



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: AFGHANISTAN**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, since the 2005 Annual Review (AR).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Chamber of Commerce of Afghanistan (CCA) (except for the 2006 AR) and the All Afghanistan Federation of Trade Unions (AAFTU) through consultations or communication of the Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the CCA.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the AAFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Afghanistan has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No.98) (C.98).</b>
		<b>Ratification intention</b>	<p><b>YES, since 2005, for both C.87 and C.98.</b></p> <p><b>2007 AR:</b> According to the Government: Ratification of C.87 and C.98 will be submitted to the newly established Parliament. The CCA supported ratification of C.87 and C.98 by Afghanistan. The AAFTU supported ratification of C.87 and C.98 by Afghanistan, and hoped that the Government would accelerate this process.</p> <p><b>2006 AR:</b> According to the Government: C.87 and C.98 are in the process of ratification. The AWA supported the ratification of C.87 and C.98 by Afghanistan and hoped that this would take place soon.</p>

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

	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> According to the Government: The 2004 Constitution guarantees freedom of association to employers' and workers' organizations.		
		<b>Policy, legislation and/or regulations</b>	<b>Legislation</b> A special Law on Freedom of Association that was adopted in 2004 relate to the principle and right (PR).		
		<b>Basic legal provisions</b>	(i) Constitution, 2004; (ii) Law on Freedom of Association, 2004.		
		<b>Judicial decisions</b>	NIL		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2005 AR:</b> Prior government authorization is necessary to operate employers' organizations. All categories of employers can set up their organizations.	
<b>For Workers</b>	<b>2005 AR:</b> Prior government authorization is necessary to operate workers' organizations. Freedom of association can be exercised by all workers in the public service; medical professionals; teachers; agricultural workers; workers in export processing zones (EPZs) or enterprises/ industries with EPZ status, migrant workers, workers of all ages, and all categories of employers. However, workers engaged in domestic work or workers in the informal economy, cannot exercise it as the Labour Code does not cover them. Workers in the informal economy can exercise the right to collective bargaining.				
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>			<b>Special attention to particular situations</b>	<b>2005 AR:</b> According to the Government: Women.	
			<b>Information/ Data collection and dissemination</b>	<b>2005 AR:</b> According to the Government: There is a lack of information and data.	
		<b>At international level</b>	<b>2005 AR:</b> According to the Government: There are no particular restrictions for the international affiliation of employers' and workers' organizations.		
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2005 AR:</b> According to the Government: The PR is realized through inspection/monitoring mechanisms. Should the PR not be respected, the matter is referred to administrative or labour courts that shall take appropriate sanctions ranging from fines to imprisonment. Moreover, penal, civil and administrative sanctions may be taken.			
	<b>Involvement of the social partners</b>	The CCA stated that it had participated in this workshop and in the labour law review process.			
	<b>Promotional activities</b>	<p><b>2007 AR:</b> According to the Government: A National tripartite workshop on international labour standards, the Declaration and social dialogue was also organized in 2006 in cooperation with the ILO. The CCA stated that it had participated in this workshop and in the labour law review process. The AAFTU mentioned that it had participated in this workshop, and that it was also working for the improvement of workers' rights.</p> <p><b>2006 AR:</b> According to the Government: A national tripartite seminar on International Labour Standards, including ILO fundamental Conventions was organized in Kabul in May 2005 with ILO technical assistance.</p>			

	<b>Special initiatives/Progress</b>	<p><b>2007 AR:</b> According to the Government: Special initiatives: The Ministry of Martyrs, Disabled and Social Affairs drafted a new Labour Law in 2006, in cooperation with the social partners, and the ILO, the comments of which have been integrated in the final text. A new employers' organization have been established in 2005: the Chamber of Commerce of Afghanistan. Several sectorial organizations (teachers, engineers, shop keepers, journalists, writers, doctors, lawyers, etc.) and additional national workers' organizations exist now in the country. The Government organized separate consultations with sectorial organizations that are not federated. The AAFTU mentioned that it was working to improve workers' rights in Afghanistan, and its major objective was the realization of the fundamental principles and rights at work (FPRW) in the country.</p> <p><b>2006 AR:</b> According to the Government: Special initiatives: Following the adoption of the Law on Freedom of Association in 2004, some 170 associations have been registered, including employers' and workers' organizations and cooperatives.</p> <p><b>2005 AR:</b> According to the Government: In the public sector, workers that have been laid off as a result of structural adjustment have obtained good allowances and/or retirement benefits following a national demonstration that puts pressure on the Government during negotiations.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> According to the AAFTU: (i) AAFTU is the national representative workers' organization of Afghanistan; (ii) AAFTU is not aware of the existence of any organization called "Afghanistan Workers' Association" (AWA); (iii) the Government did not consult with AAFTU in the labour law review process; and (iv) there are practical problems in the registration procedure in Afghanistan, and organizations may not be physically able to do so before the Ministry of Justice - therefore, the Ministry of Social Affairs, and the ILO should help solve this problem.</p>
	<b>According to the Government</b>	<p><b>2005 AR:</b> Main difficulties encountered in realizing the PR: (i) lack of public awareness or support; (ii) lack of information and data; (iii) social values and cultural tradition; (iv) social and economic circumstances; (v) lack of capacity of responsible government institutions; (vi) lack of capacity of employers' and workers' organizations; (vii) lack of social dialogue on the PR.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the Government: ILO technical cooperation should be sustained to help Afghanistan better implement the new labour law and realize the FPRW. Labour Inspection and employers' and workers' organizations need ILO support for training and capacity building. A case study on the FPRW is needed in the country.</p> <p>According to the CCA: (i) ILO technical cooperation for training and capacity building of employers' organizations will facilitate the realization of the FPRW in Afghanistan; and (ii) the CCA supports the Government's request for a case study on the FPRW in Afghanistan.</p> <p>According to the AAFTU: (i) The AAFTU strongly needs ILO support for capacity building and training among its affiliates and members; and (ii) it also supports the Government's request for a case study on the FPRW in Afghanistan.</p> <p><b>2006 AR:</b> The Government wished to organize a special workshop on the Declaration, with ILO technical assistance, so as to facilitate the design of a national Declaration programme that will promote all FPRW and social dialogue, and focus on implementation. It also reiterated its request for technical cooperation projects to facilitate the realization of the PR in Afghanistan in the following areas, in order of priority: (1) promotion of women's right; legal reform, strengthening data collection and analysis, strengthening tripartite social dialogue, strengthening capacity of employers' and workers' organizations; (2) training of other officials; sharing experience across countries; assessment of the difficulties identified and their implications for realizing the PR.</p> <p>The AWA requested ILO technical cooperation to promote the PR among its members and to strengthen its capacity to negotiate collective bargaining agreements.</p>	

		<p><b>2005 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Afghanistan exist in the following areas, in order of priority: (1) promotion of Women's right; legal reform; strengthening data collection and analysis; strengthening tripartite social dialogue; strengthening capacity of employers' and workers' organizations; (2) training of other officials; sharing experience across countries; assessment of the difficulties identified and their implication for realizing the PR.</p> <p>The Government would most appreciate the design of a national declaration program that will promote all FPRW and social dialogue.</p>
	<b>Offer</b>	ILO
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2005 AR:</b> The ILO Declaration Expert-Advisers noted with particular interest the reporting from Afghanistan in spite of the serious difficulties that this country has to face (paragraph 8 of the 2005 Annual Review Introduction).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: BAHRAIN**

***FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES.</b> No change reports for the 2004 and 2005 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	According to the Government: Implication of the Bahrain Chamber of Commerce and Industry (BCCI) and the General Federation of Bahrain Trade Unions (GFBTU) through written consultations.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the BCCI.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the GFBTU. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the ICFTU. <b>2005 AR:</b> Observations by the GFBTU and the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Bahrain has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>YES, since 2002 for both C.87 and C.98.</b>  <b>2007 AR:</b> According to the Government, the BCCI and the GFBTU: A tripartite committee should be set up to study and make recommendations on further ratification of ILO fundamental conventions, including C.87 and C.98.  <b>2006 AR:</b> According to the GFBTU: The Government should ratify both the Convention No. 87 and the

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			<p>Convention No. 98, so that Bahrain can fit with social globalization.</p> <p><b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intends to ratify C.87 and C.98.</p>	
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<p><b>YES</b> The 2002 Constitution (Part III) provides for freedom of association and freedom to form trade unions.</p>	
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> </ul> <p><b>2002 AR:</b> The Government encouraged the Workers' General Committee to take part in the drafting of policies concerning the PR.</p> <ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p><b>2005 AR:</b> According to the Government: The amendment of the Labour Law is currently under way in collaboration with the GFBTU. A preliminary draft of the Labour Law in the Private Sector has already been developed. It contains a chapter on collective bargaining.</p> <p><b>2003 AR:</b> According to the Government: A new Workers' Trade Union Law was enacted in 2002 that introduced the right to join trade unions.</p>	
		<b>Basic legal provisions</b>	(i) The 2002 Constitution (Part III) and (ii) the Workers Trade Union Law (2002); The Labour Law (under revision).	
		<b>Judicial decisions</b>	NIL	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2003 AR:</b> Government authorization/approval is required to establish employers' organizations and to conclude collective bargaining agreements. Employers can exercise freedom of association at the enterprise, sector or industry, national and international levels.
			<b>For Workers</b>	<b>2003 AR:</b> Government authorization/approval is required to establish workers' organizations and to conclude collective bargaining agreements. Freedom of association can be exercised by medical professionals, teachers, agricultural workers, workers in Export Processing Zones (EPZs) or enterprises/industries with EPZ status, migrant workers, workers of all ages, and all categories of employers. Workers can exercise freedom of association at the enterprise, sector or industry, national and international levels. Freedom of association cannot be exercised by workers in the public service, workers engaged in domestic work and workers in the informal economy.
			<b>Special attention to particular situations</b>	NIL
			<b>Information/Data collection</b>	<b>2003-2005 ARs:</b> According to the Government: There is a lack of information and data relevant to the PR.

			<b>and dissemination</b>	
		<b>At international level</b>	According to the Government: The GFBTU is recognized abroad at international, regional and Arab conferences.	
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2003-2005 ARs:</b> According to the Government: Specific measures are envisaged to respect and realize this PR: (i) legal reform (labour law and other relevant legislation); (ii) inspection/monitoring mechanisms; (iii) penal sanctions; (iv) civil or administrative sanctions; (v) special institutional machinery; (vi) capacity building of responsible government officials; (vii) training of other government officials.		
	<b>Involvement of the social partners</b>	<b>2000-2002 ARs:</b> According to the Government: The GCBW and the BCCI are involved in tripartite bodies to discuss the PR such as the Higher Council for Vocational Training, tripartite councils and committees in which the Government and employers are represented.		
	<b>Promotional activities</b>	<p><b>2007 AR:</b> The Government, the BCCI and the GFBTU referred to their participation in the Fourth ILO/Gulf Cooperation Council (GCC) Regional Workshop on the ILO Declaration and International Labour Standards held in Kuwait City in April 2006.</p> <p><b>2003-2005 ARs:</b> According to the Government: Capacity building for employers' and workers' organizations and awareness raising/advocacy activities have been implemented to promote and realize the PR.</p>		
	<b>Special initiatives/Progress</b>	<b>2003-2005 ARs:</b> According to the Government: A new law was under way in 2002, which would amend the Constitution and allow the establishment of free trade unions.		
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> According to the BCCI: In Bahrain, domestic workers do not enjoy the right to organize and bargain collectively.	
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> The GFBTU shared the view that in Bahrain domestic workers were not enjoying the right to organize and bargain collectively. It also mentioned that union leaders were not harassed in Bahrain.</p> <p>According to the ICFTU (additional challenges): (i) In Bahrain, there are restrictions on the right to form unions and only one federation can exist.</p> <p><b>2006 AR:</b> The GFBTU raised the following challenges: (i) the PR is realized only in the private sector; (ii) the Government does not recognize trade unions in the public sector; (iii) the social partners need to be more involved in the reporting process under the Declaration annual review.</p> <p>According to the ICFTU: (i) the law still contains restrictions on the right to strike and on freedom of association and does not specifically provide for collective bargaining.</p> <p><b>2000-2005 ARs:</b> According to the ICFTU: (i) trade unions are banned in Bahrain (only government-controlled organizations are authorized), (ii) there are restrictions on strike rights; (iii) labour laws do not apply to domestic servants; (iv) the Joint Consultative Councils (JCC) can only act as advisers and have no real power to negotiate or bargain; (v) the Ministry of Labour must approve the internal rules of the General Committee of Bahraini Workers (GCBW); (vi) political climate makes difficult to bring grievance to court; (vii) the law does not specifically provide for collective bargaining.</p>	
	<b>According to the Government</b>	<p><b>2007 AR:</b> The Government acknowledged that in Bahrain domestic workers do not enjoy the right to organize and bargain collectively.</p> <p><b>2003-2004 ARs:</b> Main difficulties encountered in Bahrain: (i) lack of information and data; (ii) social and economic circumstances; (iii) legal provisions; and (iv) prevailing employment practices.</p>		

<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> The GFBTU requested ILO technical cooperation to strengthen the capacity of workers' organizations in Bahrain.</p> <p><b>2006 AR:</b> According to the GFBTU: (i) A national workshop for trade unions on the PR should be organized with ILO technical assistance; (ii) a national tripartite workshop on fundamental Conventions and the Declaration should also be organized so as to identify challenges and solutions and pave the way to ratification.</p> <p><b>2003-2004 ARs:</b> According to the Government: (i) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; (ii) strengthening tripartite social dialogue; and (iii) awareness-raising, legal literacy and advocacy.</p>
	<b>Offer</b>	ILO, GCC
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2006 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed that the Government of Bahrain should indicate whether the new Decree relating to trade unions is an implementing Decree relating to existing labour law. They observed the following: "It is important to note that the majority of workers in some Gulf States are migrant workers. Therefore, while we note that certain measures have been reported relating to this principle [...] we stress that the principle should be given full effect as regards all the workers present in these countries, including migrant workers, if these countries are to progress meaningfully in this area". (paragraphs 37 and 45 of the 2006 Annual Review Introduction)</p> <p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed Bahrain among the countries where progress had been made under the Annual Review in the promotion of freedom of association and the effective recognition of the right to collective bargaining (paragraph 12 of the 2005 Annual Review Introduction). Furthermore, they noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (paragraph 148 of the 2005 Annual Review Introduction).</p> <p><b>2004 AR:</b> The IDEAs stated that they were encouraged by the continuing steps taken by countries of the Gulf Cooperation Council (GCC) in relation to this PR, but noted that there was a long way to go and much to do. They further indicated that the Gulf Cooperation Council States were providing more information on the PR, but not enough on the other three PRs. This would help to illustrate the link between all four PRs (paragraph 84 of the 2004 Annual Review Introduction). They also wished that the positive measures taken by countries in the Gulf Cooperation Council (GCC) be expanded upon (paragraph 29 of the 2004 Annual Review Introduction).</p> <p><b>2003 AR:</b> The IDEAs commended Bahrain for its continuing dialogue with the Office. They appreciated the adoption of a new legislation relating to freedom of association. They recommended that the Governing Body request that high-level contacts be organized between the Office and two or three countries (including Bahrain) that are not benefiting from ILO technical cooperation on the PR. In light of requests by Bahrain for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field. (paragraphs 4 and 74 of the 2003 Annual Review Introduction).</p> <p><b>2002 AR:</b> The IDEAs recommended that, with a view to a more in depth discussion of certain aspects of the Introduction, the Governing Body request clarifications from Bahrain in relation to the continuation of steps undertaken in the country, in cooperation with the Office, concerning the PR. Furthermore, they acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the Government (paragraph 41 (b) of the 2002 Annual Review Introduction).</p> <p><b>2001 AR:</b> The IDEAs hoped that the Government of Bahrain would continue a dialogue with the Office regarding the ways in which respect to fundamental principles and rights could be achieved (paragraph 77 of the 2002 Annual Review Introduction). They also recommended to the governing body that further information be requested from the Government of Bahrain in relation to efforts made to promote the principle and right (paragraph 30 (b) (ii) of the 2001 Annual Review Introduction).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: BRAZIL**

***FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, since the 2000 Annual Review (AR).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the employers' organizations (National Confederation of Agriculture (CNA), National Confederation of Trade (CNC), National Confederation of Industry (CNI), National Confederation of Financial Institutions (CNF), and National Transport Confederation (CNT) and workers' organizations (Single Central Organization of Workers (CUT), General Confederation of Workers (CGT), Força Sindical (FS), and Social Democratic Union (SDS), Independent Workers Confederation (CAT), and General Confederation of Workers of Brazil (CGTB)) by means of consultations and communications of the Government's reports	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2001 AR:</b> Observations by the CNC. <b>2001 AR:</b> Observations by the CNT.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2005 AR:</b> Observations by the ICFTU. <b>2004 AR:</b> Observations by the CUT. <b>2003 AR:</b> Observations by the CUT. <b>2002 AR:</b> Observations by the CUT. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the SDS.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Brazil ratified in 1952 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</b>
		<b>Ratification intention</b>	<b>YES, according to the Government: Ratification of C.87 depends on: (i) the outcome of consultations within the tripartite National Congress's approval of Constitutional amendments; and (ii) National Labour Forum; and (iii) the labour law reform to comply with the provisions of C.87. Such amendments would render the Constitution compatible with the Convention, thus allowing for its</b>

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			<p><b>ratification.</b></p> <p><b>2007 AR:</b> According to the Government: It is currently still not possible to ratify ILO C.87, since the Constitution (article 8 of the Constitution) runs contrary to the text of this Convention. However, the proposed Constitutional Amendment No. 369/05 is currently being examined by the National Congress, at the behest of the Executive, with the aim of ensuring freedom of association. This amendment would render the Constitution compatible with the Convention, thus allowing for its ratification.</p> <p><b>2003-2005 ARs:</b> According to the Government: A new 60-member tripartite “National Labour Forum” had submitted to National Congress a proposal to amend national legislation on industrial relations and ratify C.87. It is expected that Congress will soon review this proposal.</p> <p><b>2000-2003 ARs:</b> According to the Government: The Executive submitted to the National Congress a “Proposed Constitutional Amendment” (PEC) No. 623/98 in November 1998 to suppress the single trade union requirement and the compulsory tax to ensure freedom of association as provided for in ILO Convention No. 87. Unfortunately, the PEC was shelved on a rule of procedure without being debated at the end of 2000.</p>		
	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Constitution</b>	The 1988 Constitution guarantees freedom of association and collective bargaining (with the exception of the armed forces), but imposes the single trade union requirement according to which there can be only one trade union organization to represent an occupational or economic category in a given territorial area (art. 8, paragraph II). This requirement (known as “unicidade”) prohibits the establishment of enterprise unions. Also enshrined in the Constitution is a compulsory trade union tax, which is levied on each worker by the Ministry of Labour and distributed to the national trade union federations according to the number of members.		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Policy/ Legislation and/or Regulations</b>	<ul style="list-style-type: none"> <li><b>Legislations</b></li> </ul> <p><b>2001 AR:</b> The consolidated labour laws (CLT) and the labour protection laws (LPL) relate to the principle and right (PR).</p>		
		<b>Basic legal provisions</b>	(i) The 1988 Constitution (article 8, paragraph II); (ii) Consolidation of Labour Laws (CLT); and (iii) labour protection laws.		
		<b>Judicial decisions</b>	<b>2002 AR:</b> In 2001, the Upper Labour Court decided that the Labour Justice System is competent to declare a strike legal or illegal: “A strike is illegal when carried out in sectors that the law defines as essential to the community, if provision has not been made (...) to meet the basic, essential needs of the users of the service”.		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2000-2005 ARs:</b> According to the Government: No authorization is required to establish employers’ organizations, with the exception of registration with the Ministry of Labour and Employment, and with the proviso that only one trade union organization can represent an occupational or economic category in a given territorial area.	
			<b>For Workers</b>	<b>2000-2005 ARs:</b> According to the Government: No authorization is required to establish workers’ organizations, with exception of registration with the Ministry of Labour and Employment, and with the proviso that only one trade union organization can represent an occupational or economic category in a given territorial area.	
			<b>Special</b>	<b>2004-2005 ARs:</b> According to the Government: The situation of specific categories of	

			<b>attention to particular situations</b>	persons or industries/sectors, such as public servants, dockworkers, rural workers, the waterways, maritime and port sectors, liberal professions, transport and pensioner, and micro and small enterprises.
			<b>Information/ Data collection and dissemination</b>	<p><b>2003 AR:</b> According to the Government: The Brazilian Institute of Geography and Statistics (IBGE) estimates the number of trade unions in Brazil at 20,000; a number close to that recorded in the administrative records of the Ministry of Labour and Employment.</p> <p><b>2000 AR:</b> According to the Government: With regard to the freedom of association and the right to organize, data from the Ministry of Labour and Employment show that there were about 10,600 legally recognized unions when the State exercised control over the establishment and running of trade unions in Brazil (from 1931 to October 1988). In the post-constitutional period (1988-2000) almost 6,600 unions have been formed. In total, there are 17,200 union organizations representing occupational and economic categories.</p>
		<b>At international level</b>	Unions are free to affiliate to similar international organizations.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2005 AR:</b> According to the Government: In instances where the Government finds that this principle and right (PR) has not been respected, sanctions are provided for under national laws. A draft law on the prevention of anti-union practices has been debated in the National Labour Forum.</p> <p><b>2004 AR:</b> According to the Government: In instances where the Government finds that this PR has not been respected, it reports the matter to the Labour Prosecutor, who initiates the appropriate legal or administrative proceedings.</p> <p><b>2003 AR:</b> According to the Government: If workers feel their rights have been infringed they can resort to the Labour Justice System, which comprises the Upper Labour Court, regional labour courts and labour magistrates. The Department of Labour Prosecutor is another body responsible for protecting collective and professional interests.</p>		
	<b>Involvement of the social partners</b>	<b>2004 AR:</b> According to the Government: Social partners have been involved in the National Labour Forum proposed by the present Government to reform industrial and trade union relations and to various tripartite consultations relating to labour relations issues.		
	<b>Promotional activities</b>	<p><b>2003 AR:</b> The Government referred to the participation of the most representative employers' and workers' organizations in the Southern Common Market (MERCOSUR) social and labour forums at regional level.</p> <p><b>2000 AR:</b> According to the Government: The Ministry of Labour and Employment including labour court judges and the civilian society have developed a broad programme of seminars, courses, training modules and similar activities on labour relations issues, in cooperation with the ILO. Several handbooks were also published on various topics including unionization.</p>		
	<b>Special initiatives/ Progress</b>	<p><b>2005 AR:</b> According to the Government: The adoption of the final report on the Trade Union Reform.</p> <p><b>2004-2005 ARs:</b> According to the Government: The creation of the National Labour Forum (FNT), a tripartite body which focuses on elaborating proposals for trade union and labour reform.</p>		
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL	
		<b>Workers' organizations</b>	<b>2007 AR:</b> According to the ICFTU: (i) the "unicidade" system provides that there can only be one trade union per economic or occupational category in each territorial area. This geographically based single union system means that some sectorial federations and national trade union centres are not legal; (ii) restrictions	

