had issued serious reservations concerning the adoption of a specific law on this subject, that would make it practically impossible to go on strike. According to the WCL, such a law may pave the way to more violations of workers' rights, growth of poverty and precariousness in the labour market.
- 59.** In reply to these comments, the Government underscores that the right to organize and the right to strike in the public and private sectors are recognized in the Constitution, and serious penal sanctions are provided for in case of breach. Moreover, there is no government interference in the functioning of employers' and workers' organizations. According to the Government, the newly adopted Labour Code has been formulated in consultation with the social partners and in the spirit of compliance with the ILO core

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Conventions. Furthermore, even in the absence of a legal framework, the right to strike is being exercised by the trade union confederations in all sectors of activity, with no government interference.

- 60. Restrictions on the right to collective bargaining.** The same categories of workers and employers that are denied freedom of association, as referred to in paragraph 49 of this report, are also denied the right to collective bargaining in **China, El Salvador, Jordan, Republic of Korea, United Arab Emirates, Thailand and Uganda.**
- 61.** In the **Republic of Korea**, the Federation of Korean Trade Unions (FKTU) observes that although there are no legal restrictions to the right to bargain collectively under the Trade Union and Labour Relations Adjustment Act (TULRAA), the majority of existing collective bargaining agreements are concluded at enterprise level, except in few particular sectors of activities such as transport, textile and banking. The reason is that the previous Trade Union Act did not recognize, for a long time, trade unions established beyond a workplace or company. In that context, the request of trade unions for having collective bargaining at the industrial or national level has not been accepted by employers and their associations, which often causes conflicts in the relationship between trade unions and employers. In addition, there is a clear requirement of Government's authorization or approval for collective agreements concerning personnel, remuneration, retirement age and benefits in the public enterprises or government organizations, such as the railways or insurance corporations. According to the Korean Confederation of Trade Unions (KCTU), the effective recognition of the right to collective bargaining implies the possibility of forming trade unions at enterprise, industry and national levels that can engage in collective bargaining on issues pertaining to these levels. However, industry-level federations or industry-wide unions and national confederations such as KCTU do not enjoy the right to bargain collectively with appropriate counterparts on issues that are relevant to them; and there is no effective mechanism to sanction employers who fail to implement or violate collective agreements.
- 62.** In reply to these observations, the Government indicates that the Trade Union and Labour Relations Act (TULRAA) does not imply any restriction on the levels of establishment of trade unions. Industry-level trade unions have the right to bargain collectively and conclude collective agreements, but due to the non-existence of employers' organizations at higher levels, there is no negotiating partner to meet with these unions. In the public sector, collective agreements have a certain limit in terms of implementation since the budget and related provisions are decided by the National Assembly. However, the Government will continue to consult, through the Tripartite Commission and other means, with national-level workers' and employers' organizations on various policy tasks. It plans to expand such dialogue and consultation with workers' and employers' organizations at industrial and regional levels. As regards the implementation of collective agreements, the Government indicates that this can be ensured through the procedures set in each agreement, and by trade unions, which can file a lawsuit if necessary. In addition, the Labour Relations Commission can provide, upon request, its observations on the interpretation and the means to implement such collective agreements. Finally, penalties, including penal sanctions, are provided for under the TULRAA for employers who violate collective agreements or have committed unfair labour practice.
- 63.** As regards **New Zealand**, Business New Zealand observes that specific measures have been implemented to respect, promote and realize the principle. However, it welcomes the Government's indication that the purpose of the review of Employment Relations Act 2000 is to consider what legislative changes are required so that the Act can better meet its statutory objectives of promoting productive employment relationships, good faith collective bargaining and the effective resolution of employment relationship problems.

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- 64. Migrant workers.** The only countries to report that the right to organize is denied to migrant workers are **Jordan** and the **United Arab Emirates**. This right is to some extent also denied to migrant workers in **Kuwait**, where certain restrictive conditions are imposed (no right to vote or to be elected as a union representative).
- 65.** In the **Republic of Korea**, the Korean Confederation of Trade Unions (KCTU) notes that, contrary to the Government's statement, migrant workers do not have the right to exercise freedom of association. There are about 400,000 migrant workers living and working in the country, but only a very small portion of this population can enjoy freedom of association. Industrial trainees brought into the country by overseas subsidiary of Korean firms, industrial trainees recruited by the National Federation of Small to Medium Enterprise Cooperatives, the National Federation of Fisheries Cooperatives and the National Federation of Construction Enterprise Cooperatives are not recognized as "workers", and are denied the right to form or join a trade union. A majority of these categories of workers (around 260,000) disassociate themselves from the "training-providing" enterprises due to unacceptable working conditions, including wage levels, and become "undocumented" workers in violation of entry visa conditions.
- 66.** In reply to these comments, the Government states that any foreign worker employed in domestic work under legitimate procedures, has the right to join a trade union of his/her choice, and has not been denied union membership on the basis of his/her nationality. However, industrial trainees who enter the country with a trainee status cannot be regarded as workers under the Immigration Control Act.
- 67.** With respect to the **United States**, the Government observes that in the *Hoffman Plastic Compounds Inc. v. National Labour Relations Board*, 535 U.S. 137 (2002), while not contravening this principle, a recent and much discussed United States Supreme Court decision modified the availability of one remedy under the National Labor Relations Act (NLRA). According to the Government, this decision did not alter or question, but rather confirmed the general principle that in the country undocumented workers have the right to form and join trade unions.
- 68.** However, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) expresses its strong disagreement with the Government report under this principle and right, and mentions that the situation has not improved since last year. It observes that withdrawing the right of back pay removes a vital protection to undocumented workers who are discriminated against for exercising their fundamental rights, and undermines those rights to which these workers remain entitled.
- 69. Workers in the informal economy.** Workers engaged in the informal economy cannot enjoy the right to organize and bargain collectively in **Thailand, Uganda** and the **United Arab Emirates**. The Government of **Uganda** observes that despite their big potential, these categories of workers cannot enjoy these rights.
- 70.** In the **Republic of Korea**, the Korean Confederation of Trade Unions (KCTU) notes that contrary to the Government's statement, the law does not allow unemployed workers to form or join a trade union, and the Government has failed, for the last five years, to bring about a legislative amendment to rectify this. Moreover, persons employed in several categories of employment (such as self-owned vehicle operators "contracted" by individual firms, door-to-door insurance subscription salespersons hired by insurance companies, telemarketing operators, after-service providers, golf course caddies, scriptwriters for TV and radio programmes, etc.) are not recognized as workers, and are thus denied the right to organize or join a union and the right to bargain collectively.

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71. In reply to these observations, the Government underlines that the Trade Union and Labour Relations Adjustment Act uses the term “worker,” which means any person who lives on wages, salary, or other equivalent form of income earned in pursuit of any type of job. According to this Act, workers can establish and join trade unions. In interpreting this Act, courts have not recognized unemployed persons as workers. As part of the measures for the Industrial Relations Advancement Plan, the Tripartite Commission is currently considering a measure to recognize unemployed persons as workers who can form or join a trade union. Given that courts have divided workers into two groups – workers who can form or join trade unions, and self-employed or autonomous workers who cannot, based on subordinate employment relationships – some persons who are under service contracts with companies, such as insurance salespersons, are not recognized as workers under the TULRAA. However, visiting tutors for education materials and golf caddies enjoy the right to organize.
72. **Export processing zones (EPZs).** Workers in EPZs are denied the right to organize and bargain collectively in **Thailand**, the **United Arab Emirates**, and **Uganda** which notes, however, the non-existence of these zones in its territory.
73. **Requests for technical cooperation.** In view of meeting the above challenges, **Armenia, China, El Salvador, Islamic Republic of Iran, Jordan, Lebanon, Morocco, Mauritius, Myanmar, Oman, Qatar, Saudi Arabia, Thailand, Uganda** and the **United Arab Emirates** have requested ILO technical cooperation. (For further information, refer to part G of this report.)

**(d) Reports indicating no change**

74. The Governments of **Bahrain, India** and **Sudan** report no change in relation to their previous report. Many other countries substantially replicate their previous report. However, updated reports were sent by **Canada, Jordan, Mexico** and the **United States**.

**2. Comments by the Expert-Advisers on freedom of association and the effective recognition of the right to collective bargaining**

75. The Expert-Advisers reiterate that freedom of association and collective bargaining must be respected by all ILO member States, irrespective of the specific economic, social, cultural and political context of the country. When respect for this principle and right is denied, there can be no real progress in relation to the other three principles and rights. It is in many ways the gateway to the other principles and rights, which in turn reinforce it; it also helps to promote other labour and social rights. The situation in countries that respect this principle and right is fundamentally different from those where it is denied.
76. Freedom of association and collective bargaining gives opportunities to employers and workers to have greater impact over their own lives and their affairs, and allows them to negotiate with each other and the State, as appropriate. When the social forces of workers and employers and their organizations are given free rein, they constitute significant checks and balances against abuse of power either by the other side or by the government. As such, this principle is part and parcel of human rights and democracy.
77. Most countries assert general respect for the principle. But when the restrictions are considered (e.g. exclusion of categories of employers and workers, denying the right of organizations to elaborate their own statutes and to international affiliation), it soon becomes apparent that there are so many exceptions that these rapidly empty the principle

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of its full potential. Some countries remain silent on the exceptions; in some cases, the government's report does not allow the clear identification of respect or non-respect. Other countries have taken the important steps of admitting that this right is denied, and seek cooperation in finding ways of overcoming this problem.

78. The reports have provided good information on law in many cases, but there is still insufficient information on application of the law. It is encouraging that a number of countries have taken this opportunity to provide more information on the specific situation in the public sector, in EPZs, agriculture, the informal economy, and with respect to migrant and domestic workers.
79. The situation is far from heartening. Too many people in these categories are denied this right. In many cases, this means that women are denied this right, since they tend to be the majority in these categories.
80. Any tendency towards a single trade union system imposed by law or other government intervention makes it more difficult for diverse categories of workers to organize. In this respect, we note that **Brazil** is still seeking to amend its Constitution to allow greater freedom of association, and urge the Government to proceed in this matter. Freedom of association will provide greater opportunity for smaller employers and more marginalized workers to organize.
81. The challenges in terms of how to organize the unorganized are important, and need to be met. The industrial relations and social dialogue framework founded upon certain production structures and patterns and traditions of organizing work and people is losing ground in many countries, in the face of changes in this area. At the same time, new structures of production and organization in small and medium-sized enterprises (SMEs) and the informal economy, and precarious forms of employment are not properly identified and recognized. Innovative approaches in this area based on the principles of freedom of association will help to expand representative and organizational structures, allowing the broader relevance of social dialogue.
82. Any system of social dialogue is baseless without properly functioning organizations. In this respect, we note the meaningful exchange that can take place when these organizations enter the process of dialogue that is also constituted by this annual review process in the case of **Japan**, the **Republic of Korea** and **New Zealand**, for instance. This makes it even more regrettable that few workers' and employers' organizations are involved in this reporting process. A rich source of information and process of interaction is thereby lost.
83. We are encouraged to see a number of governments turning to the ILO for strengthening their workers' and employers' organizations. The donor community should support the Office's efforts in responding to these requests.
84. We are also encouraged by the continuing steps taken by countries of the Gulf Cooperation Council (GCC) in relation to this principle, but note that there is a long way to go and much to do. **Jordan**, **Qatar**, **Saudi Arabia** and the **United Arab Emirates** have requested assistance. In the current process of adoption of the new draft labour code, **Qatar** has requested technical cooperation for: (i) assessing with the ILO the difficulties identified and their implication for realizing the principle; (ii) strengthening data collection; and (iii) reinforcing the tripartite social dialogue. Priority should be given to cooperation in helping such countries to overcome obstacles remaining in respect of this principle.
85. While we note that the Gulf Cooperation Council (GCC) States are providing more information on the principle of freedom of association and the effective recognition of the

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right to collective bargaining, it would be useful to receive more information on the other three principles. This would help to illustrate the interlinkages between all four principles.

### **3. Elimination of all forms of forced or compulsory labour**

#### **(a) Reporting**

- 86.** Fifteen out of 23 States have submitted a report under the principle of the elimination of all forms of forced or compulsory labour (65 per cent reporting rate), which is an increase of 13 per cent compared to the 2003 annual review figures on this principle and right. Two first reports were received from **Mongolia** and **Sao Tome and Principe**. **Mongolia's** report was considered as late for the 2003 annual review, together with those of **Armenia** and **Madagascar**. The **Republic of Korea** sent, for the same period, a late reply to a workers' organization's observations.
- 87.** The Governments of **Armenia, Bolivia, Ethiopia, Mongolia** and **Viet Nam** failed in their reporting obligations for the 2004 annual review.
- 88.** Since the start of the annual review exercise in 1999, **Afghanistan, Lao People's Democratic Republic**, and the **Solomon Islands** have never submitted reports under this principle and right.
- 89.** As concerns the social partners, observations were received from Japan (the Japanese Trade Union Confederation – JTUC-RENGO) and the **United States** (the American Federation of Labor and Congress of Industrial Organizations – AFL-CIO). Late observations for the 2003 annual review were received from the **Republic of Korea** (the Korean Confederation of Trade Unions – KCTU)
- 90.** No observations were received from national employers' organizations, nor from international employers' and workers' organizations.