			<p>on the right to strike in the public services; (iii) establishment by companies of a blacklist system that targets workers who filed complaints against their employer; (iv) the anti-discrimination legislation is not enforced in case of violations; and (v) weak enforcement of labour laws in the Export Processing Zones (EPZs).</p> <p><b>2005 AR:</b> The ICFTU made observations on the following issues: (i) violation of union rights by employers; (ii) establishment by companies of a blacklist system that targets workers who filed complaints against their employer; (iii) rural workers' unions are confronted by hostile employers; (iv) incapacity of national authorities to apply anti-union discrimination; and (v) weak enforcement of labour laws in the Export Processing Zones (EPZs).</p> <p><b>2002-2004 ARs:</b> The CUT made the following observations: (i) there are constitutional, legislative, and administrative barriers to freedom of association; (ii) labour courts may order the stoppage of a strike and impose fines on striking unions; (iv) the Government's control over trade union registration; (v) violation of trade union rights in Brazil because of employers and police's obstruction of the work of trade unions and (vi) incapacity of the national authorities to protect workers' rights.</p>
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the Government</b></p>		<p><b>2007 AR:</b> According to the Government: The proposal for trade union organization agreed in the National Labour Forum to be submitted to the National Congress in 2006 will still not allow ratification of C.87, because the proposed model is neither for trade union nor for plurality, but is based on the real or <i>de facto</i> representativity of trade union bodies, unlike the present model where representativity is merely legal, with representation and unity based primarily on the seniority of trade union bodies.</p> <p>In response to the ICFTU's observations, the Government made the following comments: (i) a new legislation proposed within the National Labour Forum (FNT), in July 2003, which is pending the end of the examination of the Proposed Constitutional Amendment (PEC) 369/05, provides for a series of situations involving anti-union conduct. Any act, the purpose of which is to undermine or damage trade union activity on the part of the employers or the workers, shall be held to be anti-union conduct and the perpetrator shall be subject to penalties; (ii) article 37, VII, of the Federal Constitution guarantees the right to strike of civil servants, stipulating that this right shall be exercised under the terms and within the limits defined under the relevant law. However, no law has been passed regulating the exercising of the right to strike of civil servants. Therefore, the Constitutional Court of Brazil, issued a ruling in which it stated the following: "(...) the constitutional precept that recognized the right to strike of public civil servants constitutes a standard of purely limited effectiveness and is consequently not self-executing, for which reason, in order to act fully, it requires the passage of the supplementary law called for in the text of the Constitution itself (...)" Aware of the need for regulations governing the right to strike of public civil servants, the Government, within the framework of the Sectoral Chamber of the Public Service of the National Labour Forum (FNT), guided the discussions with the social partners directly concerned by this issue, with the aim of formulating a draft law regulating the right to strike of civil servants. The draft law is in the final stage of preparation. Moreover, as was previously pointed out, the Government also strengthens its commitment to an urgent project directed at Brazilian workers. The aim of the project is to regulate the right to strike in the public service, this constitutional precept never having previously been regulated. The issue was widely debated within the Sectoral Chamber of the Public Service of the FNT.</p> <p><b>2005 AR:</b> The main difficulties encountered in realizing the PR in Brazil are as follows: (i) lack of public awareness and/or support; (ii) social values, cultural traditions; (iii) social and economic circumstances; (iv) political situation; (v) legal provisions; (vi) lack of capacity of employers' organizations; (vii) lack of capacity of workers' organizations.</p> <p><b>2002-2003 AR:</b> Much progress has been made as far as the PR is concerned and it believes that technical cooperation offered by the ILO has helped greatly in developing a new model of labour relations in Brazil. However, despite the wide-ranging constitutional and legal guarantees, the Government also acknowledges that there are barriers in realizing the PR. These include: the rule whereby there may be only one union for each occupational or economic category, and the rule whereby everyone must pay compulsory union/confederation contribution.</p>

<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2005 AR:</b> The Government identified needs for technical cooperation in the following areas: (1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR, awareness raising, legal literacy and advocacy, strengthening data collection and capacity for statistical analysis, legal reform (labour law and other relevant legislation), (iv) capacity building of responsible government institutions, training of other officials (police, judiciary, social workers, teachers), strengthening capacity of employers' organizations, strengthening capacity of workers' organizations, strengthening tripartite social dialogue; (2) sharing of experiences across countries/regions.</p> <p><b>2002 AR:</b> The Government in response to the ICFTU comments made the following observations: (i) although progress has been made, there are still major obstacles in realizing the PR; (ii) violence against rural workers relates to a high concentration of land ownership, disputes about access to land and demands for agrarian reform rather than to union issues; (iii) there is a broad constitutional guarantee of freedom of association for civil rights, however they do not have the right to engage in collective bargaining; (iv) union leaders from the time their candidatures have been registered must be kept in employment for up to one year after the end of their term of office (article 8, (VIII)); (v) in case of improper dismissal of union members in the public sector, those affected have the right to return to their occupation by order of the competent authority of the system of justice; (vi) the strike is not authorized for category of workers of essential services.</p> <p><b>2001 AR:</b> The Government in response to the CNC made the following comments: (i) the observations of the CNC were not reflected in the Government final report because they were sent later; (ii) the Government supports the view of CNC concerning the scope of Act. No. 9. 958 of the 12 January 2000, amending the Consolidation of Labour Laws.</p>
	<b>Offer</b>	ILO, MERCOSUR, the Organization of American States (OAS)
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed Brazil among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 AR Introduction).</p> <p><b>2004 AR:</b> The IDEAs noted that Brazil was still seeking to amend its Constitution to allow greater freedom of association, and urged the Government to proceed in this matter (paragraph 80 of the 2005 AR Introduction).</p> <p><b>2003 AR:</b> The IDEAs noted that there were also indications of legislative developments toward realizing the PR in Brazil (paragraph 39 of the 2005 AR Introduction).</p> <p><b>2001 AR:</b> The IDEAs noted that relatively few national employers' organizations submitted separate observations, but where they did, they offered useful insights into their experiences and the implications of recent legislative and institutional developments, as in the case of Brazil (paragraph 76 of the 2001 AR Introduction).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: CANADA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Federal Government: Involvement of the Canadian Employers' Council, the Canadian Labour Congress and the Confédération des Syndicats Nationaux through communication of government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Canada ratified in 1972 the Freedom of Association and the Right to Collective Bargaining Convention, 1948 (No. 87) (C.87). However, it has not yet ratified the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>Unable to ratify at this time C.98.</b>  <b>2006 AR:</b> According to the Government: While there is a high degree of conformity with the principle of collective bargaining in Canada, there are some differences between national legislation and specific provisions of C.98 as interpreted by the ILO Committee of Experts.  <b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government intended to ratify C.98.
	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Constitution</b>	<b>YES</b> According to the Government: In the Constitution, the Canadian Charter of Rights and Freedoms provides for freedom of assembly and association. The Charter applies to Parliament, the provincial/territorial legislatures and the federal provincial and territorial governments. Freedom of association is also enshrined

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

			in Quebec's <i>Charte des droits et libertés de la personne</i> that applies to the government of Quebec and to the private sector in that province.
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b> Government's prospects: Continuing promotion of the principle and rights of the Declaration.</li> </ul> <p><b>2005 AR:</b> The Federal Government stated that ILO technical advisory assistance was valuable during a workshop for federal, provincial and territorial government representatives on issues pertaining to Canada's international labour obligations and the ILO's supervisory mechanisms and the Declaration of Fundamental Principles and Rights at Work held in February 2003.</p> <p><b>2003 AR:</b> The Government expressed interest in exploring the use of ILO communication products for the promotion of the 1998 <i>ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up</i>.</p> <ul style="list-style-type: none"> <li>• <b>Legislation</b> The Canadian Charter of Rights and Freedoms as well as federal, provincial and territorial labour relations legislation to the principle and right (PR):</li> </ul> <p><b>2000-2005 ARs:</b> According to the Government: All Canadian governments have adopted labour legislation which recognizes and provides a framework for collective bargaining for employees and employers within their respective jurisdictions.</p>
		<b>Basic legal provisions</b>	<ul style="list-style-type: none"> <li>- Canadian Charter of Rights and Freedoms</li> <li>- Federal legislation: (i) Canada Labour Code (Part I); (ii) Public Service Staff Relations Act; (iii) Status of the Artist Act.</li> <li>- Provincial and territorial legislation: <i>Alberta:</i> Labour Relations Code (LRC); Public Service Employee Relations Act (PSERA); Police Officers Collective Bargaining Act (POCBA). <i>British Columbia:</i> Labour Relations Code; Public Service Labour Relations Act. <i>Manitoba:</i> Labour Relations Act; Civil Service Act (certain sections); Public Schools Act; Fire Departments Arbitration Act. <i>New Brunswick:</i> Industrial Relations Act; Public Service Labour Relations Act; <i>Newfoundland:</i> Labour Relations Act; Public Service Collective Bargaining Act; Interns and Residences Act; Newfoundland Teachers Collective Bargaining Act; Fishing Industry Collective Bargaining Act; Royal Newfoundland Constabulary Act; St. John's Firefighters Act. <i>Nova Scotia:</i> Trade Union Act; Teachers' Collective Bargaining Act; Corrections Act; Civil Service Collective Bargaining Act; Highway Workers' Collective Bargaining Act. <i>Ontario:</i> Labour Relations Act, 1995 (LRA); School Boards and Teachers Collective Negotiations Act, 1993; Crown Employees Collective Bargaining Act; Public Service Act; Colleges Collective Bargaining Act; Hospital Labour Disputes Arbitration Act; Police Services Act; Fire Protection and Prevention Act, 1997; Public Sector Transition Stability Act, 1997. <i>Prince Edward Island:</i> Labour Act; Civil Service Act and Regulations; School Act. <i>Quebec:</i> <i>Code du travail</i> (LRQ, c. C-27) (Labour Code); <i>Loi sur le régime de négociations des conventions collectives dans les secteurs public et parapublic</i> (Act in respect of the process for negotiating collective agreements in the public and parastatal sectors); <i>Loi sur les relations de travail, la formation professionnelle et la gestion de la main-d'œuvre dans l'industrie de la construction</i> (LRQ, c. R-20) (Act in respect of labour relations, vocational training and manpower management in the construction industry); <i>Loi assurant le maintien des services essentiels dans le secteur de la santé et des services sociaux</i> (Act to</li> </ul>

			<p>ensure that essential services are maintained in the health and social services sector); <i>Loi sur le statut professionnel et les conditions d'engagement des artistes de la scène, du disque et du cinéma</i> (LRQ, c. S-32.1) (Act concerning the professional status and conditions of engagement for performing artists, recording and film artists); <i>Loi sur le statut professionnel des artistes des arts visuels, des métiers d'art et de la littérature et sur leurs contrats avec les diffuseurs</i> (LRQ, c. S-32.01) (Act in respect of the professional status of artists in the visual arts and crafts and literature and their contracts with promoters).  <i>Saskatchewan</i>: Trade Union Act; Police Act; Fire Departments Platoon Act; Construction Industry Labour Relations Act.  <i>Northwest Territories and Nunavut</i>: Public Service Act.  <i>Yukon</i>: Education Act; Public Service Staff Relations Act.</p>		
		<b>Judicial decisions</b>	NIL		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2000-2003 ARs:</b> All categories of employers may engage in collective bargaining either under legislation or on a voluntary basis.	
			<b>For Workers</b>	<b>2003 AR:</b> The right to collective bargaining, with a few exceptions, applies to “employees”, defined as workers who have an employment relationship and who are not employed in a confidential capacity with respect to labour relations or do not exercise management functions. In some jurisdictions, some or all of the following categories of workers may be excluded from collective bargaining legislation, but are nevertheless entitled to negotiate with their employers on a voluntary basis: agricultural workers, domestic workers, and members of the medical, dental, architectural, legal and engineering professions, when employed in their professional capacity.	
			<b>Special attention to particular situations</b>	NIL	
			<b>Information/Data collection and dissemination</b>	<b>2000-2003 ARs:</b> According to the Government: The Federal Government and the provinces gather and disseminate a wide range of information and data on issues related to trade unions and collective bargaining.	
	<b>At international level</b>	C.87 is ratified.			
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2000-2003 ARs:</b> According to the Government: Each Canadian jurisdiction has established an independent quasi-judicial labour relations board that includes worker and employer members, to administer its collective bargaining laws. These boards determine appropriate bargaining units, certify bargaining agents and determine various unfair labour practice complaints, such as interference, dismissal or discipline for union activity and failure to bargain in good faith, and may also rule on the legality of strikes or lockouts. Many boards also assist the parties in resolving labour relations issues in the workplace.</p> <p>Monitoring and enforcement mechanisms exist to ensure the implementation of the PR. Labour boards in each jurisdiction can issue orders providing a wide range of remedies and, typically, the orders may be filed with the appropriate Court and then become enforceable as orders of the Court.</p> <p>The Canadian Courts have the authority to determine whether federal, provincial or territorial legislation infringes on the PR under the Charter and may declare such legislation unconstitutional.</p> <p>In instances where the PR is not respected, the boards can order a party to comply with the statutory duty to bargain in good faith. A number of boards also have the authority to arbitrate first-agreement bargaining disputes.</p> <p>All jurisdictions provide conciliation and mediation assistance to the parties to assist them in concluding collective agreements.</p>			

	<b>Involvement of the social partners</b>	<b>2003-2004 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in: (i) labour-management conferences such as the biennial conferences organized by the Federal Mediation and Conciliation Service (FMCS) that address diverse subjects including best practices in industrial relations and collective bargaining and ways to improve labour-management relations; (ii) preventive mediation training programmes; (iii) projects funded by the Labour Management Partnerships Program that support the development of co-operative labour-management relations in Canada.	
	<b>Promotional activities</b>	<p><b>2007 AR:</b> According to the Government: In September 2005, the Federal Mediation and Conciliation Service (FMCS) biennial conference was attended by over 200 representatives of unions, employers and governments from across the country who discussed best practices in industrial relations and collective bargaining and ways to improve labour-management relations.</p> <ul style="list-style-type: none"> <li>- During fiscal year 2005-2006, FMCS's Preventive Mediation Program provided training and assistance in the building of co-operative industrial relations across Canada and internationally; training and assistance were provided in joint labour-management committee effectiveness, interest based bargaining, grievance mediation, relationship building, and the facilitation of collective bargaining in more than 61 instances throughout Canada; efforts are also being made to renew the Program and develop new modules that will address emerging issues in the workplace that impact on labour-management relations.</li> <li>- During the year, there were 35 active projects under the Labour-Management Partnerships Program (LMPP), which provides seed funding to support and promote the development of co-operative labour-management relations in Canada.</li> <li>- In March 2006, the International Labour Affairs hosted a workshop on ILO issues that was attended by representatives of Canadian federal, provincial and territorial governments. The purpose of the workshop was to generate dialogue on ILO issues, with a focus on the principle of freedom of association and collective bargaining. Representatives of the Canadian Labour Congress and the Canadian Employers Council participated in a tripartite panel discussion on Canada's priorities in the ILO. A noted Canadian academic addressed the issue of "The Challenges of Collective Bargaining in the Canadian Public and Parapublic Sectors". A panel of provincial government representatives shared their jurisdictions' practices with respect to coverage of collective bargaining legislation. There was also a presentation and discussion concerning follow-up to CFA decisions.</li> </ul> <p><b>2006 AR:</b> According to the Government: A number of workshops on topics such as committee effectiveness training, interest-based negotiations, negotiation facilitation, conflict resolution training and relationship-by-objective training were held. Funding assistance was provided to 30 projects to assist efforts by unions and employers to improve labour-management relations. FMCS's 2005 conference brought key people involved in labour relations in Canada together to discuss critical industrial relations issues. The first phase of a project to assist the Chilean Ministry of Labour and Social Security to strengthen the institutional capacities of its mediation and conciliation services was completed.</p> <p><b>2002-2005 ARs:</b> According to the Government: The following measures have been implemented to realize and promote the PR: (i) the training of government officials and social partners in the labour field; (ii) the negotiation of labour cooperation agreements; (iii) tripartite dialogue, national conferences, training, workshops and seminars; and (iv) international workshops.</p>	
	<b>Special initiatives/Progress</b>	NIL	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL
		<b>Workers' organizations</b>	<b>2000-2001 and 2007 ARs:</b> The ICFTU raised the following issues: (i) the legislation in several Canadian provinces/territories do not comply with C.98 and no willingness of these provinces to harmonize their laws with the ILO Conventions; (ii) some categories of workers are excluded from the legal framework on the PR (members of the medical, dental, architectural, legal and engineering professions, when employed in their professional capacity, agricultural workers and privately employed domestics); (iii) there is an excessive government intervention in collective bargaining in the private sector, which provides ways for the employer to bypass the union as collective bargaining agent.
<b>CHALLENGES IN</b>	<b>According to</b>	<b>2007 AR:</b> In response to the ICFTU's observations, the Federal Government made the following additional observations: (i) since	

<b>REALIZING THE PRINCIPLE AND RIGHT</b>	<b>the Government</b>	<p>2005, there have been a number of amendments to labour laws in Ontario that strengthen protection for the exercise of collective bargain rights, (ii) in British Columbia, the province is enjoying an unprecedented level of labour peace thanks to the recent success of this year's public sector bargaining that saw the conclusion of 139 collective agreements (as of December 11, 2006). Furthermore, the British Columbia government is continuing an industrial Inquiry Commission review to examine the bargaining structure and to build on the success on the latest round of bargaining to ensure that negotiated settlements are reach in future rounds of bargaining.</p> <p><b>2001 and 2007 ARs:</b> In response to the ICFTU's observations, the Federal Government made the following observations: (i) the PR is respected and promoted in Canada; (ii) in each province, there are labour laws promoting and regulating collective bargaining and there are independent labour relations boards in charge of administering the legislation; (iii) the legislation encourages the parties to engage in meaningful bargaining; (iv) the importance of conciliation and mediation as a means of helping the parties to come to an agreement voluntarily is recognized across Canada; (v) Canadian legislation generally does not restrict the right of employers and workers to participate in collective bargaining; (vi) groups such as members of the medical, dental, architectural, legal and engineering professions, when employed in their professional capacity, agricultural workers and privately employed domestics are excluded from coverage under the legislation in some jurisdictions, but are nevertheless entitled to negotiate with their employers on a voluntary basis; (viii) in the determination of who is an employee for the purpose of collective bargaining, jurisdictions generally exclude workers who exercise managerial functions or who act in a confidential capacity in matters relating to industrial relations, so as to avoid conflict of interest or domination of unions, (ix) all jurisdictions ensure the right to negotiate collective agreements and promote good faith bargaining between the parties.</p> <p><b>2000 and 2007 ARs:</b> In response to the ICFTU's observations, the Federal Government referred to GB.274/2 which described the Declaration follow-up and suggested that a number of the questions raised by the ICFTU would fall outside the scope of the Declaration follow-up. The Government further indicated that it was not able to respond to a number of other ICFTU comments as they contained inaccuracies that made them unclear. The Government referred the Office to Canada's report on the principles of freedom of association and the right to collective bargaining, which provides complete and accurate information with respect to collective bargaining legislation in Canada, including protections against employers' interference and other unfair labour practices.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<b>2003 AR:</b> The Federal Government would be interested in the use of ILO communication products for the promotion of the 1998 ILO Declaration.
	<b>Offer</b>	NIL
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	

**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: CHINA**

***FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, since the start of the Annual Reviews (ARs) in 2000. No change report under the 2006 AR.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, involvement of the All China Federation of Trade Unions (ACFTU) and the China Enterprise Confederation (CEC) by means of consultations and communication of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the CEC.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the ACFTU and the International Confederation of Free Trade Unions (ICFTU). <b>2000 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>China has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C. 87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C. 98).</b>
		<b>Ratification intention</b>	NIL
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal</b>	<b>Constitution</b>	<b>YES</b> The 1999 Constitution of the People's Republic of China (article 35) provides that "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration".