#### **(b) Reports mentioning efforts**

- 91. Ratification.** In 2003, **Ethiopia** (September) and **Mozambique** (June) ratified the Forced Labour Convention, 1930 (No. 29), while **Serbia and Montenegro** (July), **Sri Lanka** (January) and **The former Yugoslav Republic of Macedonia** (July) ratified the Abolition of Forced Labour Convention, 1957 (No. 105).
- 92.** The Government of **Canada** is continuing to work with national jurisdictions with a view to completing ratification procedure for Convention No. 29. Similarly, the Senate's Foreign Relations Committee of the **Philippines** conducted, in June 2003, a public hearing for the ratification of Convention No. 29. This instrument is also in the process of ratification in **Latvia** where a first step has been made through a positive recommendation by the National Tripartite Cooperation Council, and in **Sao Tome and Principe** together with Convention No. 105, which **Madagascar** also hopes to ratify.
- 93. Recognition of this principle and right.** The principle of the elimination of all forms of forced or compulsory labour is recognized in all countries. For instance, according to the Governments of **China, Japan** and the **Republic of Korea**, the principle applies to all categories of persons or activities. The Government of **Japan** mentions that its Constitution specifically secures freedom from bondage and involuntary servitude. In the **Republic of Korea**, article 6 of the Labour Standards Act provides that an employer shall

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not force a worker to work against his/her own will through the use of violence, intimidation, confinement or of any other means which unjustly restrict mental or physical freedom. In **Malaysia**, all forms of forced or compulsory labour are prohibited under article 6.2 of the Constitution. The same applies to **Mongolia**, where it is provided that no one shall be unlawfully forced to work (article 16.4 of the Constitution) or be required to perform illegally a forced or compulsory labour (article 7 of the Labour Code). Article 20 of the Constitution and the Civil Code, 1990, of **Nepal** protects all citizens from exploitation.

- 94. Definition of forced or compulsory labour.** This definition is provided for by legislation and/or judicial decisions of all countries, except for **Latvia, Malaysia and Mongolia**. In **China**, the labour law defines forced or compulsory labour as forcing labourers to work by resorting to violence, intimidation or illegal restriction of personal freedom. In the **Philippines**, the principle is dealt with by article 274 of the Penal Code concerning service rendered under compulsion in payment of debt. In the same vein, section 3 of Republic Act No. 9208 (Anti-trafficking in Persons Act of 2003) refers to the extraction of work or services from any person by means of enticement, violence, intimidation or threat, use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt bondage or deception. In **Qatar**, national laws define forced or compulsory labour as imposing work on a person without his/her consent, or forcing him/her to exact a work or an activity.
- 95.** Major efforts reported under this principle and right in this annual review, refer in particular to legislative changes, enforcement and sanctions, special attention to particular groups and human trafficking, promotional or advocacy activities, data collection and dissemination, broad national policy and new initiatives and examples of success.
- 96. Introducing new legal instruments.** The Government of **Sao Tome and Principe** mentions that under its articles 22, 23 and 43, the new Constitution of 29 January 2003 recognizes the principle of the elimination of all forms of forced or compulsory labour. According to the Government of **Mongolia**, the revision, in July 1999, of the Labour Code has confirmed the prohibition of forced and compulsory labour in the country. In **Armenia**, the draft Labour Code, which was formulated in 2002, refers to the principle.
- 97. Preventive mechanisms, enforcement and sanctions.** According to the Government of **Oman**, national laws prevent any forms of forced or compulsory labour, and all employment laws also aim at eliminating this phenomenon. The Government of the **Philippines** notes that Republic Act 9208 provides that the Department of Interior and Local Government shall institute a systematic information and prevention campaign, and likewise maintain a database for the effective monitoring, documentation and prosecution of cases on trafficking in persons. According to governments' reports, inspection or monitoring mechanisms are also being implemented in **China, Japan, the Republic of Korea, Latvia, Malaysia, Mongolia, Myanmar and Oman** in view of realizing the principle. Such measures are envisaged in **Armenia and Nepal**. **Armenia** notes that penal sanctions have been implemented, whereas **China** provides for sanctions ranging from warning to penal sanctions, and **Japan** for penal servitude, including imprisonment, under the 1947 Labour Standards Law, the 1907 Penal Code, and/or other laws and regulations. The same applies for the **Republic of Korea, Malaysia, Mongolia, Nepal, Philippines, Qatar and Myanmar**, and **Latvia**, which also provides for civil or administrative sanctions. In case of forced or compulsory labour, **Oman** only provides for civil or administrative sanctions. These sanctions are envisaged in **Nepal**.
- 98. Special attention to particular groups and human trafficking.** As regards particular groups, **Armenia and Nepal** report that the situation of women and children is dealt with particular attention in the fight against forced or compulsory labour. Similar measures are

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referred to by **China**, which also focuses on the situation of girls. Various national institutions in **China** are responsible for the identification, emancipation and/or rehabilitation of persons subject to forced labour: the Ministry of Labour and Social Security, the Legal Affairs Office of the State Council, the State Economic and Trade Commission, the Ministry of Public Security, the State Industrial and Commercial Administration, the Ministry of Education, the All China Federation of Trade Unions, the All China Federation of Youth and the All China Federation of Women. In **Sao Tome and Principe**, a forthcoming study on child labour in the cocoa plantations will be financed by ILO/IPEC (International Programme on the Elimination of Child Labour).

- 99.** With regard to human trafficking, the Government of **China** refers to the international technical cooperation it is receiving in the fight against trafficking. In this respect, the All China Federation of Women has cooperated with the ILO in the Mekong Sub-Regional Project to Combat Trafficking in Children and Women, while other governmental bodies also cooperate with the UNICEF on actions against trafficking. Particular measures against trafficking in Women and Children have also been adopted in **Nepal**, targeting the *Kamaiyas*, *Dalits*, child labour prone families and children. Poverty alleviation programmes, microfinance and social safety net have focused on women groups. In the **Philippines**, Republic Act 9208 provides for implementing mechanisms to fight against human trafficking under the Witness Protection Program and the Inter-Agency Council Against Trafficking. In this respect, the Department of Social Welfare and Development shall implement rehabilitative and protective programmes for trafficked persons. This action is strengthened by the Department of Interior and Local Government's information, prevention, monitoring, documentation and prosecution campaign on human trafficking. In **Armenia**, the Ministry of Social Security and the ILO Subregional Office in Moscow organized a seminar on the elimination of all forms of forced or compulsory labour, with a focus on trafficking.
- 100. Promotional or advocacy activities.** These types of activity were referred to in relation to the above seminar on forced or compulsory labour organized in **Armenia**, and the above campaign against human trafficking launched by the Department of Interior and Local Government of the **Philippines**. This Department also participated in the June 2003 public hearing conducted by the Senate's Foreign Relations Committee for the ratification of Convention No. 29.
- 101. Data collection and dissemination.** **Japan** is the sole country to mention the availability of statistics and other information relevant to the elimination of all forms of forced or compulsory labour. These data are compiled at the Labour Standards Bureau of the Ministry of Health, Labour and Welfare.
- 102. Broad national policy.** The Governments of **Japan**, the **Republic of Korea**, **Malaysia**, **Myanmar**, **Nepal**, **Oman**, **Philippines** and **Qatar** indicate that they have adopted a national policy to fight against forced or compulsory labour. The Governments of **Armenia**, **China**, **Mongolia** and **Sao Tome and Principe** are planning to take similar action with the help of the ILO.
- 103. New initiatives and examples of success.** Only a few governments mention measures to be regarded as successful examples. **Latvia** points out the positive recommendation by the National Tripartite Co-operation Council regarding ratification of the Forced Labour Convention, 1930 (No. 29). The Governments of **Malaysia** and **Oman** refer to the provisions of national Constitution or laws aimed at preventing, prohibiting or eliminating all forms of forced or compulsory labour. According to the Government of **Malaysia**, article 6 of the Federal Constitution, which provides that no forced labour is allowed except as provided by national law, can be regarded as a successful example. In **Nepal**, the prevention of debt bondage has been successfully pursued by the Government through

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poverty alleviation and economic empowerment of marginal farmers and women, namely the Small Farmer Development Programmes and Production Credit for Rural Women.

**(c) Challenges mentioned**

- 104. Legislation.** Legal difficulties in realizing the principle of the elimination of all forms of forced or compulsory labour have only been mentioned by the Japanese Trade Union Confederation (JTUC-RENGO) which considers that by prohibiting and repressing strike in the public service, the National Public Service Law and the Local Public Service Law are a major barrier to the ratification of Convention No. 105 by **Japan**. To this end, JTUC-RENGO notes that the request for amendment it has been making for years has not been followed-up so far. Therefore, it is still running a campaign on this reform, which should then enable ratification of Convention No. 105.
- 105.** In reply to these comments, the Government considers that the interpretation of the precise scope of forced labour as prohibited by Convention No. 105 is not clear enough, and therefore a careful study is still needed with respect to, among others, consistency between the provisions of the Convention and those of the relevant national laws and regulations in force.
- 106. Working conditions.** According to the Korean Confederation of Trade Unions (KCTU), various forms of forced or compulsory labour take place at workplaces in the **Republic of Korea**: (i) workers in small and medium-sized enterprises and workers engaged in various atypical employment arrangement, suffer from low wages and long working hours. For them, overtime work and work on rest days are tantamount to forced labour. The precariousness of their employment status denies them the right and power to refuse overtime work, while the economic condition compels them to accept the work; (ii) forced labour is rampant among migrant workers. Most “industrial trainees” have to give up their passports to the employers as soon as they arrive in the country and begin to work. Employers state that this is to prevent passport loss, but, in reality, it is aimed at preventing the workers from moving to other workplaces. Migrant workers are subjected to a ban on leaving their place of accommodation unaccompanied, that they are locked up in company dormitories and subjected to confinement and beatings to force them to work; and (iii) 260,000 undocumented workers suffer from similar situation, accentuated by their “illegal” status. Thus, the KCTU believes that the Government’s statement that forced labour does not exist in the country is indicative of its blindness to actual forced labour taking place in workplaces, especially those which involve migrant workers. It calls for an effective public policy action on this issue.
- 107.** In reply to these observations, the Government confirms that it is difficult to state that legal provisions banning forced labour are adequately enforced and that forced labour is completely eradicated in the country. Not a single case concerning this phenomenon has been reported or inspected so far. Now that labour inspection work has been computerized, a compilation of separate statistics on forced labour is expected. Regarding forced labour of foreign workers, the Government underscores that it has made active efforts to prevent this phenomenon at workplaces.
- 108. Contextual factors.** The Government of **China** mentions difficulties concerning lack of information and data, and lack of capacity of responsible government institutions to fight against trafficking. With respect to **Latvia**, the Government mentions lack of public awareness and support, information and data, and social dialogue on the principle. Regarding the assessment of difficulties, the Government of **Myanmar** considers that technical support by the ILO is important, especially in the evaluation of the problems and their impact on the realization of the principle and through sharing of experiences across

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countries/regions. **Singapore** mentions the denunciation of Convention No. 105 “due to fundamental difficulties faced” with regard to the implementation of this instrument.

**109. Requests for technical cooperation.** In view of meeting these challenges in the realization of the principle and right, **Armenia, China, Latvia, Madagascar, Mongolia, Myanmar, Nepal** and the **Philippines** have requested ILO technical cooperation (For further information, refer to part G of this report.)

**(d) Reports indicating no change**

**110.** The Government of the **United States** reports no change. **Canada, Madagascar** and **Singapore** have sent updated reports. In the **United States**, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) expresses its strong disagreement with the “no change report” by the Government on this principle and right.

**4. Comments by the Expert-Advisers on the elimination of all forms of forced or compulsory labour**

**111.** Most of the reports sent still provide little information about distinct and multiple forms of forced or compulsory labour. ILO studies that we are aware of seem to indicate widespread use of old and newer forms of forced labour, typically worsened by global economic problems. Old forms of forced labour include bonded labour and prison labour while newer forms include serious problems related to migration and human trafficking. Reports should specify what type of forced labour they are referring to.

**112.** The Expert-Advisers realize that identifying what is forced or compulsory labour as distinct from what is only exploitative practice is sometimes complex. In cases where governments are 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 for us and for others.

**113.** We were glad to receive concrete information on activities carried out by the Special Action Programme to Combat Forced Labour (SAP-FL). The dialogue and engagement with the Government of **China** continues in this area, on the basis of seminars and study tours on this subject. The involvement of officials of the Ministry of Labour and other counterparts – including public security, justice and legislative bodies – reflects the multisectoral approach required for addressing forced labour issues, and the seriousness accorded to this effort by the Government. It is noted that these different activities are designed to prepare the ground for the law reform necessary for ultimate ratification of Conventions Nos. 29 and 105. This exercise is a good concrete example of follow-up by the ILO of our recommendations to governments.

**114.** The Special Action Programme to combat forced labour (SAP-FL) is a good example of the work that can be done and needs to be done, to better understand and to promote each one of the four principles and rights. It is an example of what timely and focussed extra-budgetary funding can bring to the ILO’s means of action in giving effect to the Declaration.

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## 5. Effective abolition of child labour

### (a) Reporting

115. Thirty-one out of 56 States have submitted a report under the principle of effective abolition of child labour (54 per cent reporting rate), which is a decrease of 1 per cent compared to the 2003 annual review figures on this principle and right. First reports were received from **Sao Tome and Principe, Uzbekistan and Mongolia**. **Mongolia's** report was considered as late for the 2003 annual review, together with those of **Armenia, Djibouti, Israel and Jamaica**.
116. The Governments of **Armenia, Azerbaijan, Cape Verde, Comoros, Djibouti, Gabon, Ghana, Guinea-Bissau, Haiti, Jamaica, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Liberia, Mongolia, Pakistan, Paraguay, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Tajikistan and Turkmenistan** failed in their reporting obligations for the 2004 annual review.
117. Since the start of the annual review exercise in 1999, **Afghanistan, Sierra Leone, the Solomon Islands and Somalia** have never submitted reports under this principle and right.
118. As regards the social partners, observations were received from employers' organizations of **Azerbaijan** (the Azerbaijan Entrepreneurs Confederation – AEC), **Thailand** (the Employers' Confederation of Thai Trade and Industry – ECONTHAI) and **Trinidad and Tobago** (the Employers' Consultative Association of Trinidad and Tobago – ECATT), as well as workers' organizations from **Djibouti** (the Djibouti Labour Union – UDT), **Estonia** (the Confederation of Estonian Trade Unions – CETU), **Thailand** (the National Congress of Thai Labour – NCTL) and the **United States** (the American Federation of Labor and Congress of Industrial Organizations – AFL-CIO).
119. No observations were received from national employers' organizations, nor from international employers' and workers' organizations.

### (b) Reports mentioning efforts

120. **Ratification.** In 2003, **Grenada, Guinea, Jamaica and Mozambique** ratified both the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), while Convention No. 138 was ratified by **Côte d'Ivoire, Lebanon and Viet Nam**, and Convention No. 182 by **Bolivia, Ethiopia, the Islamic Republic of Iran, Liberia, Serbia and Montenegro** and the **Syrian Arab Republic**.
121. **Armenia** has expressed a firm intention to ratify in 2004 both Conventions Nos. 138 and 182. **Djibouti** also plans to ratify these two instruments. The Government of **New Zealand** is assessing possible ratification of Convention No. 138, whereas **Trinidad and Tobago** indicates that the necessary legislative amendments have been clearly set out in the Attorney General's Office to ensure fulfilment of national obligations with regard to ratification of this Convention. Moreover, **Israel** states that the procedure for ratification of Convention No. 182 has started, after the legal obstacle in conscription law is removed.
122. **Recognition of the principle and right.** All countries report that the principle of the effective abolition of child labour is recognized in the national Constitution and/or legislation, except for **Sao Tome and Principe, Cambodia, Lithuania and Oman** further state that the principle and right is recognized in judicial decisions and collective agreements. It is noteworthy to mention that the **Australian State of Victoria** also recognizes this principle and right in the Victorian Liquor Licensing Code of Conduct.

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- 123. Minimum age legislation for admission to employment or work.** All countries again state that they have a law imposing a minimum age for entry to employment or work, directly or indirectly. **Chad** and **Estonia** mention the lowest age allowed by law, i.e. 12 years, for work performed in a family owned/operated enterprise, whereas **Myanmar** and **Qatar** have the highest minimum age permitted by law, i.e. 18 years. In fact, the majority of countries report that the minimum age for taking up employment is 15/16 years.
- 124. New Zealand's** national legislation does not establish a general minimum age for admission to employment. Indeed, the Government does not believe that all forms of child employment are harmful. While restrictions exist on the employment of young persons (mainly in education and occupational safety and health legislation), there is a long-established practice of the employment of children in a range of work, including newspaper rounds and fruit picking. The Government considers that the employment of children in this type of work is not harmful, and indeed is socially desirable, since it prepares them for independence and greater responsibility. However, the Government is currently assessing, in the context of reviewing its reservation to article 32(2) of the United Nations Convention on the Rights of the Child, whether a general minimum age is the most appropriate protection against the exploitation of children at work. This work, once completed, will assist with determining whether the country is able to ratify Convention No. 138.
- 125.** Major efforts reported under this principle and right refer, in particular, to legislative changes, compulsory schooling, the definition of hazardous work, laws and regulations to eliminate the worst forms of child labour and the assessment of this phenomenon, preventive mechanisms and other specific measures to bring about the effective abolition of child labour, special attention to particular groups of children including those in the informal economy, data collection and dissemination, national and international policies/plans and new initiatives and examples of success.
- 126. Introducing new legal instruments.** In 2001-02, the Government of the **Australian State of Victoria** reviewed the child employment legislation, paying particular attention to the requirements of Conventions Nos. 138 and 182. The review was also informed on the child employment provisions of the United Nations Convention on the Rights of the Child (UNCROC) and the UNCROC Committee's concerns about **Australia's** compliance with these provisions. On the basis of the review findings, the Government developed the Child Employment Bill 2003, which aims to protect the health, safety, moral and welfare of children at work and to ensure that work does not adversely affect their education. An important provision of the Bill is that children can only be engaged in employment that falls within the definition of "light work". This definition accords with Convention No. 138 and covers any work that: (i) is not likely to be harmful to a child's health, safety, moral or material welfare; and (ii) will not prejudice a child's attendance at school or his/her capacity to benefit from instruction. Work that is inherently dangerous or that is performed in dangerous circumstances, cannot qualify as light work. To aid in the interpretation of the definition of light work, the Bill provides some examples of activities that may constitute light work. Amongst other things, working in the entertainment industry, newspaper deliveries, and working as a sales assistant will be considered as light work, where they accord with the broader definition of light work. In the **Australian State of Queensland**, there is no general minimum legislated age for employment. There are, however, a number of legislative provisions that aim to maximize successful transitions and provide social safety nets for young people. There is also industry-specific legislation that specifies minimum age requirements. It is felt that current industrial legislation provides adequate protection in respect of working conditions for children. In 2003, the Queensland Commission for Children and Young People initiated a review of child labour in Queensland, with the primary purpose to ensure that the rights, interests and well-being

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of children under 18 years are protected in paid and unpaid employment. The Commission is concerned with protection against potential abuse, exploitation and harm to children's health and well-being, defined broadly to include their emotional, social and physical health and well-being. The Commission will canvass a range of possible options, including criminal industrial relations, education and child protection aspects. The Commission will also consider issues relating to minimum age for admission to employment, as well as maximum working hours for young people and the sufficiency of existing child labour protection in Queensland.

- 127.** According to the Government of **Estonia**, the Working and Rest Time Act 2002 made significant changes as to working rights of children. **Oman** notes that it has enacted a new labour law in 2003, with the aim to eliminate the worst forms of child labour. **Qatar** reports that it has adopted a new law regarding compulsory education.
- 128. Compulsory schooling.** According to governments and the Azerbaijan Entrepreneurs Confederation (AEC), a compulsory schooling system is established in **Armenia, Australia, Azerbaijan, Cambodia, Czech Republic, Djibouti, Eritrea, Islamic Republic of Iran, Lithuania, Latvia, Mongolia, New Zealand, Oman, Qatar, Suriname, Thailand, Uzbekistan** and **Venezuela**. The lowest age for compulsory education, i.e. 12 years, is registered in **Djibouti**, the **Islamic Republic of Iran** and **Suriname**, with a minimum requirement of five to six years or grades of instruction. By contrast, **Uzbekistan** records the highest age for compulsory education, i.e. 18 to 19 years, with a minimum requirement of 12 years/grades of instruction. However, in **Ethiopia**, there is no compulsory schooling although the Government indicates that a free education for primary school is in the process of taking effect.
- 129. Hazardous work.** Most governments report that there is a definition for hazardous work in their legislation. **Armenia** records the highest age for this type of work, i.e. 23 years. The Government of **Australia** notes that the law protects all workers against hazardous work, indiscriminately. According to the Azerbaijan Entrepreneurs Confederation (AEC), hazardous work in **Azerbaijan** includes noise and vibration above identified norms, non-favourable climatic conditions, specific working conditions in industry, e.g. underground, mining, metallurgy, etc. The Government of **Colombia** states that it has an extensive list of work classified as hazardous. The **Czech Republic** mentions that only fit employees in terms of professional skills and health may operate technical equipment that may be dangerous. Hazardous work also includes: (i) underground work relating to the extraction of minerals or mining of tunnels and adits; (ii) all types of work that are inappropriate, due to anatomical, physiological and psychological peculiarities; and (iii) those which are dangerous or harmful to the health of children. In **Eritrea**, hazardous work covers the transportation of passengers and/or goods by road, railway, air and sea in dock side, as well as warehouse, work connected with toxic chemicals, dangerous machines, electric power generation and working in sewers and tunnel digging. **Israel's** definition of hazardous work includes underground work in a mine, different types of welding and soldering, manufacture or assembly of explosives, fireworks or ammunition, including storage of the aforementioned, work in a slaughterhouse, work on dangerous machines such as presses and work on or near machinery that emits harmful radiation. In its definition of dangerous work, **Cambodia** covers prostitution, mining, working under extremely hot conditions and working in high buildings, whereas **Mongolia** states that a whole chapter of its Labour Code addresses working conditions, standards and requirements. In **Uzbekistan**, hazardous work includes work in unfavourable conditions, underground activities and any activity which is a risk to their health, safety or moral. In **Venezuela**, this type of work includes mines and foundries, and any work which could put the life and health of workers at risk.

**130. Laws/regulations to eliminate the worst forms of child labour.** Most countries report that specific laws exist to eliminate the worst forms of child labour. According to the Government of **Armenia**, the types of work covered include casinos, nightclubs and restaurants, production of tobacco and alcohol and the production of chemicals. The Federal Government of **Australia** reports that child prostitution and child pornography are prohibited under State and territory laws, including under the Criminal Codes, which address the worst forms of child labour. In Venezuela, this issue is dealt with in the Constitution and other legislation, whilst **Cambodia, Eritrea, Israel, Latvia, Lithuania** and **Uzbekistan** refer to laws to eradicate the worst forms of child labour.

**131.** By contrast, **Suriname** and **Uzbekistan** mention that they have no laws/regulations to eliminate the worst forms of child labour.

**132. Worst forms of child labour.** Reports indicate that sale and/or trafficking of children are believed or suspected to exist in **Australia, Cambodia** and **Venezuela**, but it is not known whether they exist in **Lithuania, Suriname** and **Uzbekistan**. Debt bondage, serfdom, forced or compulsory labour and forced recruitment of children for armed conflicts are believed or suspected to exist in **Cambodia**. In **Uzbekistan**, it is not known whether this type of recruitment exists. Prostitution is believed or suspected to exist in **Australia, Cambodia, Djibouti, Lithuania, Suriname** and **Venezuela**. Child pornography is believed or suspected to exist in **Australia, Cambodia, Lithuania, Suriname, Uzbekistan** and **Venezuela**, whereas involvement of children in illicit activities – in particular, production and trafficking of drugs – are believed or suspected to exist in **Australia, Cambodia, Ethiopia, Suriname** and **Uzbekistan**, but it is not known whether they exist in **Lithuania** and **Venezuela**. **Armenia** reports that children are working in casinos, nightclubs, restaurants, alcohol and tobacco and chemical production, whilst in **Cambodia** girls are also believed or suspected to work in salt fields, rubber farms, fisheries, constructions and as housemaids. The Government of **Suriname** does not know if other types of worst forms of child labour exist in its country, whereas the Government of **Ethiopia** believes or suspects their existence in its country.

**133. Prevention mechanisms and other specific measures or programmes of action to bring about the effective abolition of child labour.** The table below (table 2) shows the areas where specific measures have been implemented and those which are envisaged to bring about the effective abolition of child labour and the elimination of the worst forms of child labour.

Table 2. Measures to enforce the principle of the effective abolition of child labour

	Measures to enforce minimum age(s) for employment		Measures to eliminate the worst forms of child labour	
	Implemented	Envisaged	Implemented	Envisaged
Legal reforms	Armenia, Azerbaijan, Islamic Republic of Iran, Latvia, Mongolia, New Zealand, Qatar, Sao Tome and Principe, Suriname, Thailand, Venezuela, Oman	Australia, Czech Republic, Mongolia, Suriname	Cambodia, Lithuania, Suriname, Venezuela	Azerbaijan, Cambodia, Suriname
Inspection/monitoring mechanisms	Armenia, Islamic Republic of Iran, Latvia, New Zealand, Oman, Qatar, Thailand	Estonia, Mongolia	Cambodia, Lithuania, Myanmar, Venezuela	Cambodia

	Measures to enforce minimum age(s) for employment		Measures to eliminate the worst forms of child labour	
Penal sanctions	Armenia, Islamic Republic of Iran, New Zealand, Qatar, Thailand		Latvia, Lithuania	Cambodia
Employment creation/income generation	Islamic Republic of Iran, Mongolia, Qatar	Mongolia		
Civil or administrative sanctions	Armenia, Azerbaijan, Latvia, Mongolia, Oman, Qatar, Thailand	Mongolia,	Lithuania	Cambodia
Special institutional machinery	Azerbaijan, Mongolia, New Zealand, Qatar	Mongolia	Cambodia, Lithuania, Venezuela	Cambodia
Free and compulsory schooling	Armenia, Azerbaijan, Latvia, Mongolia, New Zealand, Oman, Qatar, Thailand		Cambodia, Lithuania	Cambodia
Social assistance	Armenia, Azerbaijan, Qatar, Oman, Thailand	Mongolia	Lithuania, Latvia, Venezuela	
Child rehabilitation following removal from work	Azerbaijan, Mongolia, Thailand	Mongolia		
Vocational and skills training for young workers	Azerbaijan, Islamic Republic of Iran, Mongolia, Oman, Thailand	Mongolia	Cambodia	Cambodia
Awareness raising/advocacy	Mongolia, Oman, Thailand	Mongolia	Lithuania	
International cooperation programmes or projects	Mongolia, Thailand	Mongolia		Cambodia, Latvia

**134. Special attention to particular groups of children, including those operating in the informal economy.** Armenia, Cambodia, Colombia, Israel, Lithuania, Mongolia and New Zealand state that they have given special attention to particular groups of children, including those in the informal economy. According to the Government of the **Australian Capital Territory (ACT)**, the indigenous young people are given special attention by providing them with the same opportunities for education, social and skills development as other children, and by ensuring that services and programmes for indigenous families in the ACT are culturally appropriate. **Cambodia** reports that emphasis has been put in improving living conditions and vocational training. Efforts have also been made to solve problems relating to orphans and prostitutes. According to the Government of **Lithuania**, special attention is given to the need of particular groups of children, victims of sexual exploitation or under drug addiction (the National Programme Against Commercial Sexual Exploitation and Sexual Abuse of Children and the National Drug Control and Drug Addiction Prevention Programme for 1999-2003).