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

	provisions)	Policy/Legislation and/or regulations	<ul style="list-style-type: none"> <li>• <b>Legislation</b>  <b>2007 AR:</b> Corporate Law (section 18); Law on Chinese-Foreign Contractual Joint Ventures (section 14); Law on Foreign-Capital Enterprises (section 13).   <b>2003 AR:</b> The Trade Union Law, 1950 and its (subsequent amendments) and the Labour Law relate to the principle and right (PR).</li> <li>• <b>Regulations</b>  The regulations concerning the Congress of Staff and Workers in Industrial Enterprises Owned by the Whole People (section 9) relate to the PR.</li> </ul>	
		Basic legal provisions	(i) The 1999 Constitution (article 35); (ii) the 1992 Trade Union Law (section 3), (iii) the Labour Law (sections 33 and 35), (iv) the Interim Regulation on Private Enterprises, (v) the Regulations concerning the Registration of Social Organizations (sections 9 and 13) and (v) the Regulations on Collective Contracts (section 33).	
		Judicial decisions	NIL	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	Exercise of the principle and right	At national level (enterprise, sector/industry, national)	For Employers	<b>2000-2004 ARs:</b> Prior government authorization is necessary to establish employers' organizations (section 9 of the Regulations concerning the Registration of Social Organizations). Freedom of association can be exercised by all categories of employers. However, employers cannot exercise the right to collective bargaining.
			For Workers	<b>2000-2004 ARs:</b> Government authorization is not required to establish a workers' organization or to conclude collective agreements. Freedom of association can be exercised at enterprise, sector/industry, national and international levels by all workers in the public service, medical professionals, teachers, agricultural workers, workers engaged in domestic work, workers in export processing zones (EPZs) or enterprises/industries with EPZs status, migrant workers, workers of all ages and workers in the informal economy. The right to collective bargaining can be exercised only at enterprise and sector/industry levels, by agricultural workers, workers engaged in domestic work, workers in EPZs or enterprises/industries with EPZs status, migrant workers, workers of all ages and workers in the informal economy.
			Special attention to particular situations	<b>2003-2004 ARs:</b> According to the Government: Enterprises' workers and employers are given particular attention with regard to the right to collective bargaining.
			Information/ Data collection and dissemination	<b>2002 AR:</b> According to the Government: By the end of 2000, 67,195 foreign-funded enterprises and 432,704 private enterprises had set up trade unions with respective total memberships of 5,921,202 and 7,889,900; the number of collective contracts signed exceeded 240,000, covering more than 60 million workers.  <b>2001 AR:</b> According to the Government: By the end of 1999, there were 52,160 foreign-owned enterprises, 117,469 private enterprises with trade unions and 220,000 collective agreements covering 57 million workers and staff members.

				<p><b>2000 AR:</b> According to the Government: There are statistics concerning the membership of employers' (436,000 members) and workers' organizations (130 million members). The number of collective contracts had reached 150,000 by the end of 1998, involving more than 50 million staff and workers.</p>
		<b>At international level</b>	NIL	
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2005 AR:</b> According to the Government: In instances where the PR has not been respected, the Government will ask the parties concerned to make "correction by coordination".</p> <p><b>2003-2004 ARs:</b> According to the Government: Specific measures have been implemented to respect and promote this PR, such as: (i) inspection/monitoring system, (ii) civil/administrative sanctions, (iii) special institutional machinery, (iv) capacity building of responsible government officials, (v) training of other government officials, (vi) capacity building for employers' and workers' organizations, and others have been envisaged, such as: (i) legal reform on labour law and other relevant legislation and (ii) penal sanctions. In instances where the PR has not been respected, the Government will ask the parties concerned to make "correction by coordination".</p> <p><b>2000 AR:</b> According to the Government: (i) Labour inspection, (ii) people's supervision and (iii) the Government's engagement in international cooperation.</p>		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Involvement of the social partners</b>	<b>2003-2004 ARs:</b> According to the Government: Tripartite discussions of issues have been implemented to realize the PR.		
	<b>Promotional activities</b>	<p><b>2007 AR:</b> The Government indicated that it had implemented the following measures in relation to the PR:</p> <p>(1) Extension of the collective consultation and collective contract system to comprehensively promote the Five Year Plan of Implementation Program on Administration by Law issued by the State Council on March 22, 2004;</p> <p>(2) under the Circular on the Publicity Syllabus of further Enforcing the Work on Employment and Reemployment issued on December 3<sup>rd</sup> 2005, the Government should build up the collective consultation system, harmonize the benefits of the enterprises and the workers to increase the stability of the employment of the workers in instances where the enterprises reduces the staff;</p> <p>(3) under the Main Point of the Labour and Social Security Work in 2006, the Government focuses on extending or signing once again collective contracts, extend the coverage of the collective contract, make great efforts to promote the regional collective consultation with middle and small non-stated-owned enterprises, advances the collective consultation on the labour standards on wages distribution, working time, labour quota and so on; and</p> <p>(4) under the Circular on Further Resolving the Problem of the Wages in arrears for the Migrant Workers from the rural areas, which was issued on 2 September 2005, the Government would guide and promote the enterprises, especially those recruiting more migrant workers from the rural areas to develop the collective consultation on wages, guarantee systematically the legal rights of increasing wages of the migrant workers. And the Government would develop actively the region and industry collective consultation on wages, set up and improve the normal mechanism of increasing and adjusting the wages, and ensure that migrant workers share the outcomes of the reforming and developing of the enterprises.</p> <ul style="list-style-type: none"> <li>- The CEC stated that it is carrying out a pilot programme on collective contracts and collective consultations on wages in the developing district of Dalian City, Liaoning Province.</li> <li>- The ACFTU held a national meeting on promoting and organizing trade unions in the foreign enterprises on 30 March 2006; passed the Provisional Regulation on Enforcing the Work of Trade Unions in the enterprises on 6 July 2006; involved in the supervision of implementing the Labour Law in 2005.</li> <li>- The ACFTU held a training course on the International Labour Standards and Collective Bargaining with ILO; held one training course for collective bargaining trainers.</li> </ul> <p><b>2003-2005 ARs:</b> According to the Government: Specific measures have been implemented to promote and realize the PR in the</p>		

		<p>country: (i) training of other government officials; (ii) capacity building for employers' and workers' organizations; (iii) awareness-raising/advocacy.</p> <p><b>2002 AR:</b> The Government thanked the ILO for assisting the ACFTU by training for wage negotiators and the CEC (Chinese Entrepreneurs' Association, Chinese Enterprises' Federation) by undertaking a national survey on the role of employers' associations in tripartism.</p> <p><b>2000 AR:</b> According to the Government: The ILO and CEC jointly organized a seminar on skills for conducting collective bargaining, a training course on industrial relations, seminars on labour legislation and practice in China, and a training course on collective bargaining; other projects have been jointly organized by the ILO and the ACFTU, including a seminar on collective bargaining and collective contracts, two tours respectively to Asian and European countries to study the issue of industrial relations, a trainers' course on collective bargaining and collective contracts, a training course on training material for collective bargaining, and a trainers' course on wage negotiation.</p> <p>– The ACFTU made many efforts to promote the establishment of trade unions, focusing its attention on the organization of trade unions in foreign-capital enterprises and private enterprises.</p>	
	<b>Special initiatives/ Progress</b>	<b>2005 AR:</b> According to the Government: The adoption of the Regulations on Collective Contracts in May 2004 can be considered as a major change regarding this PR.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL
		<b>Workers' organizations</b>	<b>2000-2005 and 2007 ARs:</b> According to the ICFTU: (i) there is no freedom of association in China; (ii) only one trade union is recognised, the All China Federation of Trade Unions (ACFTU) and all unions must be under its leadership; (iii) ACFTU actively promotes the view of the Party and Government that any unauthorised workers' action may lead to "social unrest and chaos"; (iv) China's first ever unified national Labour Code is often ignored by enterprise managers and enforcement by the authorities is minimal; (v) The Trade Union Act does not mention the right to strike; (vi) Strikers and organizers can be detained or sent to forced labour camps; (vii) In February 2001, China ratified the International Covenant on Economic, Social and Cultural Rights, but announced at the same time that provisions guaranteed under Art. 8(1) (a) of the Covenant, namely the right to establish and join workers' organisations of one's own choosing, would be dealt with in accordance with Chinese law; (viii) there are no laws governing collective bargaining, but only regulations on collective contracts; (ix) however, progress is being made in terms of dispute resolution in China.
	<b>According to the Government</b>	<p><b>2003-2005 ARs:</b> According to the Government: The main difficulties encountered in China in realizing the PR are lack of capacity of responsible government institutions and the lack of capacity of employers' and workers' organizations.</p> <p><b>2000, 2002 ARs:</b> In response to the ICFTU's comments, the Government raised the following observations: (i) China has always been committed to the protection of workers' fundamental interests and rights and has fulfilled its reporting obligations as regard the Follow-up to the Declaration; (ii) given that the follow-up should not constitute a complaint-based procedure nor a double scrutiny practice, the Government would not make any observations on the substance of the communication from the workers' organization.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the Government: Needs for ILO technical cooperation to facilitate the realization of the PR in the country exist in particular for legal reform and training.</p> <p><b>2005 AR:</b> According to the Government: Needs for ILO technical cooperation to facilitate the realization of this PR in the country exist in particular in the following areas, in order of priority: (1) strengthening capacity of employers' and workers' organizations; and</p>	

		(2) sharing of experiences across countries/regions.
	<b>Offer</b>	ILO
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2005 AR:</b> The ILO Expert-Advisers (IDEAs) commended China for its continuing dialogue with the Office and hoped that the positive measures taken would be expanded upon (paragraph 12 of the 2005 Annual Review Introduction).</p> <p><b>2003 AR:</b> The IDEAs commended China for requesting the ILO's technical cooperation, through the Annual Review process (paragraph 4 of the 2003 Annual Review Introduction).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**BASE DE REFERENCE PAR PAYS AU TITRE DE L'EXAMEN ANNUEL DE LA DECLARATION DE L'OIT (2000-2007)<sup>1</sup>: GUINEE-BISSAU**

***LIBERTE D'ASSOCIATION ET RECONNAISSANCE EFFECTIVE DU DROIT DE NEGOCIATION COLLECTIVE (LANC)***

<b>SOUSSION DES RAPPORTS</b>	<b>Accomplissement de l'obligation de rapport par le gouvernement</b>	<b>OUI</b> , sauf pour les examens annuels (EAs) de 2001, 2004 et 2006.	
	<b>Implication des organisations d'employeurs et de travailleurs dans l'élaboration des rapports</b>	<b>OUI</b> , implication positive et active de la Chambre du Commerce, de l'Industrie et de l'Agriculture (CCIA), de l'Association des syndicats indépendants (CGSI/GB), ainsi que de l'Union nationale des travailleurs de Guinée-Bissau (UNTGB) par voie de communication des rapports gouvernementaux.	
<b>OBSERVATIONS DES PARTENAIRES SOCIAUX</b>	<b>Organisations d'employeurs</b>	RAS	
	<b>Organisations de travailleurs</b>	<b>EA 2007:</b> Observations de la Confédération internationale des syndicats libres (CISL)	
<b>EFFORTS ET PROGRES ACCOMPLIS DANS LA REALISATION DU PRINCIPE ET DROIT</b>	<b>Ratification</b>	<b>Etat des ratifications</b>	<b>La Guinée-Bissau a ratifié en 1977 la convention (n° 98) sur le droit d'organisation et de négociation collective, 1949 (C.98). Toutefois, elle n'a pas encore ratifié la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948 (C.87)</b>
		<b>Intention de ratification</b>	<b>OUI, depuis 2002, pour la C.87.</b> <b>EA 2007:</b> Le gouvernement a déclaré que la ratification de la C.87 demeurait une préoccupation fondamentale.  <b>EA 2003:</b> Le gouvernement a indiqué que la ratification de la C.87 avait été soumise à l'approbation de l'Assemblée Nationale.  <b>EA 2002:</b> Le gouvernement a indiqué qu'il se préoccupait et qu'il s'efforçait de reprendre le processus de ratification de la C.87.

<sup>1</sup> La base de référence par pays au titre de l'Examen annuel de la Déclaration est fondée sur les éléments suivants, dans la mesure de leur disponibilité: rapports des gouvernements, observations des organisations d'employeurs et de travailleurs, études de cas préparés sous le parrainage du pays et du BIT, ainsi que les observations/recommandations formulées par les Experts-conseillers sur la Déclaration et le Conseil d'Administration.

<b>EFFORTS ET PROGRES ACCOMPLIS DANS LA REALISATION DU PRINCIPE ET DROIT</b>	<b>Reconnaissance du principe et droit (perspective(s), moyens d'action, dispositions juridiques principales)</b>	<b>Constitution</b>	<b>OUI</b> , La liberté d'association est garantie par les articles 45 et 47 de la Constitution.		
		<b>Politique, législation et/ou réglementation</b>	<b>Législation:</b> La législation nationale reconnaît la liberté d'association notamment par la loi n° 8/91 du 3 octobre 1991; le droit de grève est reconnu par la loi n° 9/91 du 3 octobre 1991; et le droit de négociation collective est reconnu par les articles 164 et suivants de la loi générale du travail.		
		<b>Dispositions juridiques principales</b>	(i) Constitution (articles 45 et 47); (ii) loi générale du travail (articles 164 et suivants); (iii) loi n° 8/91 du 3 octobre 1991; et (iv) loi n° 9/91 du 3 octobre 1991.		
		<b>Décisions judiciaires</b>	RAS		
	<b>Exercice du principe et droit</b>	<b>Au niveau national (entreprise, secteur/industrie, national)</b>	<b>Pour les employeurs</b>	L'autorisation ou l'approbation du gouvernement n'est pas nécessaire pour constituer une organisation d'employeurs ou pour conclure des conventions collectives. Tous les employeurs peuvent exercer la liberté d'association et le droit de négociation collective dans le cadre de l'entreprise, du secteur ou de l'industrie, ainsi qu'au niveau national (et international).	
	<b>Exercice du principe et droit</b>	<b>Au niveau national (entreprise, secteur/industrie, national)</b>	<b>Pour les travailleurs</b>	L'autorisation ou l'approbation du gouvernement n'est pas nécessaire pour constituer une organisation de travailleurs ou pour conclure des conventions collectives.  La liberté d'association et le droit de négociation collective peuvent être exercés dans le cadre de l'entreprise, du secteur ou de l'industrie, ainsi qu'au niveau national (et international) par les catégories suivantes de personnes: (i) médecins; (ii) enseignants; (iii) travailleurs agricoles; (iv) travailleurs domestiques; (v) travailleurs des zones franches (ZFE) ou des entreprises/industries assimilées; (vi) travailleurs migrants; (vii) travailleurs de tout âge; et (viii) travailleurs de l'économie informelle.  Tous les travailleurs du service public peuvent exercer le droit de négociation collective; toutefois, les militaires, la police et le corps paramilitaire ne peuvent exercer la liberté d'association.	
			<b>Attention spéciale accordée à des situations particulières</b>	<b>EAs 2002 et 2007:</b> Selon le gouvernement: les femmes.	
			<b>Collecte et diffusion d'informations et/ou de données</b>	<b>EA 2007:</b> Le gouvernement a indiqué qu'il avait demandé aux partenaires sociaux des informations et statistiques, mais en vain.  <b>EA 2000:</b> Selon le gouvernement: des statistiques sur le nombre de syndicats sont disponibles, à l'exception du secteur non structuré.	
			<b>Au niveau international</b>	Selon le gouvernement: il n'existe aucune restriction particulière pour l'affiliation des organisations d'employeurs ou de travailleurs au niveau international.	
	<b>Mécanismes de contrôle, mise en œuvre et/ou sanctions</b>	<b>EAs 2002 et 2007:</b> Selon le gouvernement: les dispositifs mis en place pour garantir le respect de la liberté d'association et du droit de négociation collective sont l'inspection du travail et les autres mécanismes de contrôle. En cas de non-respect du principe et droit (PED), il y a en général recours à la conciliation et à la médiation. En cas d'échec, des procédures judiciaires concernant la réparation ainsi que des sanctions civiles, administratives ou pénales sont prévues.			

	<b>Implication des partenaires sociaux</b>	<b>EA 2003:</b> Selon le gouvernement: il y a un examen tripartite des questions à l'ordre du jour.	
	<b>Activités promotionnelles</b>	<b>EA 2003:</b> Selon le gouvernement: le renforcement des capacités des organisations des travailleurs ainsi que des activités de sensibilisation/mobilisation sont effectués.	
	<b>Initiatives spéciales/Progrès</b>	<b>EA 2002:</b> La création d'une nouvelle organisation d'employeurs: la Chambre du Commerce, de l'Industrie et de l'Agriculture (CCIA).	
<b>DIFFICULTES DANS LA REALISATION DU PRINCIPE ET DROIT</b>	<b>Selon les partenaires sociaux</b>	<b>Organisations d'employeurs</b>	RAS
		<b>Organisations de travailleurs</b>	<b>EA 2007:</b> Selon la CISL: Le gouvernement n'a cessé d'harcéler les dirigeants de l'Union nationale des travailleurs de Guinée (UNGT) du fait de leurs appels à la grève.
	<b>Selon le gouvernement</b>	<b>EA 2002:</b> Selon le gouvernement: Il existe des difficultés dans la mise en œuvre de réformes juridiques visant à promouvoir le PED.	
<b>COOPERATION TECHNIQUE</b>	<b>Demande</b>	Le gouvernement souhaiterait une coopération technique du BIT dans les domaines suivants: 1) Renforcement du dialogue tripartite, renforcement des capacités des organismes gouvernementaux responsables, échange d'expériences entre pays ou régions; 2) évaluation en coopération avec le BIT des difficultés constatées et de leurs incidences sur la mise en œuvre de la pratique, formation des fonctionnaires d'autres services, renforcement des capacités des organisations d'employeurs, renforcement des capacités des organisations de travailleurs; 3) mise en œuvre de sensibilisation, initiation juridique et mobilisation, renforcement de la collecte de données et de l'aptitude à tenir et analyser des statistiques.	
	<b>Offre</b>		
<b>OBSERVATIONS/ RECOMMANDATIONS DES EXPERTS- CONSEILLERS</b>	<b>EA 2003:</b> Les experts- conseillers de la Déclaration notent avec satisfaction que le gouvernement de la Guinée-Bissau a souligné qu'il est nécessaire de renforcer les capacités des organisations de travailleurs et d'employeurs et qu'il sollicite l'aide du BIT à cet effet. Le Bureau devrait mobiliser ses ressources aussi rapidement que possible, sous réserve naturellement que le renforcement envisagé ne concerne pas des structures de syndicat unique imposé ou des organisations d'employeurs. A la lumière des demandes faites par la Guinée-Bissau qui a sollicité la coopération du BIT pour l'évaluation des difficultés et leur incidence sur la réalisation des principes et droits de la liberté d'association et la négociation collective, ils souhaiteraient que le Conseil d'administration demande que des contacts de haut niveau soient pris immédiatement entre le Bureau et deux ou trois pays qui ne bénéficient pas encore de projets techniques du BIT dans ce domaine (paragraphe 73 et 74 de l'Examen annuel de l'Introduction de 2003).		
<b>OBSERVATIONS/ RECOMMANDATIONS DU CONSEIL D'ADMINISTRATION</b>	RAS		

**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: INDIA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Reviews (ARs) in 2000 but no change report for the 2007 AR.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Council of Indian Employers; Employers' Federation of India; All India Organisation of Employers; Standing Conference of Public Enterprises; All India Manufacturers' Organisation (Lagdhu Udyog Bharati-AIMO); Bharatiya Mazdoor Sangh; Indian National Trade Union Congress (INTUC); Centre of Indian Trade Unions (Hind Mazdoor Sabha-HMS); All India Trade Union Congress (AITUC); United Trade Union Congress; and National Front of Indian Trade Unions through communication of Government's report.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by AIMO. <b>2003 AR:</b> Observations by AIMO.
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the AITUC Observations by HMS. Observations by INTUC. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the ICFTU. <b>2005 AR:</b> Observations by AITUC. Observations by the ICFTU. Observation by HMS. <b>2004 AR:</b> Observations by AITUC. Observations by HMS. Observations by the ICFTU. <b>2003 AR:</b> Observations by AITUC. Observations by HMS. Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU.

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

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	India has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87), nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).	
		Ratification intention	<p><b>Unable to ratify C.87 and C.98</b></p> <p><b>2007 AR:</b> According to HMS and INTUC: Ratification of all the remaining unratified fundamental Conventions is supported by all trade unions of India.</p> <p><b>2006 AR:</b> The Government indicated that ratification of C.87 and C.98 would involve granting certain rights that are prohibited under the statutory rules for government employees, namely the right to strike and criticize openly government policies, the right to accept freely financial contribution, the right to join freely foreign organizations, etc. Since there is no change in the basic policy of the Government of India, it reiterates its stand that it is not possible to ratify these two Conventions.</p> <p><b>2000 AR:</b> The Government indicated that it was unable to consider ratification of the two Conventions due to a problem of a “technical nature” relating to restrictions placed on the rights of government officials in Indian legislation.</p>	
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	<b>YES</b> Under article 19(1)(c), the 1950 Constitution provides that: “All citizens have the right to form associations or unions”.	
		Policy/ Legislation and/or regulations	<ul style="list-style-type: none"> <li><b>Legislation</b></li> </ul> <p><b>2000–2005 ARs:</b> The Trade Unions Act, 1926, allows industrial workers to form trade unions. The Industrial Disputes Act, 1947, recognizes agreements between employers and workers.</p> <p><b>2002 AR:</b> The Trade Unions Act was amended in 2002 to provide that a trade union can be registered only if there is a minimum of 100 members or 10 per cent of the workforce, subject to a minimum of 7 workers members, whichever is less, per establishment or industry.</p>	
		Basic legal provisions	(i) The 1950 Constitution, article 19(1)(c); (ii) the 2002 Trade Unions Act, 2002; (iii) the Trade Unions Act, 1926; and (iv) the Industrial Disputes Act, 1947.	
		Judicial decisions	<b>2000 AR:</b> According to the Government: The highest courts of India and the courts have upheld the constitutionality and reasonableness of the restrictions imposed on freedom of association for government officials.	
	EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Exercise of the principle and right	At national level (enterprise, sector/industry, national)	For Employers
For Workers				<b>2006 AR:</b> According to the Government: The workers in India are enjoying the rights and protection envisaged under C.87 and C.98.