**135. Data collection and dissemination.** Australia, Azerbaijan, Ethiopia, Israel, Cambodia, Latvia, Mexico, Mongolia and Thailand report that they record data with regard to the principle and right. The same applies to **Azerbaijan**, according to the Azerbaijan Entrepreneurs Confederation (AEC). The Government of **Israel** indicates that the Department for the Enforcement of Labour Laws in the Ministry of Labour and Social Affairs publishes monthly and yearly statistics concerning the number of complaints dealing with child labour, which were investigated, the number of children and employers involved in each complaint, and the number of complaints found to be justified. Furthermore, statistical surveys concerning the extent and nature of work done by minors aged 15-17 are published yearly by the Central Bureau of Statistics, together with statistics concerning adults, in the *Statistical Abstract of Israel*, under the heading *Labour and wages*.

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- 136.** With respect to surveys, the Government of **Djibouti** points out that a national survey on poverty in households is currently in progress and that it also hopes to carry out a major national survey on child labour. The Government of **Mexico** mentions, among others, the migration survey at the northern border of Mexico. Using the indicators of the system for monitoring the situation of children and adolescents (SISESIA), the Federal Government has tried to measure the impact of certain programmes. This instrument is being used to make pertinent decisions or, as is the case with the SISESIA indicators, to follow up the goals established in the 2002-10 Plan of Action for Children. However, not all of the indicators are linked to goals; there are also indicators that show the current status of childhood in the country and some socio-demographic characteristics of this group of the population.
- 137. National and international policies/plans.** The vast majority of countries mention that they have a national policy/plan for the effective abolition of child labour, while the others express their intention to adopt one in the near future. Only **Armenia, Mongolia, Suriname** and **Trinidad and Tobago** report that they do not have one. These national policies/plans are aimed at tackling child labour, including through ratification of different Conventions, strengthening labour inspections, macro policy, optimizing human and material resources and the setting of specific committees. According to the Government of **Djibouti**, a national survey on child labour, including its worst forms, is being planned. This will, with ILO technical cooperation, allow better evaluation of the situation, so as to draw up, in consultation with the social partners and other stakeholders, a national strategy and action plan on the effective abolition of child labour. **Israel** states that it has formed an inter-ministerial and inter-organizational committee to examine the issue of commercial sexual exploitation of minors. This committee has also prepared, at the request of the Ministry of Justice, a three-year operative plan to address commercial sexual exploitation of minors. Initially, the plan will cover activities to locate and identify minors who are being sexually exploited, a hotline, legislative activity and the collection and dissemination of information. **Eritrea** reports that its macro policy on legal protection for economic and social forms of exploitation is aimed at ensuring the effective abolition of child labour. **Qatar** mentions that the objectives and targets of the national policy/plan are the provision of human and material resources, as well as all other means that ensure the protection of children in order to properly prepare them for the future, in a context of adequate family, social and economic conditions. To achieve these aims, precedence is given to health, education and social services, material and moral guidance and other means which might promote the well-being of children. **Trinidad and Tobago** points out that the Ministry of Labour and Small and Micro Enterprise Development is undertaking to prepare a preliminary policy statement for Cabinet approval. It is also taking the necessary administrative steps for the establishment of a Cabinet-appointed multipartite Child Labour Committee. This Committee is expected to finalize a national policy and develop a plan of action for its implementation. This institutional system is planned for December 2003.
- 138.** At international level, the Federal Government of **Australia** notes in particular that it has signed the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts. Moreover, **Australia, New Zealand** and the **United States** have expressed their intention to renew their assistance to other states and international organizations to combat child labour, including in its worst forms. Their assistance ranges from financial aid to participation in international forums.
- 139. New initiatives and examples of success.** Some governments indicate measures that they regard as successful examples in the promotion of the principle and right. **Armenia** refers to the ongoing procedure for the ratification of Convention No. 182, whereas **Ethiopia** mentions the completion and dissemination of the result of its National Survey on Child Labour, ratification of Conventions Nos. 138 and 182 and various awareness-raising activities on child labour issues. In terms of labour law review, as examples of success,

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**Oman** refers to its 2003 Labour Law, which addresses the worst forms of child labour, whereas **Qatar** mentions its new law regarding compulsory education.

**140.** With respect to practical actions, the Government of **Eritrea** states that a campaign was launched to encourage parents to send their children to schools, and parents whose children worked due to economic constraints, have been provided with social assistance, stipends along with free schooling and free kits for school. In the **Islamic Republic of Iran** a labour inspection circular was issued to labour departments with a view to preventing child labour. **Mongolia** considers as very successful the national ILO/IPEC Programme and the Mongolian Employers' Federation's training course on "Child black market" for principal staff of the main markets of Ulaanbaatar. The ILO/IPEC programme funded a survey on child labour among small and medium-sized enterprises and informal business units, that has been carried out in three of the largest cities and ten provinces. Data collected became the first database on child labour at the Labour Inspection Agency. **Thailand** makes reference to its Taxi Driver Volunteer Project as a successful and special measure for the abolition of child labour. The project was launched by Ministry of Labour and Social Welfare to encourage taxi drivers to inform or report on traces of child labour or unfair labour practices on young workers to labour officials.

**(c) Challenges mentioned**

**141.** The Government of **Cuba** expresses its dissatisfaction that the March 2003 Introduction by the ILO Declaration Expert-Advisers to the compilation of annual reports mentioned that its difficulties in realizing this principle were due to poverty and political problems. It considers this information as erroneous and inaccurate, as **Cuba** is an example of how a country with limited resources, if it has the political will, can do a great deal to help children and young people when there is a desire to work in this direction. In reviewing **Cuba's** 2003 report, the Expert-Advisers noticed the error, and confirmed that the Government's information is correct.

**142. Legislation.** The **Islamic Republic of Iran** notes that the stumbling block with regard to this principle is that its Labour Code does not cover work performed in family-owned/operated enterprises. In **Suriname**, the Government considers that one of the major obstacles in relation to this principle is the lengthy procedure for the amendment and adoption of legislation. According to the Djibouti Labour Union (UDT), **Djibouti** has no laws regulating hazardous work, nor any plan to introduce a specific law to address this issue. **Mongolia** states that although its law on minimum age covers work performed in a family-owned/operated enterprise and self-employment, it is not adequately applied.

**143. Enforcement.** In **Trinidad and Tobago**, the Employers' Consultative Association of Trinidad and Tobago (ECATT) observes that there have been no inspection measures taken to enforce the minimum ages for employment or to eliminate the worst forms of child labour. In reply to these comments, the Government indicates that officers of the Labour Inspectorate unit of the Ministry of Labour and Small and Micro-Enterprise Development have participated in a Caribbean subregional training seminar for senior labour inspectors/officers, which was organized in October 2003 in **Jamaica**. This seminar is to improve inspection and monitoring of child labour.

**144. Contextual factors.** **Cambodia** reports that lack of resources is the main obstacle to realizing the principle of effective abolition of child labour. **Suriname** considers that the major obstacle is the lack of capacity building of officials, especially from the Labour Inspection Department. According to the Government of **Thailand**, the main obstacles encountered in realizing the principle and right are the lack of a complete and systemized process of gathering statistics and inadequate data analysis. For the Government of **Eritrea**, the major obstacle is poverty. It underscores that 30 years of devastating war, the

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current border conflict and drought have increased poverty, which forced many children to work, and thus making its abolition difficult. Similarly, the Azerbaijan Entrepreneurs Confederation (AEC) refers to poverty and orphanage as the main obstacles encountered in **Azerbaijan**. The Government of **Mongolia** considers three factors as the major obstacles: poverty; natural calamities; and the fact that herding is a traditional activity where children have been involved. With respect to **Djibouti**, the Djibouti Labour Union (UDT) observes that there is no national policy in the country to bring about the effective abolition of child labour.

**145. Data collection and dissemination.** In **Thailand**, the National Congress of Thai Labour (NCTL) notes that the survey that provides statistical information on child labour is not carried out systematically. Therefore, it suggests that the Government systematize this survey so as to allow for the formulation of a guideline to resolve the problem.

**146. Requests for technical cooperation.** In view of meeting the above challenges in the realization of the principle and right, **Armenia, Cambodia, Colombia, Djibouti, Eritrea, Ethiopia, Islamic Republic of Iran, Jamaica, Latvia, Lithuania, Mongolia, Myanmar, Sao Tome and Principe, Suriname, Thailand, Uzbekistan** and **Venezuela** have requested ILO technical cooperation (for further information, refer to part G of this report).

**(d) Reports indicating no change**

**147. Bahrain, Bangladesh and India** report no change. However, **Canada, Chad, Estonia, New Zealand, Saudi Arabia, Singapore** and the **United States** have sent some updates. In the **United States**, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) expresses its strong disagreement with the updated report sent by the Government on this principle and right.

**6. Comments by the Expert-Advisers on the effective abolition of child labour**

**148.** The Expert-Advisers note the continuing diversity of child labour. This occurs in developed, in transition and in developing countries. Some countries are working actively to combat this scourge, often with the help of ILO/IPEC (International Programme for the Elimination of Child Labour). However, child labour continues to expand in many countries, often due to the growth of economic problems experienced by countries, communities and families in current globalization.

**149.** Child labour often occurs in agriculture and the informal economy, areas where the ILO's means remain limited. It is encouraging that governments report on legislative reforms against child labour, and are ratifying or considering ratification of Convention No. 182. Important as this is, child labour is a problem that cannot be dealt with by national and international standards alone. It tends to fall too often into an area where law does not function well, or may not exist.

**150.** Focusing on particular categories of child labour may help to illustrate the mutually supportive nature of this principle and the others. For instance, denying domestic workers and agricultural workers the right to organize keeps them in positions of relative impoverishment, thereby opening the gates to child labour. The fact that they cannot organize denies them the opportunity of participating in the struggle against child labour.

**151.** We commend IPEC, which combines identifying and analysing child labour with concrete action for combating this phenomenon. In this respect, this Programme has brought new partners and new approaches to the ILO.

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**152.** It is disturbing to note that in table 2, relatively few governments envisage new initiatives for combating child labour. The importance of matching the end of compulsory schooling and the minimum age of work cannot be overemphasized.

**153.** Where child labour persists, there is a need to help the children through their education. Governments should ensure the appropriate allocations to education and training in national budgets, as well as in poverty reduction strategies. The social partners should recognize and play their important advocacy role in this respect. At the same time, they need to work with those community-based organizations that are most effective in combating child labour, and support them both financially and technically.

## **7. Elimination of discrimination in employment and occupation**

### **(a) Reporting**

**154.** Fifteen out of 22 States have submitted a report under the principle of the elimination of discrimination in employment and occupation (68 per cent reporting rate), which is an increase of 10 per cent compared to the 2003 annual review figures on this principle and right. Two late reports for the 2003 annual review were received from **Djibouti** and **Japan**.

**155.** **Comoros, Djibouti, Kiribati, Lao People's Democratic Republic** and **Liberia** failed in their reporting obligations for the 2004 annual review.

**156.** Since the start of the annual review exercise in 1999, the **Solomon Islands** and **Somalia** have never submitted reports under this principle and right.

**157.** With respect to the social partners' observations, comments were received from workers' organizations from **Djibouti** (the Djibouti Labour Union – UDT), **Estonia** (the Confederation of Estonian Trade Unions – CETU), **Japan** (the Japanese Trade Union Confederation – JTUC-RENGO), **Thailand** (the Employers' Confederation of Thai Trade and Industry – ECONTTHAI) and the **United States** (the American Federation of Labor and Congress of Industrial Organizations – AFL-CIO).

**158.** No observations were received from international employers' and workers' organizations.

### **(b) Reports mentioning efforts**

**159. Ratification.** **Antigua and Barbuda** and **Grenada** ratified in May 2003 the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), respectively.

**160.** The Government of **Djibouti** indicates that the procedure for ratification of Convention No. 111 is being initiated as a corollary of the ratification of Convention No. 100. In **Japan** and **Thailand**, the governments have shown interest in examining compliance of national laws with the provisions of Convention No. 111. The Japanese Trade Union Confederation (JTUC-RENGO) expects that the enactment of the "Human Rights Bill" will pave the way for the ratification of this standard by **Japan**.

**161. Recognition of the principle and right.** In all countries, the principle of non-discrimination in employment and occupation is recognized and defined in the Constitution, legislation and/or judicial decisions. For instance, in **Djibouti** and **Malaysia**, the Constitution provides that every citizen is equal before the law, without any distinction

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based on language, social origin, race, sex and religion (articles 1 and 8, respectively). Article 14.1 of the Constitution of **Japan** prohibits discrimination on grounds of race, creed, sex, social status or family origin, and reaffirms that all of the people are equal under the laws and in political, economic or social relations; while in **Suriname** and **Uganda**, the Constitution prohibits discrimination on any grounds (articles 8.2 and 21.3, respectively), and acknowledges the principle of equal remuneration for work of equal value (articles 28 and 40.1, respectively). Article 21 of the Constitution of Uganda ensures equality and freedom from discrimination, while article 32 of the same text provides for affirmative action in favour of marginalized groups on grounds of gender, age, or disability in order to combat discrimination in employment and occupation against them.

162. With respect to national laws, article 12 of **China's** Labour Law guarantees non-discrimination on grounds of sex, race and religion. The provisional amended basic law in **Qatar** provides for the basic rights of citizens, which includes the principle of non-discrimination and equal treatment. Specific legal provisions that fight against discrimination, including the field of remuneration, exist in **Djibouti, Estonia** (according to the Confederation of Estonian Trade Unions – CETU), **Japan and Malaysia**. Legislative changes have been enacted in **Japan** in May 1997, through the Equal Employment Opportunity Law, in view of ensuring equal opportunity and treatment between men and women and promoting expansion at locations where female workers are able to select occupations and display their abilities.
163. In **Estonia**, the Draft Gender Equality Act could not be adopted, due to the change of Parliament in March 2003. However, the opposition parties presented a similar draft that passed the first reading in Parliament in May 2003. In **Uganda**, a draft Equal Opportunities Policy has been formulated in order to combat, among others, discrimination in employment, with a recognition of employment as a basic human right.
164. The recognition of the principle and right in judicial decisions is mentioned by the Governments of **China, Myanmar, Namibia, Oman, Qatar and Thailand**. However, the same does not apply in **Kuwait and Suriname**.
165. **Grounds of discrimination.** The grounds of discrimination expressly covered by Convention No. 111 are referred to by **China, Japan, Malaysia, Oman, Qatar, Singapore, Thailand and Uganda**. In **Myanmar**, reference is also made to additional grounds of discrimination, which include, among others, the right to leisure and the right to gradual rise in the standard of living. National legislation in **Japan** refers to the grounds of discrimination covered by Convention No. 111, but it also addresses additional grounds related to social status or family origin.
166. Major efforts reported under this principle and right in this annual review refer in particular to legislative changes, enforcement and sanctions, special attention to particular categories of workers, promotional or advocacy activities, data collection and dissemination, broad policy reforms and new initiatives and examples of success.
167. **Introducing new legal instruments.** In its attempt to draft new legal instruments in accordance with Convention No. 111 and to include the principle of equal remuneration for work of equal value, the Government of **Djibouti** has requested ILO technical support for the revision of national labour law and regulations. As for **Estonia**, the draft Gender Equality Act referred to above strives to combat discrimination on grounds of sex. The Government of **Uganda** reports that draft Bills are being formulated to revise the national labour law.
168. **Enforcement and sanctions.** With regard to **China**, in the event of violation of the law, sanctions are imposed (warning and fines) to companies in order to ensure and respect the principle and right. The Government of **Thailand** ensures non-discrimination through inspection on enterprises and questionnaire addressed to them. In the event of the violation

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of the principle and right in **Japan, Oman, Qatar** and **Suriname**, companies are warned and special measures are taken against them. In **Namibia**, in case of non-respect of the principle and right, the Government refers to the labour courts. In **Uganda**, the Human Right Commission, which functions like the ordinary courts of law, is responsible for investigating the violation of any human rights, including discrimination in employment and occupation and matters of equal treatment in the field of remuneration.

**169. Special attention to particular categories of workers.** In **Namibia**, special attention concerning discrimination is given to agricultural workers and migrant workers, and the draft Employment Services Bill contains further measures concerning the protection of other categories of workers against discrimination. In **Suriname**, workers in the public service are especially protected against discrimination. In **Japan, Malaysia** and **Thailand**, the measures in relation to the elimination of discrimination in employment and occupation, including in the field of remuneration, apply to all categories of workers. However, in **China, Myanmar** and **Qatar**, there are no established measures regarding discrimination concerning workers in small-sized establishments while in **Oman** and **Uganda**, workers in EPZs are excluded from particular attention with regard to discrimination and with respect to equal treatment in the field of remuneration, respectively.

**170. Promotional or advocacy activities.** A number of governments state that they have been promoting the principle of the elimination of discrimination in employment and occupation, through awareness-raising and advocacy programmes. Indeed, several gender awareness activities, including a survey and training workshops on women and the economy were organized in **Djibouti** in 1999 and 2000, in cooperation with the United Nations Development Programme (UNDP), in view to define a national strategy for the promotion of women. In **Japan**, June is considered as the month for the “Campaign on Equal Employment Opportunity between Men and Women”, in which special awareness-raising programmes are developed. Moreover, continuous training activities are being provided to personnel managers and employers in relation to recruitment on the basis of aptitude and ability. These activities are combined with the promotion of fair screening hiring practices. In **Malaysia**, the Ministry of Human Resources provides labour education courses to increase awareness and commitment to the principle and right among employers. In view of achieving the equal opportunity objectives of its Declaration of Policy (2000-05), the Government of **Suriname** mentions that vocational training and workers’ education programmes have been implemented in the country with the support of the social partners and others. In **Thailand**, following a seminar organized by the ILO on Convention No. 111, the Ministry of Labour has requested ILO technical cooperation in order to identify the compliance of national existing legal framework and institutional arrangements with the provisions of this Convention. In **Uganda**, the Equal Opportunities Commission (EOC) is promoting equity and equal opportunities, focusing on the poor and the marginalized. The Government considers as a priority the sensitization of the social partners and the general public on the principle and right, through awareness-raising, legal literacy and advocacy activities.

**171. Data collection and dissemination.** Many governments report that statistics and information on the elimination of discrimination in employment and occupation are collected on a regular basis. However, only the Government of **Japan** mentions that it records statistics at the time of periodical inspection regarding the number of violations and the number of cases sent to the prosecutor with reference to articles 3 and 4 of the Labour Standards Law. In **Uganda**, ILO technical support is requested to strengthen capacity for collection and analysis of data and training of labour inspectors.

**172. Implementing policies.** The Government of **China** indicates that the principle is realized through inspection and appropriate policy-making. In **Djibouti**, the national policy for the integration of women in development is defined in law and is being developed by the

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Ministry for the Promotion of Women, Family Well-being and Social Affairs. The Government of **Suriname** has adopted a Declaration of Policy (2000-05) in order to combat discrimination in employment, as it recognizes employment as a basic human right. In **Thailand**, the Ministry of Labour strives to establish a national policy in accordance with the international labour standards, with a special emphasis on the development of an effective enforcement mechanism. As for **Qatar**, the Government indicates that a national policy for equality and non-discrimination has been elaborated taking into account the related principles and rights in law and practice. The Confederation of Estonian Trade Unions (CETU) notes that **Estonia** has a national policy relating to discrimination and equality issues, and that its country has acceded in 2002 to the European Union Programme relating to the Community Framework Strategy on Gender Equality (2001-05).

**173. New initiatives and examples of success.** Governments report some changes that can be regarded as successful examples in relation to the principle and right. For instance, the Government of **Kuwait** mentions the issuance of Ministerial Decree No. 142/2002, which provides that employers shall transfer workers' remuneration into their bank accounts, without any discrimination. In **Namibia**, the Government refers to the adoption in 2003 of a minimum wage in the agricultural sector. In **Suriname**, the establishment of the Commission on Gender Regulations and the adoption of legislation on minimum wages have been considered as innovative measures in relation to the principle and right. "Advisers for women employees at the workplace" have been appointed in **Thailand** to combat discrimination against women.

**(c) Challenges mentioned**

**174. Legislation.** Legal provisions are mentioned by many governments as one of the major difficulties in the realization of the principle in **China, Djibouti, Estonia, Japan, Namibia, Suriname, Thailand** and **Uganda**. Most of these countries are considering or carrying out labour law revision in accordance with the provisions of Conventions Nos. 100 and 111. The ILO's technical cooperation has been requested in this regard.

**175.** The Confederation of Estonian Trade Unions (CETU) considers the main difficulty, in relation to the principle in **Estonia**, is the inability or reluctance to establish adequate legal provisions and special institutions in order to combat discrimination in the country.

**176.** The Japanese Trade Union Confederation (JTUC-RENGO) notes that the "Human Rights Bill" in **Japan** contains some controversial points in need of amendment. The JTUC-RENGO is implementing a campaign for the revision of the Equal Employment Opportunity Law (EEOL) to include the following considerations that were already suggested in 1997: (i) discrimination in employment on grounds of sex should be prohibited; (ii) indirect discrimination – exemplified in cases such as the eligibility requirements for family allowances and the two-track career system – should be prohibited; (iii) employers should be encouraged to adopt positive action schemes; (iv) discrimination in employment on grounds of maternity reasons, should be prohibited; and (v) an "Employment Equality Commission" should be established as an independent and tripartite institution capable of accrediting discriminations and of issuing relief orders.

**177.** In reply to these observations, the Government of **Japan** notes that the Ministry of Health, Labour and Welfare has prepared an outline and drafted the text of the Law in line with the recommendations "concerning the preparation and consolidation of laws and regulations to ensure equal opportunity and treatment between men and women in employment", based on comments made by employers and workers. This recommendation was adopted unanimously including by the workers' representatives. Moreover, the Government states that the Ministry of Health, Labour and Welfare has convened since November 2002 a panel on equal employment opportunity policies, comprised of experts taking up such

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topics as elimination of one-sidedness, unfair treatment due to pregnancy and childbirth, contents of indirect discrimination and effective measures of positive action. Based on further discussions, the panel is scheduled to compile a report by spring of 2004.

**178. Contextual factors.** Several countries refer to the lack of public awareness/and or support (**China, Estonia, Namibia, Thailand and Uganda**) and of information and data (**Uganda**). Additionally, social values and cultural traditions, social and economic circumstances (**Estonia, Namibia, Suriname, Thailand and Uganda**), political situation (**Estonia, Namibia and Thailand**), prevailing employment practices (**China, Estonia, Namibia and Thailand**), lack of capacity of responsible government institutions (**Estonia, Namibia, Thailand and Uganda**), lack of capacity of employers' and workers' organizations (**Estonia, Namibia, Thailand and Uganda**), and lack of social dialogue on discrimination and equality issues (**Estonia, Namibia, Suriname, Thailand and Uganda**) are mentioned as challenges for the realization of the principle and right. In **Djibouti**, the Djibouti Labour Union (UDT) notes that the main difficulty concerning the implementation of the principle and right lies on the political situation of the country. In **Estonia**, the Government indicates that, contrary to the observations made by the Confederation of Estonian Trade Unions (CETU), there is no national policy concerning discrimination; given that its Parliament has not yet adopted the draft Gender Equality Act. However, the ground for national policy may be the data collected by the State Department of Statistics on wages, working hours, employment of men and women. The Government also specifies that there is no special national body or institutional machinery that deals with the principle and right.

**179. Request for technical cooperation.** With a view to tackling the above difficulties in the realization of the principle and right, **Djibouti, Namibia, Qatar, Suriname, Thailand and Uganda** have requested ILO technical cooperation to combat discrimination in employment and occupation (For further information, refer to part G of this report).

**(d) Reports indicating no change**

**180.** The Governments of **Bahrain, Djibouti, Singapore** and the **United States** report no change in relation to their last report. Many other reports substantially replicate the previous ones (**China, Japan, Malaysia, Myanmar and Qatar**). However, updated reports were sent by **Estonia** and **Namibia**. In the **United States**, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) expresses its strong disagreement with the "no change" report by the Government on this principle and right.

**8. Comments by the Expert-Advisers on the elimination of discrimination in employment and occupation**

**181.** Continuing global changes seem to have given rise to greater discrimination in respect of employment and occupation. The most common ground, due to the sheer proportion of women in the labour force, is discrimination based on gender, and this is an area that continues to require sustained attention. In this respect, the Expert-Advisers are encouraged that a number of countries report their legislative and practical efforts to overcome gender-based discrimination.

**182.** However, identification of this form of discrimination should not lead people to ignore other equally serious, and growing, forms of discrimination. These include discrimination based on national origin, colour, disability, HIV/AIDS and others. This is especially disturbing since such discrimination occurs in both developing and developed countries, that may have ratified all the fundamental Conventions, and/or where the law and practice is otherwise generally protective of rights.

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- 183.** In this respect, migrant workers are particularly affected. They typically take on the worst jobs and suffer from inequality in pay and other terms and conditions, usually because they do not enjoy basic human rights, including the right to organize and to bargain collectively. This is disturbing in an era where free exchange in money, material goods and services is promoted, but where the free mobility of human beings continues to be restricted, sometimes more so than before.
- 184.** In order to adopt a more inclusive approach to understanding and overcoming discrimination, countries should recognize different grounds and forms of discrimination. In this respect, it is essential to have coherent data collection; only when the parameters of discrimination are identified can they be effectively addressed. It is encouraging that some countries indicate that they are taking such steps.
- 185.** There is a lack of knowledge of the size of discriminated-against populations that have racial, ethnic, religious or other characteristics such as being disabled, HIV/AIDS carriers, migrants or older workers. We urge governments to document the magnitude of discrimination, so that they can design appropriate policies and measure the impact these may have. The social partners should be closely associated with the generation of data and the design of policies.
- 186.** It is encouraging that **Japan** and **Uganda**, which failed to report last time on discrimination, have reported this time. However, it is disturbing to note the number of countries that report no change or simply replicate their previous report.
- 187.** We are pleased to note that the Global Report on this subject, *Time for equality at work*, takes up the issues raised by us above, and has enjoyed high media coverage, leading to debate in this area in a number of countries. The Governing Body of the ILO adopted an action plan in November 2003, and we trust that the funds will be forthcoming to ensure the plan can be put into practice.