				<p>However, government servants are treated as a separate category and they have an exceptionally high degree of job security flowing from article 311 of the Constitution. Government servants are not allowed to form trade unions.</p> <p><b>2003 AR:</b> Government authorization/approval is not required to establish a workers' organization, or to conclude collective agreements. Freedom of association and the right to collective bargaining can be exercised at enterprise, sector/industry, national and international levels by the following categories of persons: medical professionals; teachers; agricultural workers; workers engaged in domestic work; workers in export processing zones (EPZs) or enterprises/industries with EPZ status; migrant workers; workers of all ages; and workers in the informal economy. However, persons employed in the armed forces, paramilitary forces, police service and prison, cannot exercise this principle and right (PR). Nonetheless, there is as yet no central law that enables trade unions a regular recognition, but many state governments have enacted such laws, in the context of the multiplicity of trade unions or for the purpose of collective bargaining.</p>
			<p><b>Special attention to particular situations</b></p>	NIL
			<p><b>Information, data collection and dissemination</b></p>	<p><b>2003 AR:</b> According to the Government: Data are available on the number and membership of registered employers' and workers' organizations (not disaggregated by sex), and on the numbers of disputes received by, disposed of and or pending before the Industrial Tribunals.</p>
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2006 AR:</b> According to the Government: Government servants have the facility of negotiation machinery under Joint Consultative Machinery and Administrative Tribunals for the redressal of their grievances.</p> <p><b>2003-2005 ARs:</b> According to the Government: The following measures have been implemented or are envisaged to promote the PR: (i) legal reform, (ii) inspection/monitoring mechanisms, (iii) penal sanctions, (iv) civil or administrative sanctions; and (v) special institutional machinery.</p> <p><b>2001 AR:</b> According to the Government: A joint team, comprising State Labour Departments, the Central Government's Labour Ministry and representatives of trade unions of the EPZs, has been inspecting the industrial units in EPZs regularly to assess and improve the conditions of workers. A special task force and crash programmes of inspection have been established by the Government to implement the labour laws in the unorganized sectors.</p> <p><b>2000 AR:</b> According to the Government: The legislation provides for dispute settlements before conciliation officers.</p>		
	<p><b>Involvement of the social partners</b></p>	<p><b>2005 AR:</b> According to the Government: A meeting of the tripartite Indian Labour Conference was convened in October 2003.</p> <p><b>2003 AR:</b> According to the Government: A meeting of the tripartite Standing Labour Committee (SLC) was convened in May 2002.</p>		

	<b>Promotional activities</b>	<p><b>2003 and 2005 ARs:</b> According to the Government: The following measures have been implemented or are envisaged to promote the PR: (i) capacity building of responsible government officials and (ii) capacity building for employers' and workers' organizations.</p> <p><b>2000 AR:</b> According to the Government: Efforts are underway to educate and motivate employers and workers to have a collective approach to resolution of disputes and differences.</p>	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Special initiatives/Progress</b>	<p><b>2003 AR:</b> According to the Government: In the coal industry, a strike notice given by many representatives of the Central Trade Union Organizations (CTUOs) had given, the conciliation machinery invited the trade unions for conciliatory talks. A settlement was reached and the strike averted.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2003 AR:</b> According to the AIMO: The establishment of an employers' organization is subject to the Labour Department's scrutiny.</p>
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> According to the ICFTU: (i) the Trade Union Act does not apply in Sikkim where workers do not enjoy trade union rights; (ii) the Delhi State has exempted EPZs from most labour legislation and there is a ban on the formation of trade unions; (iii) employers have a hostile attitude towards trade unions which discourages workers from organizing.</p> <p><b>2006 and 2007 ARs:</b> The ICFTU reiterated the challenges it raised in its earlier observations: (i) concerning freedom of association, there are legal and practical barriers to the setting up of trade unions (informal economy, agricultural sector...) and strong restrictions on the right to strike (especially in Tamil Nadu), which is forbidden to government employees following a High Court Ruling; (ii) concerning the right to collective bargaining, there is no legal obligation for an employer to recognize a union or engage in collective bargaining. In the absence of a statutory right to collective bargaining, employers are frequently reluctant to negotiate, and in particular refuse to negotiate with the unions of the workers' choice. Many restrictions on the exercise of this right are imposed in the public service, the construction and ship breaking industries and Export-Processing Zones (EPZs).</p> <p><b>2005 AR:</b> According to the ICFTU: Severe restrictions on trade union rights exist in the construction and ship-breaking industries. In the State of Tamil Nadu, a large number of public services are included in the legislative definition of "essential services", hence severely limiting the right to strike.</p> <p><b>2003 and 2005 ARs:</b> According to the ICFTU: (i) trade unions experience considerable challenges in organizing the vast majority of workers (93%) that operate in the informal economy; (ii) particular problems exist among workers in the public sector, millions of home-based workers (specially women) and among workers in Export-Processing Zones (EPZs); tea plantations and in the State of Sikkim; (iii) trade unions are pressured to enter into 10-year collective agreements, rather than the usual 5 years; (v) and many labour disputes are unresolved.</p> <p><b>2003 AR:</b> According to the HMS: (i) the right to collective bargaining does not exist, in practice in the informal economy where the relationships between employer and worker is difficult and where only individual bargaining exists; (ii) EPZs are exempted from labour laws, (iii) in practice, workers in EPZs do not enjoy the right to organize and to bargain collectively.</p> <p><b>2003 AR:</b> According to the AITUC: The main difficulties encountered in the realization of the PR are: (i) lack of public awareness/support; (ii) social and economic circumstances; (iii) legal provisions in some cases; (iv) prevailing employment practices; (v) lack of capacity of employers' and workers' organizations</p>

			and (vi) lack of social dialogue on this PR. The AITUC further observes that certain States (e.g. Tamil Nadu and Kerala) have enacted legislation to prohibit strikes by government employees.
	<p><b>According to the Government</b></p>	<p><b>2007 AR:</b> In response to the ICFTU’s observations, the Government made the following comments: (i) the right to form associations is a fundamental right, and workers can establish or join unions of their own choosing; (ii) a registered trade union can represent its workers and seek redressal of the grievances of the concerned workers; (iii) under the Trade Unions Act, 1926, a trade union can be registered if it has a minimum of seven members. In bigger establishments, the unions are required to have a minimum of 10 or 100 workers whichever is less for becoming eligible for registration. The Government considers this requirement legitimate as it promotes orderly growth of trade unions and reduces their multiplicity; (iii) the provision relating to strike notice is considered essential to enable the Government to intervene and avert a strike in public utility services. This is to ensure that people at large are not affected adversely. Moreover, the requirement of giving a prior strike notice is not necessary in the industrial establishment, which is not a public utility service; (iii) even though the Essential Services Maintenance Act (ESMA) enables the State Governments to ban strikes in certain essential industries, a legal mechanism exists for challenging a decision taken under this Act; (iv) government employees who are workers under the Industrial Disputes Act, 1947, do not have any restriction on their right to organize and collective bargaining. Government employees who are not workers under the Industrial Disputes Act are governed by the Central Civil Services Rules, which impose reasonable restrictions on government employees in associating themselves with organizations, which are generally connected with political parties. They, however, enjoy job security under article 309 of the Constitution and also have the facility of negotiation machinery under the Joint Consultative Machinery (JCM). The grievances of these employees can also be redressed through the administrative tribunal; (v) the Trade Unions Act, 1926 is yet to be extended to the State of Sikkim, an industrially backward State. The State Government is extending the labour laws, which are required from time to time; (vi) all labour laws as enforced by the State Governments are equally applicable to Special Economic Zones (SEZ) and Export Processing Zones (EPZ).</p> <p><b>2006 AR:</b> According to the Government: Unionization of Government servants in India, as provided for in the Conventions, is not possible because of the highly politicized trade union system of the country.</p> <p><b>2005 AR:</b> According to the Government: The main difficulties encountered in realizing the PR in India are as follows: (i) lack of public awareness and/or support; (ii) lack of data; social and economic circumstances; (iii) political situation; (iv) prevailing employment practices; and (v) lack of capacity of employers’ and workers’ organizations (partly).</p> <p><b>2003 AR:</b> In response to the AIMO’s observations, the Government denied the fact that establishment of an employers’ organization was subject to the Labour Department’s scrutiny.</p> <p>In response to the ICFTU’s observations, the Government made the following comments: (i) the unions agreed to a ten-year collective agreement because the terms were beneficial to them; (ii) increasing number of cases reflects the transparent nature of the labour dispute settlement system and efforts are being made to avoid delay in backlog of unresolved cases in the specialized labour courts; (iii) the amended 2001 Trade Union Act provides that a union has to represent a minimum of hundred (100) workers or ten (10) per cent of the workforce in order to be registered, which is quite reasonable in the Indian context; (iv) the Government is currently carrying out a proposal for the amendment of the 1970 Contract Labour (Regulation and Abolition) Act; (v) the law on trade unions does not apply in the State of Sikkim; (vi) there is no restriction on the Export-Processing Zones (EPZs)/Special Economic Zones (SEZs), which are considered as essential services by certain State government; (vii) the right to strike is defined under the 1981 Essential Services Maintenance Act (ESMA); (vi) registered trade unions are recognized under the Code of Discipline; (vii) the Government appreciates the ICFTU’s conclusion that India has a reasonable record of trade union rights in the formal economy and that trade unions can generally operate in a non-hostile environment.</p> <p><b>2000 and 2003 ARs:</b> In response to the ICFTU’s observations, the Government made the following comments: (i) the 1950 Constitution (article 19 (1) ©), the national laws and practices are by and large in conformity with ILO Convention No. 87 and No. 98; (ii) however, India could not ratify these two Conventions due to a problem of a “technical nature” related to restrictions on the rights of freedom of association and collective bargaining for government officials.</p>	

<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2000 AR:</b> In response to the ICFTU's observations, the Government made the following comments: (i) agricultural and contractual workers have the right to organize and bargain collectively in India; (ii) however, there are major obstacles as to their effective unionisation due to the fact that most operate in the informal economy; (iii) the Labour Laws neither make any distinction between Export-Processing Zones (EPZs) and other areas nor between workers in these zones and other sectors.</p> <p><b>2007 AR:</b> According to the AITUC: ILO technical cooperation is required in cooperation with the Government with a view to strengthen the capacity building of the government and the employers' and workers' organizations in promoting and realizing the PR, rather than supporting the NGOs.</p> <p><b>2005 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of this PR in India, in particular in the following areas in order of priority: (1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; sharing of experiences across countries/regions; capacity building of responsible government institutions; training of other officials (police, judiciary, social workers, teachers); strengthening tripartite social dialogue; training of officials dealing with labour law enforcement/administrative; (2) strengthening capacity of workers' and employers' organizations; legal reform (labour law and other relevant legislation); awareness raising, legal literacy and advocacy; and (3) strengthening data collection and capacity for statistical analysis.</p>
	<b>Offer</b>	NIL
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed India among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 Annual Review Introduction).</p> <p><b>2003 AR:</b> The IDEAs were encouraged to see the Government of India pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help. In light of requests by India for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field. (paragraphs 73 and 74 of the 2003 Annual Review Introduction).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	

**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: IRAN, ISLAMIC REPUBLIC OF**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of Iran's Confederation of Employers' Associations (ICEA) and the Iran Confederation of Islamic Labour Conference (ICILC) through communication of government reports and tripartite meetings on reporting issues.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the ICEA.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the ICILC. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the ICFTU. <b>2000-2005 ARs:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Iran has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>Yes, since 2002, for C.87 and C.98.</b>  <b>2007 AR:</b> The Government stated that the feasibility study on the possibility of ratification of C.87 and C.98 was still under way. The ICILC expressed its support for ratification of C.87 and C.98 by the Islamic Republic of Iran  <b>2006 AR:</b> According to the Government: The Government and the social partners request ILO technical assistance in the ratification process. A feasibility study on the possibility of ratification of C. 87 and C.98 is being carried out. Workers' organizations support the ratification of these two Conventions, but employers' organizations do not.  <b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government intended to

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

			ratify C.87 and C.98.		
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> The 1989 Constitution (article 26) provides for freedom of assembly and association.		
		<b>Policy/legislation and/or regulations</b>	<b>Legislation: 2005 AR:</b> The 1990 Labour Code and its amendments relate to the principle and right (PR). Legal reform is in process since 2003 in cooperation with the ILO.		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, basic provisions)</b>	<b>Basic legal provisions</b>	(i) The 1989 Constitution (article 26); (ii) the Labour Code (sections 139-146); and (iii) the Agreement of 24 December 2001.		
		<b>Judicial decisions</b>	NIL		
		<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2003-2005 ARs:</b> According to the Government: Prior government authorization is necessary to operate employers' organizations and to conclude collective agreements. All categories of employers can establish their organizations.
	<b>For Workers</b>	<b>2003-2005 ARs:</b> According to the Government: Prior government authorization is necessary to operate workers' organizations and to conclude collective agreements. The principle and right can be exercised by all categories of workers, except military and the police, migrant workers, workers in the public service, workers in the informal economy and establishments with less than ten employees.			
	<b>Special attention to particular situations</b>	<b>2003-2004 ARs:</b> According to the Government: Religious minorities and certain specific industry/sectors. Special attention to women is envisaged.			
	<b>Information/Data collection and dissemination</b>	NIL			
		<b>At international level</b>	According to the Government: There are no particular restrictions for the international affiliation of employers' and workers' organizations.		
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2002- 2003 ARs:</b> According to the Government: When the PR has not been respected, section 178 of the Labour Code provides for penalties ranging from fines to imprisonment. The PR is enforced through training and supervision, law, collective agreements, free dispute settlement procedures and tripartite consultations at all levels.</p> <p><b>2000-2002 ARs:</b> According to the Government: In instances where the PR is not respected, the Minister of Labour shall only provide guidance to members with grievances and ensure that the matter is dealt with in accordance with the appropriate legal procedures.</p> <p><b>2000-2002 ARs:</b> According to the Government: Employers' and workers' organizations can submit to the Ministry of Labour and Social Affairs, observations and suggestions on legal issues and the implementation of regulations. Their suggestions and observations, after being thoroughly examined by the relevant committee are submitted to the Islamic Consultative Assembly of the Council of Ministers.</p>			

	<b>Involvement of the social partners</b>	<b>2005 AR:</b> According to the Government: Employers' and workers' organizations have been involved in the task force to review national labour laws and harmonize them with the provisions of ILO fundamental labour Conventions.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Promotional activities</b>	<b>2007 AR:</b> According to the Government: Some amendments are being made to the Labour Code to promote employers' and workers' organizations' rights and their multiplication through free and democratic ways. Moreover, the Government is creating strengthened, flexible and responsible labour institutions as well as raising public awareness for the promotion of the PR in the country.  <b>2001-2002 ARs:</b> According to the Government: Government officials and social partners have been trained on labour standards.	
	<b>Special initiatives/Progress</b>	<b>2005 AR:</b> According to the Government: The decision to allow the free establishment of associations.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL
		<b>Workers' organizations</b>	<b>2000-2007 ARs:</b> According to the ICFTU: (i) There are still no independent trade unions, and only one workers' organization is authorized by the Government; (ii) since January 2003, most workers are unprotected by the Labour Law, including the right to organize; (iii) the Labour Legislation does not apply in Export-Processing Zones (EPZs); (iv) the 1990 Labour Code focuses on Islamic societies and associations and prohibits independent trade organisations, (v) an amendment to the Labour Code in 2003 allows workers to form and join so called "trade unions", without prior authorization, but the Ministry of Labour determines their rights and responsibilities; (vi) obstacles to organizing include the presence of security and intelligence forces in workplaces, and the increasing trend towards temporary contracts; (vii) trade unions' rights are denied, although there has been more tolerance for workers' organizations; (viii) despite the ban on strikes, there have been numerous protests and work stoppages in recent years; and (ix) all collective agreements have to be submitted to the Ministry of Labour for examination and approval.
	<b>According to the Government</b>	<b>2007 AR:</b> In response to the ICFTU's observations, the Government indicated that some amendments were being made to the Labour Code to promote employers' and workers' organizations' rights and their multiplication through free and democratic ways, irrespective of the latter's affiliation to the Workers' House as a political party.  <b>2001-2005 ARs:</b> According to the Government: the main difficulties encountered in realizing the PR in Iran are as follows: (i) lack of public awareness and/or legal support; (ii) lack of information and data; (iii) social and economic circumstances; (iv) political situation; (v) legal provisions; (vi) prevailing employment practices; (vii) lack of capacity of responsible government institutions; (viii) lack of employers' organizations; (ix) lack of capacity of workers' organizations; and (x) lack of social dialogue on the PR.  <b>2005 AR:</b> In response to the ICFTU's comments, the Government made the following observations: (i) Chapter VI [on workers' and employers' organizations] of the current Labour Code is being revised and amended to ensure compliance of national legislation with ILO Conventions No. 87 and No. 98; (ii) serious and meaningful national tripartite consultations are being held by the Government with ILO technical assistance in this respect; and (iii) the Ministry of Labour and Social Affairs will continue to cooperate fully and directly with the ILO to strengthen the PR.	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<b>2007 AR:</b> The Government reiterated its request for ILO technical cooperation in the areas mentioned under the 2005 AR, and with a priority given to amendments made to the labour laws and capacity building of employers' and workers' organizations. The ICEA and the ICILC requested ILO technical cooperation for training on freedom of association and collective bargaining techniques and the promotion of the fundamental principles and rights at work.  <b>2005 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Iran exist in the following areas, in order of priority: (1) assessment in collaboration with the ILO of the difficulties identified and their implication for	

		realizing the principle and right, strengthening data collection and capacity for statistical analysis; strengthening social dialogue; Sharing of experiences across countries/regions; capacity building of responsible government institutions; strengthening capacity of employers' and workers' organizations; awareness-raising, legal literacy and advocacy; strengthening tripartite social dialogue; and (2) legal reform.
	<b>Offer</b>	ILO advisory services on freedom of association and collective bargaining issues
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) stated that the Office was following up on freedom of association and collective bargaining issues in Iran. In this respect, they noted with interest the information provided by the Islamic Republic of Iran under the Declaration follow-up (paragraph 22 of the 2005 AR Introduction).</p> <p><b>2003 AR:</b> In light of requests by the Islamic Republic of Iran for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, the IDEAs called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field. (paragraph 74 of the 2003 Annual Review Introduction).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: IRAQ**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, for the 2001, 2006 and 2007 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, According to the Government: Involvement of the Iraq Federation of Industries (IFI) and the Iraq Federation of Trade Unions (IFTU) through communication of Government's report and consultation.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the IFI. <b>2006 AR:</b> Observations by the IFI.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the IFTU. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the IFTU. Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Iraq ratified in 1962 the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98). However it has not yet ratified the Freedom of Association and the Protection of the Right to Organize Convention. 1948 (No. 87) (C.87).</b>
		<b>Ratification intention</b>	<b>YES, since 2001, for C.87.</b>  <b>2007 AR:</b> The Government indicated that ratification of C.87 would be submitted very soon to Parliament. The IFI and the IFTU support the ratification of C.87 by the Government.  <b>2006 AR:</b> According to the Government: Ratification of C.87 will be done after the adoption of the new Labour Code, which integrates the provisions of this Convention.  <b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.87.