## **E. The role of employers' and workers' organizations**

### **1. General involvement**

- 188.** The reports received for the 2004 annual review show a decreasing number of responses by the social partners in comparison to last year's figures. Although many governments consulted the social partners, few national employers' and workers' organizations sent observations on reports. In addition, no comments were received from the International Organisation of Employers (IOE), while a drastic drop is noted in relation to international workers' organizations' response, which has been reduced this year to a single observation by the World Confederation of Labour (WCL) (cf. table 3).

**Table 3. Observations by national and international employers' and workers' organizations**  
(per cent of government reports)

Principle	2000 (first round)		2001 (second round)		2002 (third round)		2003 (fourth round)		2004 (fifth round)	
	Comments of reports due	Comments of reports received	Comments of reports due	Comments of reports received	Comments of reports due	Comments of reports received	Comments of reports due	Comments of reports received	Comments of reports due	Comments of reports received
Freedom of association/ collective bargaining	46	69	60	85	34	48	88	106*	22	30
Forced labour	2	5	39	74	4	7	25	41	14	20
Child labour	3	6	25	36	15	28	13	23	13	23
Discrimination	7	13	32	43	8	13	29	43	18	23
<b>Total</b>	<b>14</b>	<b>24</b>	<b>37</b>	<b>55</b>	<b>17</b>	<b>30</b>	<b>33</b>	<b>51</b>	<b>16</b>	<b>25</b>

\* The response rate exceeds 100 per cent given that in some cases (notably India) comments were sent by several employers' and workers' organizations.

## 2. Employers' organizations

**189. National employers' organizations.** The majority of governments indicate that a copy of their report(s) was sent to national employers' organizations, in accordance with article 23(2) of the ILO Constitution. They further state that they held consultations with these organizations during the preparatory stage, and forwarded a copy of the report(s) to them for information and comments.

**190.** Four employers' organizations have formulated observations concerning the principle of freedom of association and the effective recognition of the right to collective bargaining, and in relation to the principle of the effective abolition of child labour. In **New Zealand**, Business New Zealand (BNZ) commented on the first principle, while in **Azerbaijan**, **Thailand** and **Trinidad and Tobago**, comments were made on the second principle, respectively, by the Azerbaijan Entrepreneurs Confederation (AEC), the Employers' Confederation of Thai Trade and Industry (ECONTHAI) and the Employers' Consultative Association of Trinidad and Tobago (ECATT).

**191.** The receipt of government reports has enabled employers' organizations to express diverging opinions in **New Zealand** and **Trinidad and Tobago**. In the case of **Thailand**, the employers have supported the views expressed by the Government. One reply to the employers' observations was received from the Government of **Trinidad and Tobago**. The employers' organizations' comments are the sole source of information received from **Azerbaijan**.

**192.** Most States indicate that the employers' organizations did not comment on the government reports that were sent to them.

## 3. Workers' organizations

**193. International workers' organizations.** For the 2004 annual review, only one international workers' organization commented on the principle of freedom of association and the effective recognition of the right to collective bargaining – the World Labour Confederation (WCL) concerning **Morocco**. A late observation for the 2003 annual review on the same principle and right by the International Confederation of Free Trade Union

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(ICFTU) regarding **El Salvador** has been dealt with in this year's annual review. The governments concerned replied to these observations. As regards the other principles and rights, no observations were made by any international workers' organization.

- 194. National workers' organizations.** The majority of governments indicate that a copy of their report(s) was sent to national workers' organizations, in accordance with article 23(2) of the ILO Constitution. They further state that they held consultations with these organizations during the preparatory stage, and forwarded a copy of the reports to them for information and comments.
- 195.** Eight national workers' organizations have formulated observations under the 2004 annual review. Concerning the principle of freedom of association and the effective recognition of the right to collective bargaining, comments were received from: (i) the Central Union of Workers (CUT) for **Brazil**; (ii) the Korean Federation of Trade Unions (KCTU) – which also sent late observations for the 2003 annual review – for the **Republic of Korea**; (iii) the New Zealand Council of Trade Unions (NZCTU) for **New Zealand**; (iv) the National Congress of Thai Labour (NCTL) for **Thailand**; and (v) the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) for the **United States**. For the principle of the elimination of all forms of forced or compulsory labour, comments were received from: (i) the Japanese Trade Union Confederation (JTUC-RENGO) for **Japan**; from the Korean Federation of Trade Unions (KCTU) for the **Republic of Korea**; and (ii) the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) for the **United States**. In relation to the principle of the effective abolition of child labour, comments were received from: (i) the Djibouti Labour Union (UDT) for **Djibouti**; (ii) the Confederation of Estonian Trade Unions (CETU) for **Estonia**; (iii) the National Congress of Thai Labour (NCTL) for **Thailand**; and (iv) the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) for the **United States**. As concerns the principle of the elimination of discrimination in employment and occupation, comments were received from: (i) the Djibouti Labour Union (UDT) for **Djibouti**; (ii) the Confederation of Estonian Trade Unions (CETU) for **Estonia**; (iii) the Japanese Trade Union Confederation (JTUC-RENGO) for **Japan**; and (iv) the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) for the **United States**. Late observations for the 2003 annual review were received from the Federation of Korean Trade Unions (FKTU) for the **Republic of Korea**.
- 196.** Most states indicate that the workers' organizations did not comment on the government reports that were sent to them. However, the receipt of government reports has enabled certain workers' organizations to express diverging opinions concerning **Brazil, Estonia, Japan, Republic of Korea, New Zealand, Thailand** and the **United States**. Government replies to these observations were only received from **Brazil, Estonia, Japan** and the **Republic of Korea**. Workers' organizations' comments are the sole source of information received from **Djibouti**.

#### **4. Involvement in reporting**

- 197. Consultations.** In relation to the principle of freedom of association and the effective recognition of the right to collective bargaining, 67 per cent of governments (**Armenia, China, El Salvador, Islamic Republic of Iran, Jordan, Republic of Korea, Kuwait, Lebanon, Mexico, Morocco, New Zealand, Oman, Qatar, Thailand, Uganda, United Arab Emirates, United States** and **Uzbekistan**) indicate that they held consultations with employers' and/or workers' organizations.
- 198.** Seventy per cent of these governments (**Brazil, Canada, China, El Salvador, Islamic Republic of Iran, Jordan, Republic of Korea, Kuwait, Mexico, Morocco, New**

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**Zealand, Oman, Qatar, Saudi Arabia, Singapore, Thailand, Uganda, United Arab Emirates and United States**) state that they sent a copy of their report(s) to employers' and workers' organizations. More than half of them (**Armenia, Islamic Republic of Iran, Jordan, Republic of Korea, Kuwait, Mexico, New Zealand, Thailand, United Arab Emirates and United States**) indicate that they have received comments from the social partners. However, the Government of **Nepal** has sent an incomplete report that does not mention whether employers' and workers' organizations were consulted in the reporting process.

- 199.** Concerning the principle of the elimination of forced or compulsory labour, 73 per cent of governments (**Armenia, Canada, China, Republic of Korea, Latvia, Myanmar, Nepal, Oman, Philippines, Qatar and United States**) state that they held consultations with employers' and/or workers' organizations.
- 200.** Eighty-seven per cent of these governments (**Armenia, Canada, China, Japan, Republic of Korea, Latvia, Myanmar, Nepal, Oman, Philippines, Qatar, Singapore and United States**) state that they forwarded a copy of their report(s) to employers' and workers' organizations. Less than half of them (**Armenia, China, Latvia, Myanmar, Nepal and United States**) indicate that they received comments from the social partners. However, **Latvia** mentions that no comments were received from the social partners, while **Madagascar, Malaysia and Sao Tome and Principe** make no mention as to whether any employers' or workers' organizations were involved in the reporting process.
- 201.** As regards the principle of the effective abolition of child labour, 55 per cent of governments (**Armenia, Cambodia, Colombia, Czech Republic, Ethiopia, Islamic Republic of Iran, Latvia, Mexico, Mongolia, Myanmar, New Zealand, Qatar, Sao Tome and Principe, Suriname, Thailand, United States and Uzbekistan**) state that they held consultations with employers' and/or workers' organizations.
- 202.** Eighty-seven per cent of these governments (**Cambodia, Colombia, Islamic Republic of Iran, Israel, Latvia, Lithuania, Mexico, Myanmar, Mongolia, New Zealand, Qatar, Oman, Sao Tome and Principe, Suriname, Thailand, United States and Uzbekistan**) state that they sent a copy of their report(s) to employers' organizations. Less than half of them (**Armenia, Cambodia, Latvia, Mexico, Mongolia, United States and Thailand**) indicate that they received comments from the social partners. However, **Latvia** mentions that no comments were received from any employers' or workers' organizations. **Chad** and **Venezuela** make no mention as to whether there has been any involvement of the social partners in preparing the reports.
- 203.** With respect to the principle of the elimination of discrimination in employment and occupation, 60 per cent of governments (**Djibouti, Kuwait, Myanmar, Malaysia, Oman, Singapore, Suriname, Uganda and United States**) state that they held consultations with employers' and/or workers' organizations.
- 204.** Seventy-three per cent of these governments state that they sent a copy of their report(s) to employers' and workers' organizations (**Djibouti, Japan, Kuwait, Myanmar, Malaysia, Oman, Singapore, Suriname, Thailand, Uganda and United States**). Less than a quarter of them (**China, Kuwait and United States**) state that they received comments from the social partners. However, **Namibia** makes no reference as to whether there has been any involvement of the social partners in preparing its report.

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## 5. Involvement in activities

- 205. Development and implementation of government measures, strategies, programmes and/or plans of action.** According to **China**, the Ministry of Labour and Social Security, the Legal Affairs Office of the State Council, the State Economic and Trade Commission, the Ministry of Public Security, the State Industrial and Commercial Administration, the Ministry of Education, the All China Federation of Trade Unions, 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.
- 206.** In **Latvia**, the main objective of the National Tripartite Cooperation Council is to ensure a coordinated social and economic development by promoting cooperation between government and employers' and workers' organizations at national level. Furthermore, it serves to increase co-responsibility of social partners for the adopted resolutions and their implementation.
- 207.** In **Nepal**, the Government indicates that all the stakeholders concerned, including employers and workers, may be involved in developing or adopting governmental measures. Furthermore, three action programmes have been implemented since June 2003 by three national trade unions in Kamaiya districts and their neighbourhood to unionize the agriculture workers, which is expected to contribute significantly to the elimination of forced labour practices and child labour under the Time-Bound Programme.
- 208.** **Qatar** also states that employers' and workers' organizations are involved in the development and implementation of government measures in relation to the elimination of forced or compulsory labour. **Trinidad and Tobago** reports the involvement of the social partners in preliminary activities that have been undertaken to implement a pilot action programme for rehabilitation of child labourers engaged in scavenging activities in landfill sites.
- 209.** With respect to the elimination of discrimination in employment and occupation, **Bahrain, China and Thailand** mention that employers' and workers' organizations have been involved in the development and implementation of relevant governmental measures. The same applies to **Malaysia**, which reports that national labour policies on this principle and right are decided after consultations with the social partners, and **Suriname** which states that within the Labour Advisory Board, the representatives of the employers' and workers' organizations have the possibility to make suggestions that may be applied within the Government's policy on discrimination issues.
- 210.** Several countries make no mention as to whether employers' and/or workers' organizations are involved in governmental measures with respect to: (i) the elimination of all forms of forced or compulsory labour (**Sao Tome and Principe**); (ii) the effective abolition of child labour (**Armenia, Chad, Cambodia, Eritrea, Islamic Republic of Iran, Latvia, Mexico, Myanmar, Oman, Qatar, Saudi Arabia, Sao Tome and Principe, Singapore, Suriname, Thailand, Uzbekistan and Venezuela**); or (iii) discrimination in employment and occupation (**Uganda**). However, **Malaysia** reports that employers' and workers' organizations are not involved with regard to any measures taken in relation to the elimination of forced or compulsory labour, while **Myanmar** indicates that employers' and workers' organizations have not been involved in the development and implementation of governmental measures concerning the elimination of discrimination in employment and occupation.
- 211. Law enactment, revision and/or enforcement.** **Armenia, Australia, Czech Republic, Djibouti, Japan, Republic of Korea, Madagascar, Oman, Latvia, Lithuania, Mauritius, Mongolia and Namibia** report that employers' and workers' organizations

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participated in the formulation, amendment and/or enforcement of laws relating to the Declaration principles and rights.

## **F. Governments' relations with regional or international organizations and other donors**

**212.** Several governments make, occasionally, reference to cooperation at local, bilateral, regional and/or international levels in order to illustrate efforts being made on various aspects to respect, to promote and realize the Declaration principles and rights.