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

	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<p><b>2007 AR:</b> According to the Government: Article 22 of the national Constitution, 2006, recognizes the principle of freedom of association.</p> <p><b>2006 AR:</b> According to the Government: A new Constitution will be submitted to referendum at the end of 2005. The draft text recognizes the principle and right (PR).</p>	
		<b>Policy/Legislation and/or Regulations</b>	<p><b>Legislation:</b></p> <p><b>2007 AR:</b> According to the Government: The draft Labour Code, currently under review with ILO technical cooperation, recognizes the PR.</p> <p><b>2006 AR:</b> According to the Government: A revised Labour Code drafted in cooperation with the social partners and the ILO has been submitted to Parliament for review and adoption. This draft text recognizes the PR.</p>	
		<b>Basic legal provisions</b>	(i) Article 22 of the national Constitution, 2006; (ii) Act No.52 on Trade Union Organizations (1989); (iii) Act No.43 on the Federation of Chambers of Commerce (1989); (iv) Act No.44 on the Union of Iraqi Industries (1989); (v) section 6, 116, 128, 147 of Act No. 71 of 1989; and (vi) sections 130 to 196 of the Labour Code.	
		<b>Judicial decisions</b>	NIL	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2001 AR:</b> According to the Government: Freedom of association and the right to establish employers' organizations are ensured by law.
	<b>For Workers</b>		<p><b>2006 AR:</b> According to the IFTU: The Government does not interfere in its activities and respects freedom of association.</p> <p><b>2001 AR:</b> According to the Government: Freedom of association and the right to establish workers' organizations are ensured by law.</p>	
	<b>Special attention to particular situations</b>		NIL	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>Information/Data collection and dissemination</b>	<b>2001 AR:</b> According to the Government: There is a lack of information and data concerning the PR.
		<b>At international level</b>	According to the Government: There are no particular restrictions for the international affiliation of employers' or workers' organizations.	
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2001 AR:</b> According to the Government: Labour legislation is implemented by labour inspection committees (section 16 of the Labour Code).		
	<b>Involvement of the social partners</b>	<p><b>2007 AR:</b> The IFI stated that it had been elected to the board of the Arab Labour Organization (ALO).</p> <p><b>2001 AR:</b> According to the Government: Section 116 (1) of the Labour Code provides that "Workers' and employers' organizations are represented on labour inspection committees entrusted with the proper implementation of the labour legislation".</p>		

	<b>Promotional activities</b>	<b>2007 AR:</b> According to the Government: Tripartite committees have been set up to ensure the realization of the PR.	
	<b>Special initiatives/Progress</b>	<b>2006 AR:</b> According to the Government: A draft Constitution and a draft Labour Code have been prepared that recognize the PR. The Government no longer interferes in employers' and workers' organizations activities.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2007 AR:</b> According to the IFI: The social and economic situation (economic crisis with more than 50 % unemployment rate and insecurity) makes it difficult to exercise the PR in Iraq.</p> <p><b>2006 AR:</b> The IFI mentioned that it wished to be consulted in the Government's decisions concerning economic and social issues.</p>
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> According to IFTU: The political and social situations in Iraq make it difficult to exercise the PR. The ICFTU raised the following challenges: (i) the new labour code drafted with input from the ILO has still not been implemented; (ii) Decree 875 gave the Government total control over the existing unions' finances, (iii) the fact that only one national trade union has been granted official recognition gives the opportunity to employers to refuse to acknowledge other unions in the workplace unless they join the IFTU; (iv) the Federation of Workers' Councils and Unions in Iraq (FWCUI) claims 300,000 members across Iraq, but has been denied recognition as a representative workers' organization, (v) many employers have reportedly used the existence of the old laws to threaten any workers seeking to take strike action in public enterprises.</p> <p><b>2006 AR:</b> The IFTU mentioned that it wished to be consulted in the privatization process. According to the ICFTU: (i) there were many encouraging signs of trade union activities among workers, but full freedom of association is not yet restored given that several national-level union other than the IFTU (for example the Federation of Workers' Councils and Unions in Iraq (FWCUI) are not officially recognized; (iii) given that old laws are still in force, there are many obstacles to trade union's rights, including the ban on organizing and the right to strike in the public sector only one trade union organization was given official recognition; (ii) strikes are banned in the public sector; (iii) workers trying to take strikes action are being threatened.</p> <p><b>2005 AR:</b> According to the ICFTU: (i) there are no offices to register trade unions and employers refuse to recognize unions on the ground that they are not registered</p> <p><b>2000-2002 ARs:</b> According to the ICFTU: (i) there is a single trade union structure through the GFTU that is controlled by the ruling Ba'ath Party; (ii) there are no unions for public sector workers and workers in state enterprises; (iii) severe restrictions exist on the right to strike, including the threat of imprisonment.</p>
	<b>According to the Government</b>	<b>2006 AR:</b> According to the Government: The main difficulty encountered in realizing the PR in Iraq is related to the political and security situation.	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the Government: ILO technical cooperation is necessary to strengthen capacity building of employers' and workers' organizations, labour inspection and social dialogue. According to the IFI: There is an urgent need for ILO technical cooperation to strengthen the capacity of employers' organizations on the PR. According to the IFTU: ILO should support trade unions' capacity building on the PR.</p> <p><b>2006 AR:</b> According to the Government: Given the negative effects of the war on the activity of the Ministry of Labour and Social Affairs and the employers' and workers' organizations, the Government needs ILO technical cooperation project to facilitate the realization of the PR in Iraq in the following areas, in order of priority: (1) capacity building of responsible government institutions and</p>	

		employers' and workers' organizations; (2) training of government officials and employers' and workers' organizations on the PR, in particular social dialogue and collective bargaining techniques; and (3) training of other officials (judiciary, social workers, teachers). The IFI and ICFTU requested special ILO assistance in capacity building.
	<b>Offer</b>	NIL
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: JORDAN**

***FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, but “no change” reports for the 2002 and 2004 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Jordan Chamber of Commerce (JCC), the Jordan Chamber of Industry (JCI) and the General Federation of Jordanian Trade Unions (GFJTU) by means of consultations and communication of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2006 AR:</b> Observations by the JCC. Observations by the JCI.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the GFJTU. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the GFJTU. Observations by the ICFTU. <b>2005 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Jordan ratified in 1968 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</b>

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

		<b>Ratification intention</b>	<p><b>YES, since 2002 for C.87.</b></p> <p><b>2006 AR:</b> According to the Government: Ratification of C.87 is still under consideration.</p> <p><b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government intended to ratify C.87.</p>	
<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<p><b>YES</b></p> <p>The 2002 Constitution (article XXIII, paragraph 2(f)) provides for the protection of labour by the State, and for enacting legislation based on the principle of “freedom of association within the law”.</p>		
	<b>Policy/ Legislation and/or Regulations</b>	<p>• <b>Legislation</b></p> <p><b>2007 AR:</b> According to the Government: It has established a tripartite committee to consider the amendments required on the Labour Code in compliance with international standards. The Ministry of Labour expects that the proceedings of this committee will be completed and that a final version of the draft amendments to the Labour Code will be submitted to the Parliament by the end of 2006. The amendments under discussion include several subjects, such as the right to organize and bargain collectively, the means of settlement of collective disputes and other questions concerning individual and collective relations. Moreover, some emerging gaps in the law will be addressed to cope with new developments in the national labour market.</p> <p><b>2000 AR:</b> The 1996 Labour Code relates to the principle and right (PR).</p> <p>• <b>Regulations</b></p> <p>Decree No. 2 of 1997 relates to the PR.</p>		
	<b>Basic legal provisions</b>	<p>(i) The 2002 Constitution (articles XXIII, paragraph 2(f); (ii) the Labour Code No. 98 of 1996; and (iii) Decree No. 2 of 1997.</p>		
	<b>Judicial decisions</b>	<p>NIL</p>		
<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<p><b>2003 AR:</b> Government authorization/approval is required for the registration of an employers’ organization.</p> <p>The principle and right (PR) can be exercised at enterprise, sector/industry and national levels.</p> <p>Only freedom of association can be exercised at international level by all categories of employers.</p>	

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Workers</b>	<p><b>2003-2005 ARs:</b> Government's authorization/approval is required for the registration of a workers' organization. The PR can be exercised at enterprise, sector/industry and national levels. Only freedom of association can be exercised at international level by the following categories of persons: medical professionals; workers in export processing zones (EPZs) or enterprises/industries with EPZs status; workers who have reached the age of 18 years; workers in the informal economy; teaching workers in the private sector. However, workers in the public service cannot exercise the PR. The same applies to agricultural workers and workers engaged in domestic work, since they are not subject to the provisions of the Labour Law. Migrant workers cannot exercise the right to freedom of association.</p> <p><b>2000 AR:</b> According to the Government: The Registrar of Trade Unions is required to take a decision concerning the registration of an organization within 30 days of the submission of the application. Once approved, he proceeds to register the organization, and to publish the registration in the <i>Official Gazette</i>. If rejected, founders of the proposed organization may appeal against his decision before the Supreme Court of Justice within 30 days of their being notified of the decision.</p>
			<b>Special attention to particular situations</b>	NIL
			<b>Information/Data collection and dissemination</b>	<b>2004 AR:</b> According to the Government: There are 43 employers' organizations and 17 trade unions.
		<b>At international level</b>	NIL	
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2006 AR:</b> According to the Government: The 2004 Labour inspection report recorded the following activities and measures: (i) advice and guidance to associations: 6,825 cases; (ii) warning to establishments: 918 cases; contraventions to Labour Code: 24,567 cases.</p> <p><b>2003-2005 ARs:</b> According to the Government: The following measures have been implemented to enforce and realize the PR: (i) legal reform Labour Code and other relevant legislation); (ii) inspection/monitoring; mechanisms; (iii) capacity building of responsible government officials; (iv) and capacity building for employers' and workers' organizations.</p> <p><b>2002 AR:</b> According to the Government: The 2001 labour report recorded the following activities and measures: (i) advice and guidance (15,042 cases); (ii) warning (2,198 cases); (iii) violations of the Labour Code referred to the competent courts (4,269 cases).</p>		
	<b>Involvement of the social partners</b>	<p><b>2006 AR:</b> According to the Government: Employers' and workers' organizations are participating in the National Commission labour laws review. They also take part in the social dialogue project carried out by the Government in cooperation with the ILO.</p> <p><b>2005 AR:</b> According to the Government: Consultations and dialogue have been held with all trade unions.</p> <p><b>2003-2004 ARs:</b> According to the Government: Tripartite discussions of issues have been implemented.</p>		

	<b>Promotional activities</b>	<b>2003-2004 ARs:</b> According to Government: Awareness raising/advocacy activities are envisaged.	
	<b>Special initiatives/ Progress</b>	<b>2006 AR:</b> According to the Government: A social dialogue project is being carried out in cooperation with the ILO and social partners includes capacity building of government institutions and employers' and workers' organizations.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> The GFJTU hoped that labour law review would take place with a view to allow improved trade unions' registration. According to the ICFTU: (i) the single trade union system is still in place; (ii) migrant workers still have no trade union rights; (iii) there is only one trade union federation; (iv) strikes are not legal but in practice, they are tolerated.</p> <p><b>2006 AR:</b> The GFJTU raised the following challenges: (i) Non-Jordanians are not allowed to join trade unions; (ii) the minimum number of members required for employers to set up their own organizations is 30, whereas workers have to number over 50 to be able to establish their own organizations.</p> <p><b>2000-2006 ARs:</b> The ICFTU raised the following challenges to freedom of association in Jordan: (i) the registration system through the Ministry of Labour and with one registered trade union per profession or sectors makes effective trade union pluralism impossible; (ii) all trade unions are affiliated to the GFJTU, and the Government subsidises and audits the GFJTU's salaries and activities and monitors the unions' elections; (iii) the Labour Code does not confer protection against anti-union discrimination; (iv) there are restrictions on the right to strike even though strikes are tolerated in practice; (v) public sector workers do not enjoy the rights to organize and the right to strike; (vi) civil servants, agricultural workers, domestic servants, gardeners and cooks are not covered by the Labour Code; (vii) over one million foreign workers are barred from trade union membership and the right to strike; even though some unions do not seek to represent their interests, there are not able to recruit them as members.</p>

	<p><b>According to the Government</b></p>	<p><b>2007 AR:</b> In response to the GFJTU’s observations, the Government indicated that registration was formal and there was no government interference in trade unions’ elections.</p> <p>In response to the ICFTU’s observations, the Government made the following comments: (i) a strike can take place before obtaining the prior permission of the Government. In this regard, section 135 of the Labour Code provides that “No worker shall go on strike without giving the employer, and not the Government, notice thereof at least fourteen days before the date set for the strike”. All strikes which take place in the country are applied in practice according to the rules provided by the law. The Ministry has never tried to oblige workers to give it notice of their strikes or to have its approval. On the contrary, it was always endeavouring to urge parties to abide by law, and in particular, that: workers give notice of the strike to the employer within the legally determined period; and employers inform workers of their intention to lock-out within the legally determined period for this purpose; (ii) section 97 of the Labour Code has given the workers in any occupation the right to establish their own trade union. Moreover, the classification and identification of groups of occupations and industries for the purpose of establishing trade unions representing their workers cannot be achieved without the agreement of the workers’ movement itself, according to section 98 of the Labour Code. The decision of the Registrar of Trade Unions concerning the registration of a trade union is associated with certain requirements mentioned in section 102 of the Labour Code, such as the submission of an application by the founding members accompanied by the statutes of the union and the election of the first administrative board. This means that his authority is limited rather than absolute. Furthermore, his decision to register a union or not is not deemed final since an appeal against that decision can be submitted to the Supreme Court by the founding members or by any person who has suffered damages. It is true that the General Federation of Jordanian Trade Unions (GFJTU) is the only existing Federation to date, but the law has given the trade unions the right to form other federations among themselves, without the approval of the Government (section 110 of Labour Code).</p> <p><b>2005 AR:</b> According to the Government: the main difficulties encountered in Jordan in realizing the PR in Jordan are as follows: (i) social; and (ii) economic circumstances and legal provisions.</p> <p><b>2000-2005 ARs:</b> In response to the GFJTU’s and ICFTU’s observations, the Government mentioned the following observations: (i) the role of trade unions in the Ministry of Labour is confined to formal registration and declaration of the registered trade unions; (ii) the Government does not intervene in the work or activities of workers’ and employers’ organizations; (iii) the establishment of a list of professions for the purpose of classifying trade union was done in consultation with workers’ representatives in order to avoid conflicts between trade unions; (iv) there is no need for Government’s authorization on strike and non-Jordanians are not barred from using this right by the Labour Code; (v) public sector workers are governed by special laws; (vi) most of agricultural workers are covered by the provisions of the Labour Code, but it is difficult to organize them because of the seasonal nature of their work; (vii) household workers are excluded from the Labour Code mainly because of the particularity of their relationship with their employer that makes it difficult to subject them to the application of the Labour Code and (viii) most of the agricultural workers are covered by the provisions of the Labour Law.</p> <p><b>2003-2004 ARs:</b> to the Government: the main difficulties encountered in Jordan in realizing the PR in Jordan are as follows: (i) social values, cultural traditions; (ii) social and economic circumstances; (iii) legal provisions; and (iv) lack of social dialogue on this PR.</p>
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<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the GFJTU: There is a need for capacity building of trade unions on the PR, especially on the provisions of C.87.</p> <p><b>2005 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Jordan exist in the following areas, in order of priority: (1) strengthening tripartite social dialogue; strengthening capacity of workers' organizations; (2) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the principle; (3) awareness-raising, legal literacy and advocacy; (4) strengthening data collection and capacity for statistical analysis; (5) Sharing of experiences across countries/regions; (6) legal reform (labour law and other relevant legislation); (7) capacity building of responsible government institutions; (8) training of other officials (police, judiciary, social workers, teachers); and (9) strengthening capacity of employers' organizations.</p>
	<b>Offer</b>	ILO
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2006 AR:</b> The IDEAs observed the following: "It is important to note that the majority of workers in some Gulf States are migrant workers. Therefore, while we note that certain measures have been reported relating to this principle [...] we stress that the principle should be given full effect as regards all the workers present in these countries, including migrant workers, if these countries are to progress meaningfully in this area". (paragraph 45 of the 2006 Annual Review Introduction)</p> <p><b>2004 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) stated that they were encouraged by the continuing steps taken by countries of the Gulf Cooperation Council (GCC) but noted that there is a long way to do. They also indicated that Jordan had requested ILO technical assistance for realizing the principle.</p> <p><b>2003 AR:</b> The IDEAs were encouraged to see the Government of Jordan pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help. In light of requests by Jordan for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field. (paragraphs 73 and 74 of the 2003 Annual Review Introduction)</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: KENYA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, since the start of the Annual Review (AR) in 2000.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Federation of Kenya Employers (FKE) and the Central Organization of Trade Unions (COTU-KENYA) through communication of Government reports and tripartite meetings on reporting issues.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the FKE. <b>2006 AR:</b> Observations by the FKE. <b>2005 AR:</b> Observations by the FKE.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the COTU-KENYA. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the ICFTU. <b>2005 AR:</b> Observations by the COTU-KENYA. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Kenya ratified in 1964 the Right to Organise and Collective Bargaining Convention, 1949 (No .98) (C.98). However, it has not yet ratified the Freedom of Association and the Protection of the Right to Collective Bargaining Convention. 1948 (No. 87) (C.87).</b>

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

		<b>Ratification intention</b>	<p><b>YES, since 2001, for C.87.</b></p> <p><b>2007 AR:</b> The Government indicated that ratification of C.87 would be considered after the enactment of the revised labour laws. The FKE and COTU-Kenya indicated that they were still participating in the ratification process for C.87.</p> <p><b>2006 AR:</b> According to the Government: Ratification of C. 87 will be considered depending on the outcome of the revision of the Constitutional and Labour Law. The FKE and the COTU- KENYA indicated that there are actively participating in the consultation process concerning ratification of C. 87 by Kenya.</p> <p><b>2005 AR:</b> According to the Government: C. 87 is not ratified because of the “archaic” labour laws Kenya has had for many years. However, the new labour laws will pave the way for ratification of this instrument.</p> <p><b>2001 AR:</b> According to the Government: While considering ratification of C. 87 in consultation with the social partners, the Government reported that it will soon embark on a review of all labour laws, especially with regard to the provisions of the Trade Unions Act CAP 233 that are not in conformity with various Articles of the Convention. It further mentioned that ILO technical assistance would certainly strengthen ratification prospects for this Convention.</p>
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<p><b>YES</b> The Constitution (article 80) provides for freedom of assembly and association. Moreover, a draft Constitutional Bill is under consideration by the Parliament.</p>
		<b>Policy/ legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b> The Trade Unions Act CAP 233, the Trade Disputes Act CAP 234 and the Industrial Relations Charter (Revised) 1984 relate to the principle and right (PR). However, a labour law review process is currently being carried out by the Government in cooperation with the employers’ and workers’ organizations.</li> </ul> <p><b>2007 AR:</b> According to the FKE: The labour law revision is still being carried out, in cooperation with the social partners and the ILO to take serious consideration of freedom of association (FOA).</p> <p><b>2006 AR:</b> According to the Government: The Draft Labour Law is being reviewed by the Attorney General.</p> <p><b>2004-2005 ARs:</b> Thanks to ILO funding, the Task Force to review national labour laws completed the review process and handed over the proposed Bills to the Attorney-General for onward transmission to Parliament.</p> <p><b>2003 AR:</b> According to the Government: A Task Force to review labour laws and harmonize them with the provisions of ratified Conventions and ILO fundamental Conventions was established in May 2001 with the support of the ILO/SLAREA (Strengthening Labour Administration and Labour Relations in East Africa) Declaration Programme.</p> <p><b>2002 AR:</b> According to the Government: The country,s labour laws needed to be reviewed to incorporate the provisions of ratified Conventions and those of the fundamental principles and rights at work.</p>
		<b>Basic legal provisions</b>	<p>(i) The Constitution (article 80); (ii) Trade Unions Act CAP 233; (iii) Trade Disputes Act CAP 234; and (iv) the Industrial Relations Charter (Revised) 1984.</p>

		<b>Judicial decisions</b>	NIL	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2002-2005 ARs:</b> All categories of employers can set up their organizations. Prior government authorization is necessary to operate employers' organizations, namely through compulsory registration by the Registrar of Trade Unions (Trade Unions Act CAP 233, Section 9(1)).
<b>For Workers</b>			<b>2002-2005 ARs:</b> Prior government authorization is necessary to operate workers' organizations, namely through compulsory registration by the Registrar of Trade Unions (Trade Unions Act CAP 233, section 9(1)). FOA can be exercised by medical professionals, teachers, agricultural workers, workers engaged in domestic work, workers in export processing zones (EPZs) or enterprises/industries with EPZ status, migrant workers, workers of all ages and workers in the informal economy. However, it cannot be exercised by workers engaged in the administration of State, workers in uniformed services (armed forces, prison forces and their services or reserved forces) and workers in the National Youth Service. Furthermore, the Industrial Relations Charter (Revised) 1984 provides for the categories of employees in an organization who are excluded from belonging to any workers' organizations. These include managerial, secretarial and security staff and their assistants or understudies.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>Special attention to particular situations</b>	<b>2003-2005 ARs:</b> According to the Government: A special attention is envisaged to be given to religious minorities, women workers, child workers, disabled workers, migrant workers and refugees.  <b>2000 AR:</b> According to the Government: Agricultural workers, domestic workers, workers in EPZs, workers in the informal economy and migrant workers are given special attention with respect to the PR.
			<b>Information/Data collection and dissemination</b>	According to the Government: There is a lack of information and data.
			<b>At international level</b>	According to the Government: There are no particular restrictions for the international affiliation of employers' and workers' organizations.
	<b>Monitoring, enforcement and/or sanction mechanisms</b>	<b>2000-2005 ARs:</b> According to the Government: The Registrar of Trade Unions can require financial information and inspect books of accounts of trade unions (Trade Unions Act CAP 233, section 48). S/he can also cancel or suspend the registration of a trade union under certain conditions (Trade Unions Act CAP 233, section 17 (1)). Inspection/monitoring mechanisms are envisaged to ensure the implementation of the PR, and there is a need for further ILO cooperation in terms of capacity building and reporting. The PR is enforced through law, collective agreements, free dispute settlement procedures and tripartite consultations at all levels.  In instances where the PR has not been respected, the Minister of Labour has the power to order any employer or person to respect workers' rights, namely by recognizing a union for the purpose of collective bargaining (CB) in accordance with legal prescriptions (Trade Union Disputes Act CAP 234, Section 5). Furthermore, the Government reports that the issue of penal, civil and administrative sanctions for the violation of the PR is addressed by Task Force to draft the new labour laws and under the ongoing reform of the public service.		