**213. Cooperation with non-governmental organizations (NGOs).** The Government of **Mongolia** is enjoying support from Save the Children UK, which provides technical and financial resources. The Government of **Myanmar** addresses discrimination and all forms of forced or compulsory labour with the assistance of various NGOs. The Government of **Nepal** is carrying out, in cooperation with Action Aid, Save the Children US and other national and international NGOs, a multi-sectoral integrated programme, which includes the promotion of Declaration principles and rights and a National Plan of Action against the trafficking in women and children for sexual and labour exploitation. In **Thailand**, national and regional programmes against trafficking in women and children and discrimination in employment and occupation are carried out in cooperation with a number of institutions and foundations (such as the National Council of Women of Thailand, the Child's Right Protection Center, the Empower Organization, the Friedrich Ebert Foundation, the Foundation for Better Life of Children, the Foundation for Child Development, the Foundation for Children, the Friends of Woman Foundation, the Foundation for Woman and the Praweena Hongsakul Foundation for Women and Children). The Government of **Uganda** cooperates with the ILO/SLAREA (Strengthening Labour Administration and Labour Relations in East Africa) project and civil society organizations in most of the awareness-raising, advocacy and capacity-building activities on freedom of association and collective bargaining, and the fight against discrimination on employment and occupation.

**214. Bilateral cooperation.** The Government of **Lithuania** indicates that it cooperates with institutions of different countries in the framework of the Lithuanian Labour Exchange and the Lithuanian Training and Counselling projects. **Nepal** mentions the support of several bilateral donors, such as **Denmark** (DANIDA), **Germany** (GTZ), **Norway** (NORAD) and the **United Kingdom** (DFID) in the promotion of the Declaration's principles and rights. In the same vein, the Governments of **Australia**, **Canada** and the **United States** indicate their support to various countries to promote and realize these principles and rights.

**215. Regional cooperation.** In following up the Declaration, **Brazil**, **Oman** and **Saudi Arabia** highlight cooperation with regional organizations such as the Organisation of American States (OAS), the Arab Labour Organization (ALO), the International Federation of Arab Trade Unions, the Asian Development Bank and the Gulf Countries Cooperation (GCC), respectively. Cooperation between **Estonia** and the European Union has been mentioned by the Confederation of Estonian Trade Unions (CETU).

**216. International cooperation.** Almost all governments cooperate directly or indirectly with the ILO in the Declaration's follow-up. Cooperation with the ILO Declaration Programme and/or ILO/IPEC has been mentioned in several activities, including time-bound programmes. Moreover, several countries, such as **China**, **Djibouti**, **Eritrea**, **Islamic Republic of Iran**, **Lithuania**, **Myanmar**, **Nepal**, **Oman**, **Qatar**, **Suriname** and **Thailand**,

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refer to cooperation with the UN, UNDP, UNICEF, UNESCO, FAO, IOM, WFP and the World Bank in the promotion and realization of the Declaration principles and rights.

## **G. Technical cooperation**

### **1. General considerations**

- 217.** Following the discussion of the first Global Report on the subject of discrimination, *Time for equality at work*, the Office proposed an action plan to the Governing Body at its November 2003 session. This plan, which outlines possible activities spearheaded by the Declaration Programme to eliminate discrimination in employment and occupation, was approved by the Governing Body.<sup>5</sup>
- 218.** The previous action plans – on freedom of association and collective bargaining in 2000, forced or compulsory labour in 2001 and child labour in 2002 – are, in large measure, being implemented, with the International Programme on the Elimination of Child Labour (IPEC) taking care of the child labour component. The Office will report on progress made with respect to freedom of association and collective bargaining in the forthcoming Global Report on that subject to be discussed at the 2004 International Labour Conference.

### **2. International assistance**

- 219.** Projects concerned with freedom of association and collective bargaining, as well as the Declaration's Special Action Programme to Combat Forced Labour (SAP-FL), have enjoyed further support by donors. Two sizeable project bids, put out by the **United States** Department of Labour (USDOL) were won by the Office. One of them seeks to strengthen social dialogue, conciliation and mediation, collective bargaining, labour inspection, and knowledge of the new labour law in **Morocco**, and will merge with an existing project in that country. The other extends the geographical coverage of an existing USDOL-funded project in southern Africa, with the same objectives as listed above.
- 220.** Funds from **France** have been provided to **Brazil** for the promotion of the principle of the elimination of discrimination in respect of employment and occupation, and to several African countries that have ratified the ILO fundamental Conventions (**Benin, Burkina Faso, Madagascar, Mali, Mauritania, Niger, Senegal** and **Togo**). Under the **Netherlands**-ILO partnership agreement, fresh support has been made available for the Declaration Programme-related activities on forced labour in **India**, which has already ratified both relevant Conventions. Funds from **Germany** have helped to launch a project to support workers' organizations in **Belarus**, which has already ratified all ILO fundamental Conventions.
- 221.** ILO/IPEC was active in **Bangladesh, Cambodia, Colombia, Estonia, Ethiopia, Ghana, Haiti, India, Jamaica, Lao People's Democratic Republic, Lebanon, Mexico, Mongolia, Pakistan, Paraguay, Thailand** and **Venezuela**, which fall within the scope of the Declaration's annual review.
- 222.** The Special Action Programme to Combat Forced Labour (SAP-FL) has attracted donor support from **Germany, Ireland, the Netherlands** and the **United Kingdom** during 2003,

<sup>5</sup> See GB.288/TC/4 and the report of the Technical Cooperation Committee in GB.288/14.

mainly in the field of trafficking that result in forced labour including in its traditional forms such as debt bondage in South Asia. Fund-raising has started to target other donors, and a general document to that end had recently been prepared.<sup>6</sup> The Office is now implementing activities to combat forced or compulsory labour in West Africa, Latin America and North America, South Asia and Europe.

### 3. Technical cooperation needs or requests

**223.** The number of requests for technical cooperation remains important and is increasing. table 4 indicates which governments have expressed needs for technical cooperation in relation to the Declaration principles and rights. Countries, such as **Jordan, Morocco and Uganda** are already enjoying direct support from the Declaration Programme.

**224.** Most national employers' and workers' organizations which sent observations, expressed their need for technical cooperation in order to strengthen their capacity building to ensure that the Declaration principles and rights are respected, promoted and applied in their country.

Table 4. Government needs or requests for technical cooperation by category of principle and right

Type of technical cooperation*	Freedom of association/collective bargaining	Forced or compulsory labour	Effective abolition of child labour	Elimination of discrimination
<i>Assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle and right</i>	China, Jordan, Mauritius, Morocco, Qatar, Uganda	Armenia, Latvia, Myanmar, Nepal		China, Qatar, Suriname, Thailand, Uganda
<i>Awareness raising, legal literacy and advocacy</i>	Islamic Republic of Iran, Jordan, Morocco, Uganda	Armenia, China, Madagascar, Mongolia, Nepal, Philippines	Armenia, Cambodia, Colombia, Eritrea, Ethiopia, Latvia, Mongolia, Suriname, Thailand, Uzbekistan	Thailand, Uganda
<i>Capacity building, e.g. labour inspection and administration</i>	El Salvador, Islamic Republic of Iran, Jordan, Mauritius, Morocco, Uganda, United Arab Emirates	Armenia, China, Mongolia, Nepal	Armenia, Cambodia, Colombia, Eritrea, Ethiopia, Latvia, Lithuania, Mongolia, Myanmar, Sao Tome and Principe, Suriname, Thailand	Thailand, Uganda
<i>Establishing or strengthening specialized institutional machinery</i>				Thailand, Uganda
<i>Cross-border cooperation</i>		Armenia, Mongolia, Nepal	Armenia, Cambodia, Eritrea, Ethiopia, Latvia, Lithuania, Mongolia, Thailand, Uzbekistan	

<sup>6</sup> ILO: *Time for action*, Special Action Programme to Combat Forced Labour (Geneva, Declaration Programme, 2003).

Type of technical cooperation*	Freedom of association/collective bargaining	Forced or compulsory labour	Effective abolition of child labour	Elimination of discrimination
<i>Data collection and analysis</i>	El Salvador, Jordan, Mauritius, Morocco, Qatar, Uganda	Armenia, Latvia, Madagascar, Mongolia, Nepal	Armenia, Cambodia, Colombia, Eritrea, Ethiopia, Latvia, Lithuania, Mongolia, Suriname, Thailand, Uzbekistan, Sao Tome and Principe	Namibia, Uganda, Thailand
<i>Employment creation, skills training and income generation</i>		Armenia, Mongolia, Nepal	Armenia, Cambodia, Eritrea, Ethiopia, Islamic Republic of Iran, Latvia, Mongolia, Sao Tome and Principe	
<i>Inter-institutional coordination</i>		Armenia, Nepal	Armenia, Cambodia, Eritrea, Ethiopia, Latvia, Mongolia, Thailand	Thailand, Uganda
<i>Legal reform</i>	Brazil (effective autonomy of social partners), China, Jordan, Mauritius, Morocco, United Arab Emirates, Uganda	Armenia, Mongolia, Nepal	Armenia, Cambodia, Colombia, Ethiopia, Latvia, Lithuania, Mongolia, Sao Tome and Principe, Thailand	Thailand, Uganda
<i>Policy advice</i>		Armenia, Mongolia, Nepal	Armenia, Cambodia, Eritrea, Ethiopia, Islamic Republic of Iran, Latvia, Lithuania, Mongolia	
<i>Sharing experiences across countries/regions</i>	El Salvador, Islamic Republic of Iran, Jordan, Mauritius, Morocco, Uganda, United Arab Emirates	Armenia, Latvia, Madagascar, Mongolia, Myanmar, Nepal, Philippines	Armenia, Cambodia, Colombia, Eritrea, Ethiopia, Islamic Republic of Iran, Latvia, Lithuania, Mongolia, Thailand, Uzbekistan	China, Namibia, Thailand, Uganda
<i>Social protection systems</i>		Armenia, Nepal	Armenia, Cambodia, Colombia, Eritrea, Ethiopia, Islamic Republic of Iran, Latvia, Mongolia, Myanmar, Thailand, Uzbekistan	
<i>Rural development policies</i>		Armenia, Mongolia, Nepal		
<i>Developing labour market policies that promote equality of opportunity</i>				Suriname, Thailand, Uganda
<i>Development of policies regarding equal remuneration</i>				Suriname, Thailand, Uganda
<i>Time-bound programme for the elimination of the worst forms of child labour</i>			Armenia, Cambodia, Colombia, Eritrea, Ethiopia, Latvia, Lithuania, Mongolia, Suriname, Thailand	
<i>Strengthening tripartite social dialogue</i>	China, Jordan, Lebanon, Mauritius, Morocco, Qatar, Uganda, United Arab Emirates			

Type of technical cooperation*	Freedom of association/collective bargaining	Forced or compulsory labour	Effective abolition of child labour	Elimination of discrimination
<i>Strengthening capacity of employers' and workers' organizations</i>	Jordan, Lebanon, Mauritius, Morocco, Uganda, United Arab Emirates	Armenia, Mongolia, Nepal	Armenia, Cambodia, Colombia, Eritrea, Ethiopia, Islamic Republic of Iran, Latvia, Mongolia, Thailand	Namibia, Thailand, Uganda

\* Specific requests appear in brackets following the country.

## H. Effect given to past recommendations

### 1. Reporting and dialogue

225. In the 2003 Introduction, the Experts Advisers submitted a series of recommendations,<sup>7</sup> which were formally endorsed by the Governing Body in March 2003. In particular, the Governing Body urged the 41 countries that did not provide reports to do so in the future, and suggested that direct contacts be made with the ten member States that had never reported under the Declaration's follow-up. Moreover, the Governing Body called upon the international employers' and workers' organizations to reinforce their collaboration with the Declaration Programme, notably by providing their own comments and by encouraging national organizations to take similar action. Finally, it launched an appeal to the donor community for substantial and durable extra-budgetary support for ILO technical cooperation, to meet the high demands expressed by governments and employers' and workers' organizations in countries which have not ratified all ILO fundamental Conventions.
226. The Office carried in out in 2002-03 various sensitization, advocacy and technical assistance activities, which resulted in the formulation and communication of first reports by **Mongolia, Sao Tome and Principe** and **Uzbekistan**. In addition, a National Tripartite Workshop on International Labour Standards Constitutional Procedures and the 1998 ILO Declaration on Fundamental Principles and Rights at Work was organized with ILO/TURIN in Ohrid and **The former Yugoslav Republic of Macedonia** in August 2003 so as to enable this country to fulfil its reporting obligations. No more reports are due under the Declaration's annual review, since this country ratified, in July 2003, the Abolition of Forced Labour Convention, 1957 (No. 105), thus completing the ratification of all eight ILO fundamental Conventions. The same type of seminar is to be organized at subregional level in 2004 in Bishkek, **Kyrgyzstan**, with the tripartite participation of **Tajikistan, Uzbekistan**, and the host country, which is expected to submit its first report under the Declaration's follow-up.
227. A trade union seminar on international labour standards and the Declaration was organized in May 2003 at the ILO/TURIN Centre, as a means of sensitizing participants from **Ethiopia, Ghana, Lesotho, Mauritius, Namibia, Nigeria, South Africa, Tanzania, Zambia** and **Zimbabwe** on the workers' role in the Declaration's follow-up.
228. In March 2003, the ILO participated in the Africa Forum of the National Academies on Monitoring International Labor Standards; a project sponsored by the **United States** Department of Labor, with a major objective concerning labour standards compliance, monitoring, enforcement and promotion. This tripartite-plus meeting took place in Pretoria,

<sup>7</sup> cf. GB. 286/4 (Mar. 2003), paras. 28-33.