	<b>Involvement of the social partners</b>	<p><b>2006 AR:</b> The FKE and COTU-KENYA stated that they participated actively in the national labour law revision process.</p> <p><b>2002-2003 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in: (i) the elaboration of the Industrial Relations Charter (Revised) 1984; (ii) the National Advisory Board; (iii) the conclusion of collective agreements; (iv) the Industrial Courts; and (v) the Task Force to review national labour laws and harmonize them with the provisions of ratified Conventions and ILO fundamental Conventions. Moreover, a panel appointed by the Government and consisting of trade union representatives, government officials and independent members has been deliberating on the disputes concerning the Kenya National Union of Teachers since 2002.</p>	
	<b>Promotional activities</b>	<p><b>2007 AR:</b> The FKE and the COTU-K indicated that they had actively participated in the SLAREA programme and the labour law review process. Following the development of the SLAREA Programme, tripartite institutions and social dialogue had been considerably strengthened in Kenya. This programme had brought the Government, Employers and workers organizations very closed.</p> <p><b>2002 AR:</b> According to the Government: Training of government officials and social partners in the labour field has been carried out.</p>	
	<b>Special initiatives/Progress</b>	<p><b>2006 AR:</b> According to the Government: As a successful/special initiative, continuous consultations are being held with the social partners concerning the PR and the new constitutional and legislative provisions. According to the FKE: As a successful/special initiative, the training of managers was carried out on general management, including the FPRW.</p> <p><b>2005 AR:</b> According to the Government: Successful example(s): the union elections held in 2002, which involved all registered trade unions and the COTU-KENYA.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2006 and 2007 ARs:</b> According to the FKE: Challenges are as follows: (i) lack of capacity of labour officers in terms of staffing and training in conflict resolution.</p>
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> According to the COTU-KENYA, the main difficulties encountered in realizing the PR in Kenya are: (i) lack of capacity of labour officers in terms of staffing and (ii) training in conflict resolution.</p> <p>The ICFTU raised the following challenges: (i) workers' complaints about the delays on finalizing the labour law review to incorporate ILO core labour standards; (ii) obstruction on the right to strike; and (iii) workers from EPZ's cannot enjoy effective freedom of association.</p> <p><b>2000, 2001, 2002 and 2006 ARs:</b> According to the ICFTU: Challenges are as follows: (i) excessive power of the Registrar of Trade Unions in refusing registration of trade unions or deregistering them; (ii) denial of trade union rights to civil servants, university academic staff, doctors and dentists; (iii) infrequent respect for FOA, especially in small-sized companies and EPZs; (iii) restrictions on the right to strike (21 to 28 day notice (in essential services) prior to strike, no strikes are permitted during the arbitration and dispute settlement procedure; and (iv) discretionary power of the Minister of Labour to decide whether a strike is legal or not.</p>

	<p><b>According to the Government</b></p>	<p><b>2007 AR:</b> The Government mentioned its support for the FKE's views regarding lack of staff and capacity building on FOA.</p> <p><b>2001-2005 ARs:</b> According to the Government: The main difficulties encountered in realizing the PR in Kenya are as follows (i) lack of public awareness and/or legal support; (ii) lack of information and data; (iii) social and economic circumstances; (iv) political situation; (v) legal provisions and non-conformity of the Trade Unions Act CAP 233 with the provisions of C.87; (vi) prevailing employment practices; (vii) lack of capacity of responsible government institutions; (viii) lack of employers' organizations; (ix) lack of capacity of workers' organizations; and (x) lack of social dialogue on the PR.</p> <p>In response to the ICFTU's observations, the Government made the following comments: If a prospective trade union does not meet the conditions for registration set out under the Trade Unions Act CAP 233, the Registrar of Trade Unions has no choice but to deny registration to that particular union. However, this decision is subject to appeal to the High Court of Kenya, as has happened many times in the past. The ban on the Civil Servants Union, imposed in 1980 due to security reasons, was lifted by the Head of State in November 2001. This allowed public employees to organize themselves. In this regard, two unions represent teachers: the Kenya National Union of Teachers (KNUT) and the Kenya Union of Post Primary Teachers (KUPPET). The law fully protects the enjoyment of trade union activities in all workplaces, irrespective of the size of the enterprise and including the EPZs. If it is determined that an employee has been sacked or victimized because of his/her trade union activities, the law provides for a compensation of a maximum of 12 months salary. As regards the right to strike, the Ministry of Labour has no discretionary power to declare a strike illegal, given that s/he can declare a strike unlawful only if the machinery put in place has not been complied with, and there is room for appeal against such ministerial orders (Sections 26 and 30 of the Trade Dispute Act).</p>
<p><b>TECHNICAL COOPERATION</b></p>	<p><b>Request</b></p>	<p><b>2007 AR:</b> The Government, the FKE and the COTU stated their regret that the ILO/SLAREA (Strengthening Labour Administration and Relations in East Africa) Declaration Programme was not extended. ILO technical cooperation was still needed on awareness raising and capacity building in the areas of freedom of association and social dialogue, but also in respect of research and data collection on the PR. The Government also volunteered for the preparation of a case study followed up by a national tripartite workshop on ratification of C.87, with the participation of members of Parliament.</p> <p><b>2006 AR:</b> According to the Government: ILO technical cooperation should be provided to Kenya with a view to sensitizing the social partners and stakeholders on the draft Constitution and laws and strengthening the institutional capacity of the Government and the social partners for the realization the PR. In this respect, the ILO/SLAREA Programme should be extended. According to the FKE: There is a need for ILO technical and material support to train managers in the promotion of productivity through collective bargaining process. The FKE and the COTU-KENYA wished the extension of the ILO/SLAREA Declaration Programme, in particular for the implementation process of the new labour laws at regional level, so as to strengthen the realization of the 1998 ILO Declaration in Kenya.</p> <p><b>2005 AR:</b> According to the Government: Needs for technical cooperation project to facilitate the realization of the PR in Kenya exists in the following areas, in order of priority: (1) strengthening data collection and capacity for statistical analysis; (2) strengthening social dialogue; (3) sharing of experiences across countries/regions; (4) capacity building of responsible government institutions; (5) strengthening capacity of employers' organizations; (6) strengthening capacity of workers' organizations; (7) awareness-raising, legal literacy and advocacy; and (8) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR. The Government hoped that the ILO/SLAREA Declaration Programme would be extended so as to continue strengthening the capacity of labour administration and employers' and workers' organizations in promoting the PR as well as other FPRW in Kenya, especially in the area of collective bargaining and social dialogue.</p> <p>This request is supported by the FKE, which hoped that the ILO would be in a position to offer further technical assistance to allow the Government to finalize ratification of C.87.</p>

<b>TECHNICAL COOPERATION</b>	<b>Offer</b>	<b>2000-2006 ARs:</b> ILO advisory services and the ILO SLAREA Declaration Programme
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2005 AR:</b> The ILO Declaration Expert-Advisers listed Kenya among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 AR Introduction).</p> <p><b>2003 AR:</b> The IDEAs were encouraged to see the Government of Kenya pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help. In light of requests by Kenya for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field. (paragraphs 73 and 74 of the 2003 Annual Review Introduction).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	

**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: KOREA, REPUBLIC OF**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2003 Annual Review (AR).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to Government: Involvement of the Korea Employers' Federation (KEF); the Federation of Korean Trade Union (FKTU); and the Korean Confederation of Trade Union (KCTU) through communication of Government's report.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2002 AR:</b> Observations by the KEF. <b>2001 AR:</b> Observations by the KEF. <b>2000 AR:</b> Observations by the KEF.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the ICFTU. <b>2005 AR:</b> Observations by the ICFTU. <b>2004 AR:</b> Observations by the KCTU. Observations by the KFTU. <b>2002 AR:</b> Observations by the ICFTU. Observations by the KCTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the KFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Korea has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>Under consideration since 2006 for both C.87 and C.98.</b>  <b>2007 AR:</b> The Government indicated that it would continue to review the possibility to ratify C.87 and C.98 in considering the existing national laws and institutions as well as any other developments in the future. It has made continuous efforts towards ratification. For instance, it has conducted in 2003 <i>A Study of Policy Tasks to Ratify ILO</i>

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

			<i>Conventions on Freedom of Association.</i>		
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> The 1948 Constitution (article 33, paragraph 1) provides that workers shall have the right to independent associations, collective bargaining and collective action.		
		<b>Policy/legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b> The Trade Union and Labour Relations Adjustment Act (TURLAA), 1997, the Bill on the Establishment, Operation, etc. of Public Officials' Union, 2004 to come into force in January 2006, the State Public Official Act and the Local Public Official Act relate to the principle and right (PR).</li> </ul> <p><b>2004-2006 ARs:</b> According to the Government: A new Bill was adopted in 2003 in order to better guarantee public officials' right to organise. – The 2004 Bill on the Establishment and Operation, etc. of Public Officials' Trade Unions will enter into force in January 2006.</p> <p><b>2000-2002 ARs:</b> The Trade Union and Labour Relations Adjustment Act (TULRAA) of 1997, adopted the principle of multiple unionism with a reservation that the union pluralism at the enterprise level would be effective from 2002 (section 5, paragraphs 1 and 3, of the TULRAA). The Ministry of Labour is working on improvements to the legal system, in order to secure freedom of association and the effective recognition of the right to collective bargaining.</p>		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Basic legal provisions</b>	(i) The 1948 Constitution (article 33, paragraph 1); (ii) the TURLAA, 1997; (iii) the Bill on the Establishment, Operation, etc. of Public Officials' Union, 2004 to enter in force in January 2006; (iv) the State Public Officials Act; and (v) the Local Public Officials (section 58).		
		<b>Judicial decisions</b>	NIL		
		<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2004 AR:</b> Government authorization or approval is not required to establish employers' organizations, or to conclude collective agreements. Freedom of association and the right to collective bargaining can be exercised at enterprise, sector/industry and national levels by all categories of employers.	
			<b>For Workers</b>	<p><b>2007 AR:</b> According to the Government: The Act on the Establishment and Operation, etc. of Public Officials' Trade Unions (2004) which allows public officials to establish trade unions and exercise the right to collective bargaining, took effect on 28 January 2006 and since then the protection of basic labor rights of public officials has been significantly enhanced.</p> <p><b>2004 AR:</b> Government authorization or approval is not required to establish workers' organizations, or to conclude collective agreements. Freedom of association and the right to collective bargaining can be exercised at enterprise, sector/industry and national levels by the following categories of persons: medical professionals; teachers; agricultural workers; workers engaged in domestic work; workers in export processing zones (EPZs) or enterprises/industries with EPZ status; migrant workers; workers of all ages; and workers in informal economy. However, freedom of association and the right to collective bargaining cannot be exercised by workers in the public service, except those engaged in manual labour in postal services, railways business, etc. In addition, only freedom of</p>	

			association can be exercised at international level.
		<b>Special attention to particular situations</b>	<b>2004 AR:</b> According to the Government: The new Law on the Establishment and Operation, etc, of Public Officials Trade Unions, 2004 guarantees public services trade unions' right to strike and at the same time protects public interests.
		<b>Information/Data collection and dissemination</b>	<b>2000-2005 ARs:</b> According to the Government: Data on trade unions' density.
		<b>At international level</b>	The Republic of Korea recognizes the exercise of the PR at international level, only with regard to freedom of association.
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2007 AR:</b> According to the Government: The TURLAA considers as an unfair labour practice any impediments on trade unions' establishment or operation by employers. In this respect 195 indictments for unfair labour practices were recorded as of August 2006.</p> <p><b>2005 AR:</b> According to the Government: Compulsory arbitration for essential public services has been introduced to ensure harmony between public interests and the workers' right to act collectively and a minimum level of service during negotiations. In addition, the labour rights of workers in the public sector have been gradually expanded, following an agreement at the Tripartite Commission.</p> <p><b>2004 AR:</b> According to the Government: The following measures have been implemented to realize the PR: (i) inspection/monitoring mechanisms; (ii) penal sanctions; (iii) civil or administrative sanctions; (iv) capacity building of responsible government officials; (v) training of other government officials.</p> <p><b>2000-2005 ARs:</b> According to the Government: In instances where the PR has not been respected, employers who infringe the rights of trade unions to organize or bargain collectively will be subject to legal sanctions under charges of unfair practices, in accordance with sections 81 and 90 of the TURLAA, 1997.</p>	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Involvement of the social partners</b>	<p><b>2004 AR:</b> According to the Government: Tripartite consultations have been implemented in relation to this PR.</p> <p><b>2000-2001 ARs:</b> The Government stated that it had devoted efforts to stimulating dialogue on the promotion of the PR within the Tripartite Commission.</p>	
	<b>Promotional activities</b>	<b>2004 and 2007 ARs:</b> According to the Government: The following measures have been implemented to realize the PR: (i) training of other government officials; (ii) capacity building for employers' and workers' organizations; (iii) awareness-raising/advocacy.	
	<b>Special initiatives/Progress</b>	<p><b>2007 AR:</b> According to the Government: Several special initiatives were taken following the recommendations of international organizations: A "Committee for the Advancement of Industrial Relations Laws and Systems" was established in March 2006. It has made suggestions on how to: (i) establish multiple unions at enterprise level; (ii) repeal the third-party support notification requirement; (iii) abolish the compulsory arbitration system; etc. Moreover, a "Tripartite Representatives Committee" was set up in March 2006 to pursue social dialogue aiming to improve labour-related legislation. This Committee has also held negotiations more than 40 times during the last six months, and finally reached a tripartite agreement to abolish the compulsory arbitration system for essential public services and the third-party support notification requirement. On the other hand, through the Government's efforts, the compulsory arbitration system and the third-party support notification system will be repealed. In addition, public officials' rights to organize and to bargain collectively will be protected. It is considered that these reforms should pave the way for Korea to have laws and systems better in line with international labour standards.</p> <p><b>2004-2005 ARs:</b> According to the Government: A special initiative was taken following an agreement at the Tripartite Commission of</p>	

		the Bill of 23 June 2003 guaranteeing the labour rights of public officials, now under legislative process.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2001 AR:</b> According to the KEF: There are restrictions on collective action in essential services.</p> <p><b>2000 AR:</b> According to the KEF: The TULRAA provisions banning the payment to full-time union officials should be maintained to secure independence of trade unions.</p>
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> According to the ICFTU: (i) Persecution by the Government of the public servants' unions; (ii) the Law on the Establishment and Operation of Public Officials' Trade Unions of 31 December 2004 excludes many categories of workers (such as managers, human resources personnel, personnel dealing with trade unions or industrial relations) in the private sector, and special public servants such as military, police, fire-fighters, politically-appointed officials, and high level public officials from the right to organize; (iii) the right to collective bargaining is recognized but limited to some subjects of negotiation; (iv) no sanctions against unfair labour practices; (v) strong restrictions concerning the right to strike in the public sector; (vi) interference of the Government in the trade unions' affairs; (vii) foreign companies are exempted by the Law on Special Economic Zones (SEZs) of July 2003 from the obligation to respect the labour legislation; (viii) severe limitations on the right to strike and to create unions in the private sector since where an employer creates a union, it is legally forbidden to organise alternative unions.</p> <p><b>2004 AR:</b> The KFTU expressed the wish to be able to negotiate at the industrial level, and observed that the PR is not recognized in the country, contrary to the Government's statement.</p> <p><b>2006 AR:</b> The ICFTU observed the following: (i) Civil servants will be allowed to organize within administrative predefined units by the Bill on the Establishment and Operation, etc of Public Officials Trade Unions, 2004, with the exception of managers, human resources personnel dealing with trade unions or industrial relations, and specific public servants such as military, police, firefighters, politically appointed officials, and high level public officials. In addition, a union member can work full-time for the union, but only with the authority of the employer; (ii) civil servants will have the right to collective bargaining, but the subjects of negotiations are limited to matters concerning trade unions members' pay and welfare and other working conditions, and laws and budgets prevail over collective bargaining agreements; (iii) the Bill, however, maintains the strike ban, as does the TULRAA for central government and local government workers and the 1999 Law on the Establishment and Operation, etc. of Trade Unions for Teachers- striking workers and union leaders can be prosecuted and sentenced under Article 314 of the Penal Code, which prohibits "obstruction to business"; (iv) the TULRAA provides for compulsory arbitration for disputes in "essential public services" if the parties cannot come to an agreement on their own; (v) The right to demonstrate is limited, as under the Law on Assembly and demonstration, any gathering is banned within a hundred meters of foreign diplomatic missions (as a result large companies have invited embassies to rent offices in their building); (vi) under the TULRAA, 1997, employers are banned from remunerating trade union leaders until 2006; and union pluralism at company level is banned until December 2006; (vii) as a result, many employers have resorted to creating management-controlled unions, known as "paper unions"; (viii) There is a ban for dismissed workers to remain members of a union, and non union members are not eligible for trade union office; (ix) the Third party intervention in collective agreements or industrial disputes is hindered by the compulsory arbitration.</p> <p><b>2005 AR:</b> According to the ICFTU: The trade unions observed that the new law makes it easy to hire "irregular" workers, who will have little or no protection.</p>

		<p><b>Workers' organizations</b></p>	<p><b>2004 AR:</b> The Federation of Korean Trade Unions (FKTU) made the following observations: (i) the TULRAA provides for the right to organize and collective bargaining; (ii) government authorization or approval is required for workers in public services as regard collective agreements; (iii) the right to organize and bargain collectively is recognized by the Constitution (article 33); (iv) employer's organizations should not be exempted from the responsibility of realizing the principle and right.</p> <p>The KCTU made the following observations: (i) it does not agree with the definition of "the effective recognition of the right to collective bargaining" provided by the Government; (ii) there is no effective sanction mechanisms in case of violation of collective agreement by employers; (iii) there is no governmental internal mechanism for the implementation of collective agreement; (iv) freedom of association is provided for teachers under the "Act on the Establishment and Collective Bargaining of Teachers Organizations", not under the "Trade Union and Labour Relations Adjustment Act", which led to various restrictions on collective bargaining; (v) migrant workers do not have the right to exercise freedom of association; most workers in the informal economy are denied the right to organize or join a union; (vi) workers in "essential services" are governed by a "compulsory arbitration" mechanism, which restricts the right to collective bargaining; (vii) there are restrictions on freedom of association at enterprise level as multiple unions are prohibited under the Trade Union and Labour Relations Adjustment Act (Addenda, article 5, paragraph 1); (viii) there is neither effective recognition of the right to collective bargaining at the supra-enterprise levels and nor collective bargaining mechanisms at the supra-enterprise level; (ix) the current system of "giving notice" on the formation of a union under the provision of the Trade Union and Labour Relations Adjustment Act works as an authoritative measure.</p> <p><b>2002 AR:</b> According to the KFTU: The Tripartite Commission in Korea is a presidential advisory body only, but not a social dialogue mechanism like in other countries. The ICFTU raised the following challenges: (i) there are obstacles to the right to strike (complaint cases); (iii) broad categories of civil servants remain deprived of the right to belong to professional associations.</p> <p><b>2000 AR:</b> According to the KFTU: (i) the provisions of the TULRAA banning payment to full-time union officials should be repealed; (ii) the TULRAA should be revised in order to allow the unemployed to join the trade unions; (iii) the system of compulsory arbitration should not be imposed in case of labour disputes in the essential public services when there is no possibility of mediation. The ICFTU observed the following: (i) the authorities had refused to register the Korea Confederation of Trade Unions (KCTU) for four years; (ii) dismissed workers cannot be members of trade unions, and union officials have to be elected amongst union members; (iii) public service workers cannot bargain collectively or strike; (iv) teachers cannot go on strike.</p>
	<p><b>According to the Government</b></p>		<p><b>2007 AR:</b> According to the Government: Neither employers nor workers are prepared to enforce the legal provisions on multiple unions at enterprise level and the ban on wage payment to full-time union officials, because of a sharp conflict of opinions among them. Therefore, based on the agreement among tripartite parties, the enforcement of these provisions will be postponed for three years in the spirit of stabilizing the industrial relations. During this grace period, the tripartite committee will intensively discuss detailed standards and methods of enforcement.</p> <p>In response to the ICFTU's observations, the Government made the following comments: (i) following the Act on the Establishment and Operation of Public Officials' Trade Unions enacted on January 2006, public officials are guaranteed the right to organize, including the right to establish a trade union and engage in union activities, and the right to conclude collective agreements through negotiation; (ii) as for the right to collective bargaining, only matters concerning policy decisions and appointment that are not directly related to working conditions are excluded from the subjects of negotiation; (iii) there is a system under which in the event of unfair labour practices by</p>

		<p>employers, public officials and their trade unions can seek remedy by filing their case with a labor relations commission, a neutral organization; (iii) the right to strike for public officials is restricted to maintain minimum service; (iv) it is stipulated in the Constitution that public officials are servants to the nation as a whole, so their status and political neutrality must be guaranteed by laws which is why public officials are not entitled to conduct political activities when they are engaged in union activities; (v) according to the Grand Tripartite Agreement, the recognition of multiple unions at the enterprise level and the ban on wage payment to full-time union officers will be put off for another three years; (vi) a tripartite commission agreed to remove the provisions related to the third-party notification requirement and has already submitted a related revision bill to the National Assembly; (vii) the purpose of the Act on the Designation and Operation of Free Economic Zones is to promote foreign investment, and pursue stronger national competitiveness and balanced development between different regions by improving business environments for foreign companies investing in free economic zones and living conditions for foreigners. The Act has two provisions on exemption from labour standards. The first provision is about granting unpaid holidays instead of paid ones under the Labour Standards Act, granting unpaid instead of paid menstruation leave, and excluding workers in free economic zones from monthly paid leave, etc. However, with the introduction of the 40-hour working week, for all workplaces with five workers or more as well as those in free economic zones, paid menstruation leave was replaced with unpaid and monthly paid leave was abolished. Therefore, the only area where free economic zones are excluded from the application of the Labor Standards Act pursuant to the Act is holidays. One unpaid holiday is granted per week instead of paid a one in free economic zones. The second provision is about excluding workplaces in free economic zones from the provisions restricting occupations for which temporary agency workers can be employed and dispatch periods in the Act on the Protection, etc. of Dispatched Workers. Before applying this provision, those workplaces must undergo deliberation and decision by a separate committee. In spite of the provision, there is no company excluded from the restriction as of November 2006.</p> <p><b>2004-2005 ARs:</b> According to the Government: The main difficulties encountered in realizing the PR in Republic of Korea are the following: (i) lack of public awareness and/or support; (ii) social values, cultural traditions; and (iii) social and economic circumstances.</p> <p><b>2005 AR:</b> In response to the ICFTU's observations, the Government made the following comments: (i) Compulsory arbitration is a system introduced to ensure harmony between public interests and the rights of workers to organise and bargain collectively; (ii) there are autonomous dispute settlement between employers and workers when a public interest is not threatened; (iii) the Research Committee for Industrial Relations System Advancement, which has been established by the Government suggested that compulsory arbitration be abolished and minimum level of service during strike be made mandatory in public services in general; (iv) the Government will implement some legislative measures to ensure more rights to trade unions in dispute settlement and to protect public interests.</p>
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	<p><b>According to the Government</b></p>	<p><b>2004 AR:</b> In response to the KCTU, the Government made the following comments: (i) The current TULRAA does not imply any restriction on the right to collective bargaining for trade unions and federation of trade unions at industrial level; (ii) sanctions are provided to employers who violate the right to collective bargaining under the TULRAA; (iii) the “Public Sector Special Committee” has been established through the Tripartite Commission for in order to implementation collective agreements; (iv) there is restriction on the right to collective bargaining for teachers; (v) migrant workers have the right to join trade unions under certain conditions; (vi) multiple unions at the enterprise level are banned until the end of 2006; (vii) the notification for establishing union should not be considered as an authoritative measure; (viii) a Bill has been prepared by the Government and was submitted to the National Assembly in order to promote the rights of workers in public service, including the freedom of association and the right to organize; (ix) sanctions are provided in case of unfair labour practices such as violation of the right to organize and collective bargaining; (x) the Tripartite Commission should not be considered as a governmental organization simply because some specific workers’ organizations are not part of it; (xi) The 1999 Act on Trade Unions for Teachers specifies the right to organize and collective bargaining for teachers; (xii) the KCTU has not sent its comments of the annual report.</p> <p>In response to the FK TU, the Government observed the following: (i) Trade unions cannot bargain collectively due to the fact there are no employers’ organizations at higher levels; (ii) Workers in essential services are not allowed the right to collective bargaining; (iii) The TULRAA provides minimum requirements (non-participation of an employer or ban on financial assistance from an employer for the establishment of a trade union) for the establishment of trade unions; (iv) the right to organize is authorized for manual workers and for certain categories of workers of public service under the TULRAA (article 66.1 of the Public Servants’ Act and article 5) and; for teachers under The 1998 Act on the establishment and operation, etc. of trade unions for teachers (article 7.1); (v) the right to bargain collectively is not guaranteed to trade unions and the federations of trade unions as industrial level because some of them are at odds with eight employers on bargaining methods and levels; (vi) migrant workers employed in domestic service have the right to join a trade union of his/her choice, except foreign industrial trainers registered under the Immigration Control Act; (vii) the right to organize for workers in the informal economy is authorized in consideration of the dual nature of their labour characterized by subordination and independence; (ix) multiple unions at enterprise level have been delayed until the end of 2006, following a Tripartite Agreement on 9 February 2001; (x) reported cases related to unfair labour practices have been successfully investigated by the Government and appropriate measures have been taken correspondingly.</p> <p>In response to the ICFTU’s comments, the Government observed the following: (i) there are restrictions on the right to strike for workers in essential services including hospitals, water service and services of public interest.</p> <p><b>2007 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed the following: “A number of countries have provided information on new legislation, and we welcome among them the fact that the Republic of Korea has adopted special laws to allow public service trade unions to exercise the right to organize and collective bargaining”.</p> <p><b>2002 AR:</b> In response to the ICFTU, the Government observed the following: (i) the ILO Declaration on Fundamental Principles and Rights at Work should be used only as a promotional framework, not as a double supervisory mechanism; (ii) efforts have been made in order to meet internationally accepted standards and to enhance cooperation with international organizations such as the ILO and the OECD; (iii) the labour laws have been revised in March 1997 in order to recognize the political activities of trade unions and multiple umbrella unions; and to repeal the provision banning third party intervention; (iv) trade unions have been established following the launch of the Tripartite Commission in 1998; (v) workers in the public service, workers in the private sector and workers in State enterprise have the right to collective bargaining and the right to strike; (vi) there are restrictions on the right to strike only for workers in certain essential services (military industry, electricity, water supply); (vii) workers in the EPZs enjoy the same rights as workers in other areas.</p> <p><b>2002 AR:</b> In response to the KCTU, the Government observed the following: (i) the principle and right is recognized in Korea; (ii) the KCTU’s observations are not compatible with the basic principle of the Declaration on Fundamental Principles and Rights at Work and its Follow-up, which should.</p>
		<p><b>2000 AR:</b> In response to the ICFTU, the Government made the following observations: (i) ILO should reconsider its intention to reflect</p>

		the ICFTU's comments in the compilation of the annual report; (ii) the Korean Confederation of Trade Unions (KCTU) is legally recognized by the Government.; (ii) the KCTU's observations are not compatible with the basic principle of the Declaration on Fundamental Principles and Rights at Work and its Follow-up, which should be strictly of promotional nature.
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	NIL
	<b>Offer</b>	ILO; Organisation for Economic Co-operation and Development (OECD)
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>2005 AR:</b> The ILO Declaration Expert-Advisers listed the Republic of Korea among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification. They further indicated that the Office is following up on freedom on association and collective bargaining issues in the Republic of Korea. In this respect, the ILO Declaration Expert-Advisers noted with interest the information provided by the Republic of Korea and their countries in the Declaration follow-up (paragraph 13 of the 2005 AR Introduction).	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	

**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: KUWAIT**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Kuwait Chamber of Commerce and Industry (KCCI) and General Federation of Trade Unions of Kuwait (GFTUK) through communication of Government's reports and tripartite meetings on reporting issues.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observation by the KCCI. <b>2005 AR:</b> Observations by the KCCI. <b>2004 AR:</b> Observations by the KCCI.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the GFTUK. <b>2006 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2002 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Kuwait ratified in 1961 the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) (C.87). However, it has not ratified the Freedom of Association and the Right to Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>

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

		<b>Ratification intention</b>	<p><b>YES, since 2002, for C.98.</b></p> <p><b>2007 AR:</b> The GKFTU hoped that the Government would soon communicate the instrument of ratification of C.98 to the ILO.</p> <p><b>2006 AR:</b> The Government indicated that it had in 2004 promulgated Decree No. 324 concerning ratification of C.98.</p> <p><b>2002 AR:</b> According to the Government: A study is being carried out comparing the provisions of C.98 with the legislation in force, with a view to ratifying this Convention. During a tripartite discussion held on issues pertaining to the reporting process, the social partners expressed a favourable opinion as regards ratification of C.98.</p> <p>– Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government intended to ratify C.98.</p>		
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	NIL		
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b> The Private Sector Labour Code, Law No. 38/1964, related to the principle and right (PR).</li> </ul> <p><b>2007 AR:</b> According to the GKFTU: The Labour Code of Kuwait is being revised on tripartite basis so as to better realize the PR.</p> <p><b>2002 AR:</b> According to the Government: A study was undertaken to compare the provisions of C.98 with the legislation in force, with a view to ratifying the Convention.</p>		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Policy/legislation and/or Regulations</b>	<p><b>2007 AR:</b> According to the GKFTU: The Labour Code of Kuwait is being revised on tripartite basis so as to better realize the PR.</p> <p><b>2002 AR:</b> According to the Government: A study was undertaken to compare the provisions of C.98 with the legislation in force, with a view to ratifying the Convention.</p>		
		<b>Basic legal provisions</b>	(i) The Labour Code; and (ii) Law No. 38/1964 (sections 69-90).		
		<b>Judicial decisions</b>	NIL		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2003-2005 ARs:</b> Prior government authorization is necessary to conclude collective agreements.	
			<b>For Workers</b>	<b>2003-2005 ARs:</b> Prior government authorization is necessary to conclude collective agreements.	
			<b>Special attention to particular situations</b>	<b>2005 AR:</b> According to the Government: A special attention is given to (i) the situation of women workers; (ii) the situation of the specific industries or sectors.	
			<b>Information/ Data collection and dissemination</b>	According to the Government: Lack of information and data.	
	<b>At international level</b>	NIL			

	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2005 AR:</b> According to the Government: The Labour Law is being implemented in the public sector. It also applies in instances where the Government finds that the PR has not been respected. Inspection/monitoring mechanisms are envisaged to ensure the implementation of the PR. The PR is enforced through law, collective agreements, free dispute settlement procedures and tripartite consultations at all levels.</p> <p><b>2004 AR:</b> According to the Government: In instances where the PR has not been respected, the Conciliation Committee for Collective Labour Disputes is convened for conciliation or reference to arbitration.</p>	
	<b>Involvement of the social partners</b>	<p><b>2002-2003 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in the tripartite committees for the ratification of ILO fundamental Conventions.</p>	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Promotional activities</b>	<p><b>2007 AR:</b> According to the Government: The following activities were organized to realize the PR: (i) a seminar on future visions towards implementing the new labour code in the framework of ILO Conventions- Kuwait (10-12 January 2004); and (ii) ILO/Gulf Cooperation Council (GCC) Fourth Regional Workshop on the ILO Declaration and International Labour Standards in GCC countries organized in Kuwait City in April 2006. The GKFTU mentioned its participation in this workshop.</p>	
	<b>Special initiatives/Progress</b>	<p><b>2007 AR:</b> According to the Government: The establishment of a Committee to strengthen national efforts can be regarded as a successful measure in realizing the PR.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL
		<b>Workers' organizations</b>	<p><b>2006 AR:</b> According to the GFTUK, the challenges are as follows: (i) lack of capacity of Government officials and (ii) lack of dialogue between trade unions.</p> <p><b>2002 AR:</b> According to the ICFTU: (i) a compulsory arbitration is imposed to parties in case of unresolved conflict between the parties.</p>
	<b>According to the Government</b>	<p><b>2005 AR:</b> According to the Government: The main difficulties encountered in realizing the PR are as follows: (i) lack of public awareness and/or support; (ii) lack of information and data; (iii) prevailing employment practices; (iv) lack of capacity of responsible government institutions; (v) lack of capacity of employers' organizations; and (vi) lack of social dialogue on the PR.</p> <p><b>2004 AR:</b> According to the Government: The 1964 Labour Code, including its new amendments, does not cover all categories of workers.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the KCCI and the GFTUK: ILO technical cooperation is needed to improve employers' and trade unions' capacity in collective bargaining techniques.</p> <p><b>2006 AR:</b> According to the GFTUK: ILO technical cooperation would be necessary in: (i) sensitising government officials on the PR; (ii) providing support for the realization of the PR and other fundamental principles and rights at work; and (iii) protecting and strengthening workers' rights and their links with other economic and social issues.</p>	
	<b>Offer</b>	ILO, GCC	

<p><b>EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2006 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed the following: “It is important to note that the majority of workers in the Gulf States are migrant workers. Therefore, while we note that certain measures have been reported relating to this principle and right [...] we stress that the principle and right should be given full effect as regards all the workers present in these countries, including migrant workers, if these countries are to progress meaningfully in this area” (paragraph 40 of the 2006 AR Introduction).</p> <p><b>2005 AR:</b> The IDEAs listed Kuwait among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 AR Introduction).</p> <p><b>2004 AR:</b> The IDEAS stated that they were encouraged by the continuing steps taken by countries of the Gulf Cooperation Council (GCC) in relation to this principle, but noted that there is a long way to go and much to do. Moreover they observed that the Gulf Cooperation Council States were providing more information on the principle of freedom of association and the effective recognition of the right to collective bargaining; however they considered that it would be useful to receive more information on the other three principles. This would help to illustrate the interlinkages among all four principles (paragraph 84 of the 2004 AR Introduction).</p> <p><b>2003 AR:</b> The IDEAS commended Kuwait and other countries for their continuing dialogue with the Office. (paragraph 4 of the 2003 Annual Review Introduction).</p> <p><b>2002 AR:</b> The IDEAS recommended that, with a view to a more in-depth discussion of certain aspects of the Introduction, the Governing Body invite clarifications from Kuwait in relation to the continuation of steps undertaken in the country, in cooperation with the Office, concerning the principle of freedom of association and effective recognition of the right to collective bargaining (paragraph 41 (b) of the 2002 Annual Review Introduction). Furthermore, the Expert-Advisers acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the Government of Kuwait (paragraph 82 of the 2002 Annual Review Introduction).</p> <p><b>2001 AR:</b> The IDEAS hoped that the Government of Kuwait would continue a dialogue with the Office regarding the ways in which the PR could be achieved (paragraph 77 of the 2001 Annual Review Introduction).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p>NIL</p>

**BASE DE REFERENCE PAR PAYS AU TITRE DE L'EXAMEN ANNUEL DE LA DECLARATION DE L'OIT (2000-2007)<sup>1</sup>:  
REPUBLIQUE DEMOCRATIQUE POPULAIRE LAO**

***LIBERTE D'ASSOCIATION ET RECONNAISSANCE EFFECTIVE DU DROIT DE NEGOCIATION COLLECTIVE (LANC)***

<b>SOUSSION DES RAPPORTS</b>	<b>Accomplissement par le gouvernement de l'obligation de rapport</b>	<b>OUI</b> , mais seulement pour les Examens annuels (EAs) de 2002 et 2005.
	<b>Implication des organisations d'employeurs et de travailleurs dans le processus d'élaboration des rapports</b>	<b>OUI</b> , selon le gouvernement: Implication de la Chambre nationale de commerce et d'industrie lao (CNCIL) et de la Fédération des syndicats lao (FSL), sous la forme de consultations.
<b>OBSERVATIONS DES ORGANISATIONS D'EMPLOYEURS ET DE TRAVAILLEURS</b>	<b>Organisations d'employeurs</b>	<b>EA 2007:</b> Observations de la CNCIL. <b>EA 2006:</b> Observations de la CNCIL.
	<b>Organisations de travailleurs</b>	<b>EA 2007:</b> Observations de la FSL. Observations de la Confédération internationale des syndicats libres (CISL). <b>EA 2006:</b> Observations de la FSL. <b>EA 2005:</b> Observations de la CISL. <b>EA 2003:</b> Observations de la CISL. <b>EA 2002:</b> Observations de la CISL. <b>EA 2001:</b> Observations de la CISL.

<sup>1</sup> Les bases de référence par pays contenues dans la Revue annuelle de la Déclaration sont basées sur les éléments suivants: les rapports des gouvernements, les observations des organisations d'employeurs et de travailleurs, les cas d'étude préparés par les Etats et le BIT, et les observations/recommandations faites par les experts-conseillers de la Déclaration et le Conseil d'administration.

<b>EFFORTS ET PROGRES ACCOMPLIS DANS LA REALISATION DU PRINCIPE ET DROIT</b>	Ratification	Ratification	<b>La République démocratique populaire (RDP) lao n'a ratifié ni la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948 (C.87), ni la convention (n° 98) sur le droit d'organisation et de négociation collective, 1949 (C.98).</b>		
		Ratification: intention	<b>OUI, depuis 2002, pour la C.87 et la C.98.</b>  <b>EA 2007:</b> Selon le gouvernement: La possibilité de ratifier C.87 et C.98 fait actuellement l'objet d'une étude. La CNCIL et la FSL ont soutenu la ratification de la C.87 et de la C.98 par la RDP lao.  <b>EA 2006:</b> Le gouvernement a confirmé son intention de ratifier dans un proche avenir la C.87 et la C.98. La CNCIL et le FSL ont soutenu la ratification de toutes les conventions fondamentales par la RDP lao, y compris la C.87 et la C.98.  <b>EA 2002:</b> Selon les informations contenues dans les documents GB.282/LILS/7 et GB.282/8/2 (nov. 2001): le gouvernement avait l'intention de ratifier la C.87 et la C.98.		
	<b>Reconnaissance du principe et droit (perspective(s), moyens d'action, dispositions juridiques principales)</b>	Constitution	<b>EA 2006:</b> Selon le gouvernement: Le principe et droit (PED) est reconnu dans la Constitution de 1991 et dans la législation du travail qui garantissent le droit d'organisation et de négociation collective.		
		Politiques, législation et/ou réglementation	<ul style="list-style-type: none"> <li><b>Législation</b></li> </ul> L'article 3 du Code du travail de 1994 garantit aux travailleurs et aux employeurs l'exercice de leurs droits d'une manière autonome et ainsi que la libre affiliation à tout groupe ou organisation sociale légalement constitué.  <b>EA 2007:</b> Le Gouvernement a indiqué qu'il était en train de réviser les normes nationales relatives au droit du travail (y compris les normes fondamentales de l'OIT) en coopération avec le CNCIL, la FSL et le BIT.		
		Dispositions juridiques principales	i) Constitution de 1991; ii) Code du travail de 1994 (article 3).		
		Décisions judiciaires	RAS		
	<b>Exercice du principe et droit</b>	Au niveau national (entreprise, secteur/industrie, national)	Pour les employeurs	<b>EAs 2002-2005:</b> Selon le gouvernement: L'autorisation préalable du gouvernement est nécessaire pour constituer des organisations d'employeurs ou conclure des conventions collectives. Toutes les catégories d'employeurs peuvent constituer leur organisation.	
			Pour les travailleurs	<b>EAs 2002-2005:</b> L'autorisation préalable du gouvernement est nécessaire pour constituer des organisations de travailleurs ou conclure des conventions collectives. Toutes les catégories de travailleurs peuvent constituer leur organisation.	
	<b>EFFORTS ET PROGRES FAITS POUR REALISER LE PRINCIPE ET DROIT</b>	Au niveau national (entreprise, secteur/industrie, national)	Attention spéciale à des situations particulières	<b>EAs 2002-2005:</b> Selon le gouvernement: Les femmes.	
			Collecte et diffusion d'informations et de données	<b>EAs 2002-2005:</b> Selon le gouvernement: Il y a un manque d'informations et de données statistiques sur le PED.	
Au niveau international		RAS			

	<b>Mécanismes de contrôle, mise en œuvre et/ou sanctions</b>	<b>EAs 2002-2005:</b> Selon le gouvernement: Les moyens et actions mis en œuvre pour réaliser le PED sont les suivants: i) mécanismes d'inspection et de contrôle; ii) mécanismes institutionnels spéciaux; et iii) sanctions pénales, civiles ou administratives.	
	<b>Implication des partenaires sociaux</b>	<b>EA 2007:</b> La CNCIL et la FSL ont indiqué qu'ils participaient à la réforme législative nationale.	
	<b>Activités promotionnelles</b>	<b>EA 2006:</b> La CNCIL a indiqué qu'elle avait débuté ses activités en 2003 avec l'appui du BIT et de la Chambre de commerce australienne.	
	<b>Initiatives spéciales/progrès</b>	<b>EA 2006:</b> Selon le gouvernement: Une initiative spéciale a été entreprise à travers l'organisation d'une série de séminaires sur les Conventions n <sup>os</sup> 87 et 98 ainsi que les autres conventions fondamentales en collaboration avec le BIT. Selon la CNCIL: Une initiative spéciale a été entreprise à travers la sensibilisation des membres de la CNCIL sur la législation nationale et les normes internationales du travail.	
<b>DIFFICULTES DANS LA REALISATION DU PRINCIPE ET DROIT</b>	<b>Selon les partenaires sociaux</b>	<b>Organisations d'employeurs</b>	RAS
		<b>Organisations de travailleurs</b>	<b>EA 2007:</b> la CISL a soulevé les difficultés suivantes: i) certains observateurs (ONG et personnel diplomatique) ont indiqué que la loi n'était pas appliquée; ii) les mécanismes de résolution des conflits ne sont pas efficaces en pratique.  <b>EAs 2002-2007:</b> Selon la CISL: Les principales difficultés rencontrées dans la réalisation du PED sont les suivantes: i) l'unique syndicat est contrôlé par le seul parti politique légalement autorisé; ii) tous les syndicats doivent appartenir à la FSL; iii) les organisations de travailleurs ne peuvent pas appliquer leurs propres lois; iv) il y a restriction du droit de grève par des sanctions dissuasives; v) les services d'inspection du travail ainsi que les tribunaux du travail n'arrivent pas à faire respecter les normes du travail; vi) il y a absence d'obligation légale de négocier pour les employeurs et; vii) des atteintes sont portées à la liberté d'association des fonctionnaires.
	<b>Selon le gouvernement</b>	<b>EAs 2002-2005:</b> Selon le gouvernement: Principales difficultés rencontrées dans la réalisation du PED en RDP lao: i) les pratiques en vigueur en matière d'emploi, ii) le manque de capacité des institutions gouvernementales concernées ainsi que des organisations d'employeurs et de travailleurs et; iii) l'absence de dialogue social.	
<b>COOPERATION TECHNIQUE</b>	<b>Demande</b>	<b>EA 2007:</b> Le Gouvernement a sollicité l'assistance technique en matière de formation et de perfectionnement pour les membres du ministère du Travail. Par ailleurs, il a souhaité une coopération technique pour la réforme législative nationale. La CNCIL a sollicité l'assistance technique du BIT en matière de perfectionnement sur les conventions fondamentales, notamment en ce qui concerne les techniques de négociation collectives. La FSL a sollicité l'assistance technique du BIT en ce qui concerne la formation des travailleurs sur les conventions fondamentales de l'OIT et en matière de formation sur la capacité des organisations de travailleurs.  <b>EA 2006:</b> Le Gouvernement a sollicité l'assistance technique pour la réalisation des principes et droits fondamentaux au travail et des Conventions fondamentales de l'OIT dans le pays. La CNCIL a sollicité l'appui du BIT pour renforcer ses activités de sensibilisation sur la législation nationale et les normes internationales de travail. La FSL a sollicité la coopération technique du BIT pour promouvoir les principes et droits fondamentaux au travail au sein des travailleurs.	
	<b>Offre</b>	BIT; Chambre de commerce australienne	

<b>OBSERVATIONS/ RECOMMANDATIONS DES EXPERTS CONSEILLERS</b>	<p><b>EA 2004:</b> Les Experts-conseillers de la Déclaration de l'OIT ont recommandé le renforcement de l'appui du BIT à un certain nombre de pays comme la RDP Lao qui ne sont en mesure de remplir leur obligation de rapport au titre de l'examen annuel de la Déclaration que d'une manière irrégulière (paragr. 30 de l'examen annuel de l'Introduction de 2004)</p> <p><b>EA 2003:</b> Les Experts-conseillers ont observé que la RDP lao ne présente des rapports que d'une manière irrégulière (paragr. 14 de l'examen annuel de l'Introduction de 2003).</p> <p><b>EA 2001:</b> Les Experts-conseillers ont recommandé au Conseil d'administration d'entamer un dialogue avec le gouvernement de la RDP lao qui n'a pas encore fourni de rapports dans le cadre du suivi de la Déclaration (paragraphe 30 <i>b</i>) i) de l'examen annuel de l'Introduction de 2001).</p>
<b>OBSERVATIONS/ RECOMMANDATIONS DU CONSEIL D'ADMINISTRATION</b>	RAS