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**South Africa**, and gathered participants, including academics, from **Botswana, Kenya, Mauritius, Namibia, South Africa** and **Swaziland**, and representatives of the ICFTU-AFRO and the International Organization for Migration (IOM). Some non-governmental organizations from the **United States** (such as the Fair Labor Association and the Solidarity Center), the US Department of Labor – USDOL and the American Federation of Labor and Congress of Industrial Organizations – AFL-CIO), that are members of the Committee on Monitoring Labour Standards, were also represented. This Forum focused on the role of fundamental principles and rights at work in enhancing democracy, social dialogue and development. With regard to the role of Africa in the globalization process, it was emphasized that the African Growth Opportunity Act (AGOA) adopted by the **United States** Congress, raised a lot of expectations among African governments and social partners, and that this momentum needs to be further supported by the **United States**. The Forum also stressed the current big gap between the high demand to promote fundamental principles and rights at work in Africa and the declining offer for technical cooperation in this region.

## 2. Outreach and research

- 229.** Regarding the involvement of enterprises and employers' and workers' organizations, technical cooperation projects are elaborated in consultation with the social partners. For large-scale projects, advisory committees are generally established on a tripartite and sometimes multiministerial basis. Furthermore, a number of Declaration-funded projects for freedom of association and collective bargaining include distinct and often sizeable components for employers' and workers' organizations. Declaration-funded projects also carry out activities with individual enterprises, for example, in **Bangladesh, Cambodia, Indonesia, Sri Lanka** and the Caribbean countries.
- 230.** A number of partnerships with key international media have been broadened and new partnerships with national media companies have been strengthened, and are currently producing and broadcasting materials on the Declaration. An animated website<sup>8</sup> has been launched in collaboration with the United Nations Cyberschoolbus Project to introduce students to the relevance and importance of the Declaration. The Declaration web site has been upgraded to an interactive web site to serve as an information clearinghouse providing information on each technical cooperation project, as well as a forum for the exchange of ideas among the projects.
- 231.** Public broadcast events have been organized with participation of civil society groups, resulting in greater demand for materials on the Declaration, currently available in English, French and Spanish, and several of them are translated into Chinese, Russian, Indonesian, Urdu, Hindi, Portuguese, Swahili, Xhosa, Lusoga and other African languages.
- 232.** A number of other information products have been developed such as brochures, fact sheets, multimedia presentations, working papers, articles for publication in speciality press, and other field-based promotional products. Approximately, 25 videos consisting of news reports and features have been filmed and produced.

<sup>8</sup> <http://www.un.org/pubs/cyberschoolbus/3PLUSU/> .

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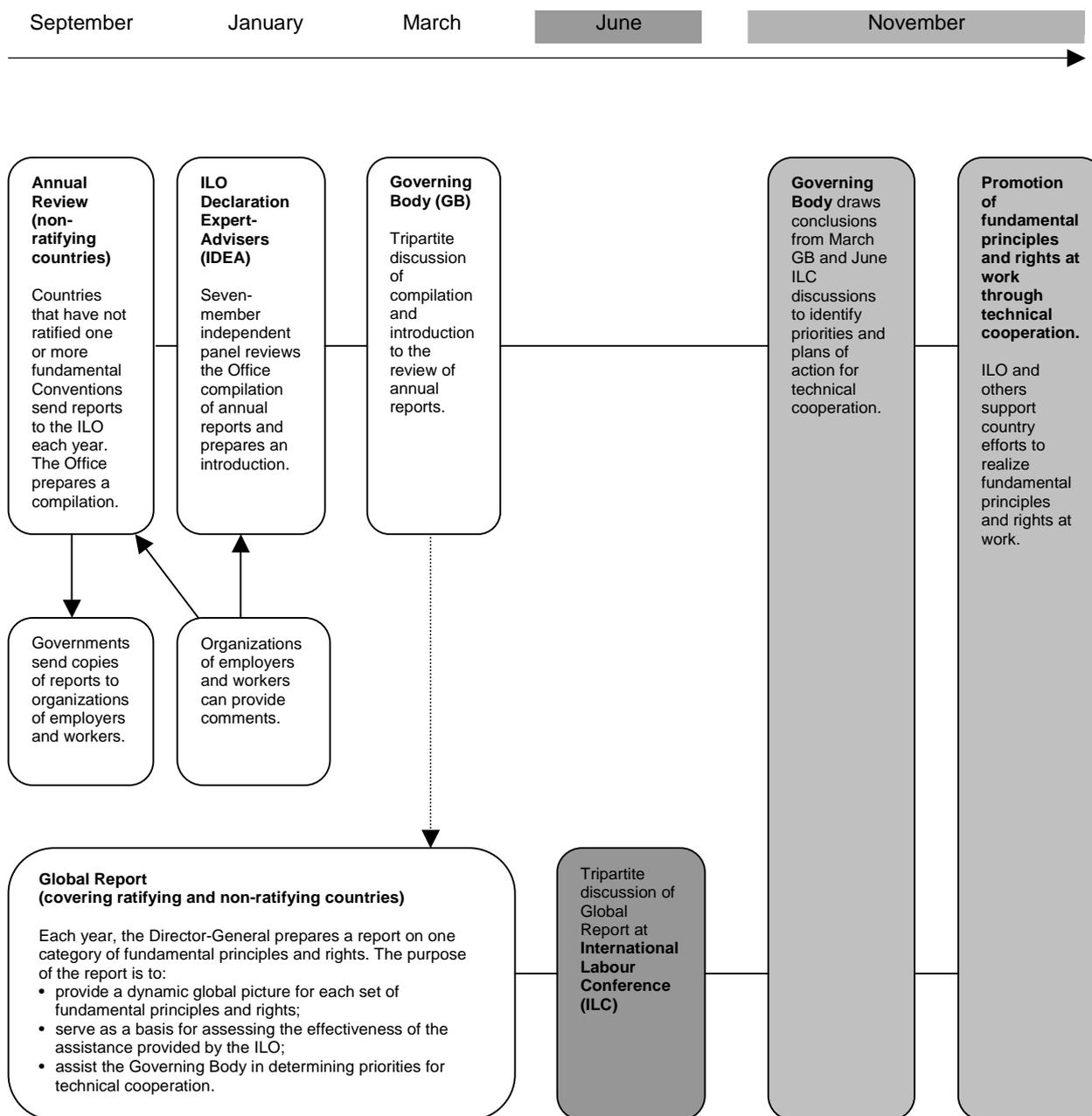
#### Box 4. Research on fundamental principles and rights at work

The following Declaration working papers were issued in the course of 2003:

- No. 12: *Minimum wages and pay equity in Latin America*, by Damian Grimshaw and Marcela Miozzo, March 2003.
- No. 13: *Gaps in basic workers' rights: Measuring international adherence to and implementation of the Organization's values with public ILO data*, by W. R. Böhning, May 2003.
- No. 14: *Equal opportunities practices and enterprises performance: An investigation on Australian and British data*, by V. Pérotin, A. Robinson and J. Loundes, July 2003.
- No. 15: *Freedom of association and collective bargaining: A study of Indonesian experience, 1998-2003*, by Patrick Quinn, September 2003.
- No. 16: *Gender-based occupational segregation in the 1990s*, by Richard Anker, Helinä Melkas and Ailsa Korten, September 2003.
- No. 17: *Normalised and disaggregated gaps in basic workers' rights*, by W.R. Böhning, November 2003.
- No. 18: *Forced Labour: Definition, indicators and measurement*, by Kanchana Ruwanpura and Pallavi Rai, November 2003.
- No. 19: *Pay equity, minimum wage and equality at work: Theoretical framework and empirical evidence*, by Jill Rubery, November 2003.
- No. 20: *Rapid assessment of bonded labour in Pakistan's mining sector*, by Ahmad Salim, December 2003.

# Annex 1

## Flow chart of the follow-up reporting procedures



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## Annex 2

### ILO Declaration Expert-Advisers

#### **Ms. Thelma Awori (Uganda-Liberia)**

International consultant on development issues; former positions: Assistant Administrator and Director of the Regional Bureau for Africa of the United Nations Development Programme (UNDP); Deputy Assistant Administrator, Bureau for Policy and Programme Support, UNDP; United Nations Resident Coordinator and Resident Representative, UNDP (Zimbabwe); Deputy Director, United Nations Development Fund for Women (UNIFEM); Chief of the Africa Section of UNIFEM; Lecturer in Continuing Education and Director of the Diploma in Adult Education Course at the University of Nairobi, Kenya; Senior tutor, Centre for Continuing Education, Makerere University, Kampala, Uganda. She is the author of several publications on gender, development and adult education. Degrees: Bachelor of Arts (Hons. cum laude) in Social Relations and Cultural Anthropology, Harvard University, Cambridge, Massachusetts, United States (US); Master of Arts in Adult Education and Humanistic Psychology, University of California, Berkeley, US; Doctoral candidate, Columbia University, New York, US.

#### **Ms. Maria Cristina Cacciamali (Brazil)**

Professor at the School of Economics, University of São Paulo (USP), Brazil; President of USP's Graduate Programme on Integration in Latin America; Technical Director of the Association of Economists of São Paulo and President of the Brazilian Association for Labour Studies. Coordinator of the International Cooperation Project on "globalization, social regulation and contemporary patterns of development in Brazil in the context of regional integration" involving the Institute for Advanced Latin American Studies (IHEAL) of the University of Paris III (Sorbonne nouvelle), and the University of Lille I (France). Author of publications on labour markets, public policy and the informal sector; Consultant to national and international institutions. Degrees: Master's degree and Doctorate in Economics, University of São Paulo, Brazil.

#### **Ms. Maria Nieves Confesor (Philippines)**

Professor at the Asian Institute of Management for Public and Social Policy, Management, Conflict Resolution and Negotiation; Head, Panel of Experts to the Joint Congressional (Philippine Legislature) Commission Amending the Labor Code. Chair of Kybernan Group (international consultants for institutional reform and governance) and Strategic Options, Inc. Director/government representative of Philippine National Bank (for privatization), MetroBank of the Philippines, Philippine National Oil Company. Former Secretary of the Department of Labor and Employment, and Presidential Adviser on International Labor Affairs. Served as Chair of the ILO Governing Body. Chairperson of the Philippine Overseas Employment Administration and the National Wages and Productivity Commission. Consultant/external collaborator to the World Bank and ILO. Served as Chairperson of various national groups, ASEAN Labour Ministers' Meeting. Degrees: Master in Public Policy and Administration, Harvard University; Master of Business Administration, Ateneo de Manila University; Bachelor of Arts, Maryknoll College.

#### **Mr. Ahmed El Borai (Egypt)**

Professor and Head of Labour Legislation, Faculty of Law, and Director of the Centre for Labour Relations, University of Cairo. Member of the Committee of Experts of the Arab Labour Organization. Formerly representative of Egypt to UNESCO and consultant to UNDP, ILO and ALO. Author of books and articles in Arabic and French on labour law and labour administration. Degrees: Licence en Droit, University of Cairo; D.E.S. and Doctorat d'Etat (public law), University of Rennes (France).

#### **Ms. Mária Ladó (Hungary)**

Senior adviser to the Employment Office (Budapest), and leader of the Inter-Ministerial Working Group on Social Policy, which is responsible for the accession affairs of Hungary in

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this field. Formerly, Director of the Institute of Labour Research. Lecturer on industrial relations and European social dialogue at Szeged University. Member of the High-level Group on the future of industrial relations and managing changes, set up by the European Commission, according to the Social Policy Agenda adopted at the Nice European Council in December 2000. Has served as a consultant/external collaborator for various international institutions, including the World Bank and the ILO on employment and industrial relations issues. Author of several books and articles in Hungarian and English. Degrees: Engineering degree and postgraduate diploma in business engineering, Technical University, Budapest; Doctorate in Sociology, Budapest (formerly Karl Marx) Economics University.

**Mr. Jean-Jacques Oechslin (France)**

Retired; former Chairperson of the Executive Committee of the International Organisation of Employers (IOE), Executive Secretary and Assistant to the Secretary-General of the IOE, and Director and Head of Section of International Social Affairs, French National Council of Employers. Served as Chairperson and Vice-Chairperson of the ILO Governing Body, President of the 1998 session of the International Labour Conference, President of the European Community Social Commission of the Federation of Industry, and Employer spokesperson of the European Union Standing Committee on Employment. Degrees: Diploma and Doctorate in Law, Institute for Political Studies, Paris.

**Mr. Robert White (Canada)**

Retired; commenced his work life in a small factory and was elected as union workplace representative at the age of 17. President Emeritus, Canadian Labour Congress and former President of the Canadian Auto Workers' Union. Has also served as President of the Trade Union Advisory Committee (TUAC) of the Organisation for Economic Co-operation and Development (OECD); Chairperson of the Commonwealth Trade Union Council; and Chairperson of the Human and Trade Union Rights Committee of the International Confederation of Free Trade Unions. Degrees: Honorary degrees from York University; the University of Windsor; St. Francis Xavier; and University of Western Ontario.

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## Annex 3

### Table of contents of the compilation of annual reports by the International Labour Office, Geneva, March 2004

**Introductory note:** *The information gathered in this compilation reflects the governments' replies to and the social partners' comments on the 2002 report forms of the ILO Governing Body as part of the annual follow-up to the 1998 ILO Declaration. It does not represent the views of the ILO.*

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