**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: LEBANON**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Reviews (AR) in 2000.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the most representative employers' organizations (Industrialist Association of Lebanon; Federation of Chamber of Commerce, Industry and Agriculture of Lebanon (FCCIAL)) and workers' organizations (General Confederation of Workers) through consultations and communication of government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2003 AR:</b> Observations by the FCCIAL.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the GCW. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the ICFTU. <b>2005 AR:</b> Observations by the ICFTU. <b>2004 AR:</b> Observations by the ICFTU. <b>2003 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Lebanon ratified in 1977 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</b>
		<b>Ratification intention</b>	<b>YES, since 2002, for C.87.</b>  <b>2007 AR:</b> According to the Government: There are still some discrepancies between the provisions of the draft amendments to the Labour Code and C.87. However, the Government is waiting for ILO comments on the draft amendments to the Labour Code. <b>2006 AR:</b> In response to the ICFTU's observations, the Government indicated that it is interested in

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

			<p>ratifying C.87 and has requested ILO technical assistance to review the draft Labour Code in the light of the provisions of this Convention.</p> <p><b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.87.</p>	
	<p><b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b></p>	<p><b>Constitution</b></p>	<p><b>YES</b> The 1926 Constitution guarantees trade union freedom and the right to establish legal associations.</p>	
		<p><b>Policy, legislation and/or regulations</b></p>	<ul style="list-style-type: none"> <li>• <b>Policy</b> <b>2005-2006 ARs:</b> According to the Government: The draft amendments to the Labour Code and to staff regulations protecting the civil service, which take into account many of the standards and principles set out in C.87, have been endorsed by the Civil Service Council. Both draft amendments have been submitted to the Council of Ministers for enactment but are not yet in force.</li> <li>• <b>Legislation</b> <b>2007 AR:</b> According to the Government: A tripartite committee that was constituted of representatives of Ministry of Labour, Employers and Workers' organisations and some legal advisers prepared the draft amendments to the Labour Code. As for the Civil Service Council, it has prepared amendments to the staff regulations that contain recognition of the right to establish trade unions for employees in the public sector. These amendments then have been referred to the Prime Ministry to follow its legal course.  The amended Labour Code deals with the principle and right (PR).  <b>2003 AR:</b> The Draft Labour Code Amendment would allow public administration employees to enjoy freedom of association (FOA). The Draft Labour Code Amendment includes a provision which would authorize certain categories of persons to enjoy the right to organize, while according to laws and regulations in force, such persons do not have that right.</li> <li>• <b>Regulations</b> Decree No. 17386 of 2 September 1964 and Legislative Decree No. 112 of 12 July 1959 relate to the PR.</li> </ul>	
		<p><b>Basic legal provisions</b></p>	<p>(i) The Constitution; (ii) the Labour Code; (iii) the Collective Agreement, Conciliation and Arbitration Act, which was enforced by Decree No. 17386 of 2 September 1964 (sections 2 and 6); (iv) Legislative Decree No. 112 of 12 July 1959.</p>	
		<p><b>Judicial decisions</b></p>	<p>NIL</p>	
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Exercise of the principle and right</b></p>	<p><b>At national level (enterprise, sector/industry, national)</b></p>	<p><b>For Employers</b></p>	<p><b>2007 AR:</b> Concerning the requirement of prior authorisation to establish employers' organizations, the Government indicated that it was waiting for ILO comments on the draft amendments to the Labour Code.</p> <p><b>2006 AR:</b> The Government indicated that the requirement of prior authorization to establish employers' or workers' organizations would be discussed with the ILO.</p> <p><b>2000 AR:</b> All categories of employers can set up their organizations, but prior Government authorization is necessary to operate these organizations (section 86 of the Labour Code).</p>

			<b>For Workers</b>	<p><b>2007 AR:</b> Concerning the requirement of prior authorisation to establish workers' organizations, the Government indicated that it was waiting for ILO comments on the draft amendments to the Labour Code.</p> <p><b>2006 AR:</b> According to the Government: the issue of the requirement of prior authorization to establish workers' organizations will be discussed with the ILO.</p> <p><b>2003-2006 ARs:</b> Prior Government authorization is required to establish workers' organizations. FOA can be exercised at enterprise, sector/industry, national and international levels by the following categories of workers: medical professionals; teachers; agricultural workers; workers engaged in domestic work; workers in export processing zones (EPZs) or enterprises/industries with EPZ status; migrant workers, who can join an occupational trade union under the general conditions laid down in the Labour Code; and workers in the informal economy. FOA and the right to collective bargaining can be exercised by workers in the public service with the exception of workers in public administrations, the judiciary and the military and security forces. It is necessary to be 18 years of age to join an occupational trade union. The Draft Labour Code contains provisions allowing civil servants in public administration, except judges and the military and security forces, to establish and join unions. The issue will be discussed within the framework of ILO technical assistance.</p>
			<b>Special attention to particular situations</b>	<p><b>2005-2007 ARs:</b> According to the Government: Women.</p> <p><b>2003-2005 ARs:</b> According to the Government: the Labour Code (section 50) grants immunity to members of the executive councils against any arbitrary dismissal.</p>
			<b>Information and Data collection</b>	NIL
			<b>At international level</b>	According to the Government: No particular restrictions on the international affiliation of employers' and workers' organizations.
			<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2004-2005 ARs:</b> According to the Government: There are inspection/monitoring mechanisms and capacity building of responsible Government officials. Legal reform and special institutional machinery are envisaged. In instances where the PR has not been respected, grievances can be submitted to the competent administrative unit at the Labour Ministry and to competent courts if no solution is found.
<b>Involvement of the social partners</b>	<p><b>2007 AR:</b> According to the Government: The Ministry of Labour encourages tripartite social dialogue. In this respect, the results obtained were positive.</p> <p><b>2002-2006 ARs:</b> Employers' and workers' organizations have participated in a tripartite committee to lay down a draft amendment to the Labour Code. In addition, they are members of numerous economic and social, as well as arbitration, bodies. Moreover, employers' and workers' organizations participate in tripartite seminars on various labour issues, arranged by the Ministry of Labour in cooperation with the ILO and the Arab Labour Organization. A tripartite commission was established by the Ministry of Labour in order to propose amendments to the Labour Code.</p>			

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Promotional activities</b>	<p><b>2007 AR:</b> The Government indicated that the prevalent political conditions had not allowed the organization of the planned workshop on International Labour Standards, with special focus on freedom of association, in cooperation with the International Training Centre of the ILO-Turin. Therefore this activity was postponed.</p> <p><b>2005 AR:</b> According to the Government: Capacity building and awareness-raising activities have been implemented.</p>	
	<b>Special initiatives</b>	<p><b>2007 AR:</b> According to the Government: The large number of workers' federations and unions in the country should be attributed to the following elements: (i) the well-known experience of a free trade union movement in Lebanon; (ii) the government's non-interference in trade unions' establishment and activities; and (iii) the legal protection of trade unions.</p> <p><b>2006 AR:</b> The Government indicated that the Ministry of Labour had revived more than 60 trade unions the activities of which were interrupted.</p> <p><b>2004-2005 ARs:</b> According to the Government: Successful examples in relation to FOA:</p> <ul style="list-style-type: none"> <li>• All types of trade unions, at all levels, play a very important role in submitting and proposing social and economic laws, participating effectively in determining the economic policy in the country, and conducting negotiations and dialogue with employers on working conditions and terms and prevention of labour disputes.</li> <li>• Trade unions enjoy freedom of movement to defend their interests.</li> <li>• Workers' and employers' organizations participate in the committees established by the Ministry of Labour to prepare projects of a social nature. Many activities have been undertaken in this regard.</li> </ul>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2003 AR:</b> No particular challenges have been raised by the FCCIAL.
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> According to the ICFTU (additional challenges): (i) the Government continues to interfere in trade unions' affairs; (ii) restriction of freedom of association for many categories of workers (Government employees, some categories of agricultural workers, domestic workers, day and temporary workers); limitation on strike rights; (iii) no protection against anti-union discrimination; and (iv) migrant workers are not allowed to form trade unions.</p> <p><b>2006 AR:</b> The ICFTU raised the following challenges: (i) there are restrictions on the right to organize for trade unions; (ii) the law does not adequately protect workers against anti-union discrimination although the draft Labour Code would resolve this issue; (iii) the Government has often interfered in trade union affairs; (iv) Palestinian refugees (11% of the population) are not allowed to form trade unions.</p> <p><b>2000-2006 ARs:</b> ICFTU's observations: (i) Lebanon's Labour Code bans around 150,000 government employees from forming or joining trade unions; (ii) the Minister of Labour has wide powers under the law and must give prior authorization before a union can be formed; (iii) he must approve the results of all trade union elections; (iv) the law permits the administrative dissolution of trade unions and forbids them to engage in any political activity; (v) strike rights are legally restricted.</p>
	<b>According to the Government</b>	<p><b>2007 AR:</b> According to the Government: Domestic workers are excluded from all provisions of the Labour Code.</p> <p><b>2006 AR:</b> In response to the ILO Declaration Expert-Advisers' observations, the Government indicated that it was interested in ratifying C.87 and had sent the draft Labour Code to the ILO for review in the light of the provisions of C.87.</p> <p>Government's response on the ICFTU's observations: (i) The relations between the Ministry of Labour's competent units and labour organizations are based on cooperation and coordination and not on containment, pressure or force; (ii) the Lebanese Constitution</p>	

		<p>upholds individual freedoms and places them under its protection, as does the Labour Code (sections 83, 89, 90, 92, 93, 94, 97, 99 and 106); (iii) Section 86 of the Labour Code provides that no employers' or workers' union may be established without prior authorization (license) from the Labour Ministry - this is meant to publicise the wish of the parties to establish a union; (iv) the administrative procedures set out for the creation of a union or federation are <i>per se</i> an element of legal protection to defend a union from the control of any authority, and provide adequate legal protection to workers; (v) the existence of more than 700 trade unions and 785 confederations in a country with a population of barely four million inhabitants is a clear evidence that freedom of association and the right to organize are allowed in the country and protected by law.; (vi) the right to demonstrate and express one's opinion and the right to strike are freely allowed, while State authorities have protected demonstrators and such actions occur frequently in public in Lebanon; (vii) most trade unions take part in political activities; (viii) in order to ensure the human rights of Palestinians in Lebanon, the Minister of Labour has passed Decree No. 67 on 7/6/2005, which especially allows Palestinians to exercise on an equal footing all professions and activities authorized to Lebanese citizens.</p> <p><b>2000-2005 ARs:</b> Government's response on the ICFTU's observations: (i) in the public sector, there is an association for graduates of the National Institute for Administration and there are teachers' associations at all levels of education (primary, secondary and tertiary). They conduct negotiations with administrations in order to safeguard their rights and protect the rights of their members; (ii) the mandate of the Ministry of Labour with respect to union activities is restricted to maintaining public order, protecting the public interest and assuring the sound and appropriate application of rules and regulations governing union activities; (iii) the Labour Code gives the Government the right to dissolve a union committee only if the union committee is in breach of the responsibilities assigned to it or acts outside the scope of its competence; (iv) the basic objective of a trade union is to defend the professional interests of its members and ensure progress in the economic, industrial and commercial spheres and in fact, members of a trade union, like all other citizens, do exercise their right to participate in political activity and to vote in all elections. A trade union, as a legal entity, is not entitled to engage in political activity in its capacity, given that political practice is an individual right.; (v) the right to strike is accorded to trade unions in all sectors; (vi) the draft amendment to the Labour Code provides for the right to establish and to join trade unions for servants and employees of public administrations, except for judges, the military and security forces; (vii) Prior authorization to establish a union is required because of the confused situation of unions due to the political, religious and economic situation. The issue of authorization will be discussed within the framework of ILO technical assistance. However, the issue of authorization has not been a barrier before the establishment of trade unions: in fact, there are in Lebanon 381 trade unions, 167 employers' organizations and 66 trade union federations.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the Government: ILO technical cooperation would be needed to finance the project of automation (mechanization) of trade unions and setting a geographical (localization) data basis in order to improve the continuous follow-up of trade union activity. According to the GCW: There is a need for technical cooperation on workers' education.</p> <p><b>2006 AR:</b> According to the Government: The requests for technical assistance are considered as one of the priorities of the Ministry of Labour but are to be discussed with the ILO.</p> <p><b>2005 AR:</b> According to the Government: A need for technical cooperation to facilitate the realization of the PR in Lebanon exists in the following areas, in order of priority: (1) legal reform (labour law and other relevant legislation); (2) capacity building of responsible Government institutions; and (3) strengthening tripartite social dialogue. The Government hopes that these areas, which were defined in cooperation with the ILO, will be among the technical cooperation priorities that the ILO will help to implement.</p>
	<b>Offer</b>	NIL
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>		<b>2006 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed Lebanon among the countries where government authorization was required to establish employers' or workers' organizations and indicated that such restrictions would clearly deny the full potential of the principle of freedom of association (paragraph 36 of the 2006 Annual Review Introduction).

	<p><b>2005 AR:</b> The IDEAs listed Lebanon among the countries where some efforts were being made in terms of research, advocacy activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and /or ratification (paragraph 13 of the 2005 AR Introduction). However, they also mentioned that Lebanon was among the countries where important initiatives were started and where progress had slowed down (paragraph 147 of the 2005 AR Introduction).</p> <p><b>2003 AR:</b> The IDEAs were encouraged to see the Government of Lebanon pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help. (paragraph 73 of the 2003 Annual Review Introduction).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p>NIL</p>

**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: MALAYSIA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000 but no change report for the 2007 AR.		
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Malaysian Employers Federation (MEF) and Malaysian Trades Union Congress (MTUC) through communication of government reports and tripartite meetings on reporting issues.		
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the MEF		
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the ICFTU. <b>2005 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Malaysia ratified in 1961 the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</b>	
		<b>Ratification intention</b>	NIL	
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> The Constitution (article 10(1)(c)) provides for freedom of assembly and association.	
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b> <b>2000-2006 ARs:</b> The Trade Unions Act, 1959 and the Industrial Relations Act, 1967 recognize the principle and right (PR) but impose some restrictions on joining and forming trade unions and on the right to collective bargaining.</li> <li>• <b>Regulations</b></li> </ul>	

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

			The Trade Unions Notification 1981 deals with the PR.	
		<b>Basic legal provisions</b>	(i) The Trade Unions Act, 1959; (ii) the Industrial Relations Act, 1967; (iii) the Employment Act, 1955; and (iv) the Act and Trade Unions Notification 1981, section 27.	
		<b>Judicial decisions</b>	NIL	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2002-2006 ARs:</b> All categories of employers can set up their organizations, but prior Government authorization is necessary to operate these organizations.
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Workers</b>	<b>2000-2006 ARs:</b> Freedom of association can be exercised by medical professionals, teachers, agricultural workers, workers engaged in domestic work, workers in export processing zones (EPZs) or enterprises/industries with EPZ status, and migrant workers. However, prior Government authorization is necessary to operate workers' organizations (compulsory registration under the Trade Unions Act 1959 and recognition for collective bargaining under the Industrial Relations Act of 1967 and its subsequent amendments).  FOA cannot be exercised by workers in the informal economy, members of the Royal Malaysian Police; members of any prison service; members of the armed forces; public officers engaged in confidential or security capacity; public officers holding any post in the managerial and professional group; and officers prohibited by any other law from joining a trade union, except those exempted by the Chief Secretary to the Government.
			<b>Special attention to particular situations</b>	NIL
			<b>Information/Data collection and dissemination</b>	<b>YES, 2002 AR:</b> The Government provided information and data that show a decrease of registered collective agreements under the 2002 Annual Review regarding number of trade unions and memberships by sectors, number of collective agreements, claims for union recognition, etc.
		<b>At international level</b>	<b>According to the Government: There are no particular restrictions on the international affiliation of employers' and workers' organizations. However, a trade union must have an approval from the Director General of Trade Unions before it can affiliate internationally.</b>	
		<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2000-2006 ARs:</b> According to the Government: The registration of a trade union is provided for under the Trade Unions Act, 1959. Every application for registration of any trade unions must be in compliance with this law and shall be made to the Director-General of Trade Unions (DGTU) for registration in the prescribed form, and shall be signed by at least seven members of the union in order to ensure an orderly development of trade unions in this country, under the Trade Unions Act, 1959. The DGTU can also cancel or suspend the registration of a trade union under certain conditions (Trade Unions Act, 1959).  Machinery appropriate to national conditions has been established in the public sector for purposes of discussing and to some extent negotiating terms and conditions of employment.	

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2000-2006 ARs:</b> The PR is enforced through law, collective agreements, free dispute settlement procedures and tripartite consultations at all levels. The Minister of Labour has the power to order recognition to be granted by the employer if the union claiming recognition is found competent and/or represents the majority of the workmen concerned.</p> <p>According to the Government: In instances where the PR has not been respected in the public sector, discussions and to some extent negotiations are held by the officers of National Joint Councils, the Congress of Unions of Employees in the Public and Civil Service (CUEPACS) and the Public Services Department. These discussions and negotiations are related to terms and conditions of employment, including remuneration and to issues affecting employees in the public service, including the statutory bodies and local authorities. Furthermore, in the private sector, the issue of complaints relating to anti-union practices by employers, including dismissal, is addressed by the Director-General of Industrial Relations (DGIR) or by the Industrial Court when the DGIR fails to resolve the complaint.</p>	
	<b>Involvement of the social partners</b>	<p><b>2000-2006 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in regular consultations in respect of their terms and conditions of employment, including remuneration.</p>	
	<b>Promotional activities</b>	NIL	
	<b>Special initiatives/Progress</b>	<p><b>2004 AR:</b> According to the Government: Successful example: The number of collective agreements voluntarily concluded on an annual basis and for a minimum duration of three years.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2007 AR:</b> According to the MEF: Employers abide by the laws and guidelines issued by the authorities in dealing with recognition claims by unions. It is never the intention of an employer to prolong or delay the process of a recognition claim. Such a procedure may involve referring the issues to the civil court, which may take longer to be decided. Referring the issue to the court for decision is a right, which may be exercised by the unions or the employers, and it should not be seen as anti-union tactics when the employer takes matter to the court.</p> <p>In fact the number of trade unions inclusive of employers' organizations increased by 569 in 2005. The membership in to the trade unions increased from 734,455 to 801,604 between 2001 and 2005.</p>
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> The ICFTU raised the following additional challenges: (i) migrants workers are not allowed to join associations and (ii) the labour courts are inefficient.</p> <p><b>2006-2007 ARs:</b> The ICFTU raised the following additional challenges: (i) no measures have been taken to speed up union recognition, despite previous promises, and the Government remained opposed to ratifying Convention No. 87; (ii) trade unions whose registration has been denied or withdrawn are considered as illegal associations; (iii) the Trade Unions Act establishes restrictions regarding the scope of a union's membership, its size and who may qualify as a candidate to become a trade union official; (iv) restrictions on the right to form trade unions in the public sector; (v) the right to strike is not specifically recognised and is restricted; (vi) the Government has threatened to invoke the 1960 Internal Security Act to prevent unions from undertaking protest action; (vii) only about 8.5 per cent of the total workforce is unionised; (viii) lack of independence of trade unions; (ix) slow union recognition by employers, (x) employers impose extra restrictions; (xi) the Government has failed to apply sanctions against employers who have violated directives granting trade union recognition or who have refused to reinstate illegally dismissed workers.</p> <p><b>2000-2005 ARs:</b> The ICFTU raised the following challenges: (i) slow and cumbersome recognition process of the trade unions; (ii) denial of union recognition by many employers, including some multinational corporations; (iii) prohibition of general unions or mergers unions to most workers who can only form in-house unions as exemplified in the case of women workers employed by multinational electronics companies who have been denied the right to organize a national union in the electronics industry since the early 1970; (iv) persisting political and legal obstacles to the organizing of trade unions; (v) extensive</p>

			<p>power of the DGTU (supervision, inspection, approval or withdrawal of registration, etc.); (vi) the serious obstacle to trade union organizing activities resulting in the establishment of often very risky and time consuming in-house unions by workers disqualified from union membership; (vii) hostility and threats of dismissal affecting workers forming in-house unions; (viii) legal and legislative restrictions and regulations on trade unions rights and activities, including the right to strike; (ix) police intimidation; (x) restrictions on joining trade unions for certain categories of workers including migrant workers; (xi) compulsory arbitration for parties involved in a dispute; (xii) weakness of the conciliation machinery; (xiii) inefficiency of the industrial court; (xiv) employees' demand for higher wages and a guaranteed minimum wage in their companies.</p>
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the Government</b></p>		<p><b>2007 AR:</b> In response to the ICFTU's observations, the Government indicated the following: (i) under the Trade Unions Act 1959 and the Industrial Relations Act 1967, the formation and the activities of trade unions, laws and procedures are to be observed; (ii) to speed up union recognition the Government has taken steps to amend the Industrial Relations Act 1967 and the Trade Unions Act 1959; (iii) the powers conferred on the DGTU are meant to enable him to have the general supervision, direction and control of all matters relating to trade unions, and the DGTU only de-registers a trade union if a trade union has contravened the Trade Unions Act 1959, the Trade Unions Regulations or its own rules and regulations; (iv) the establishment of an industrial trade union by electronic workers is not encouraged. This policy is aimed at protecting the national interest as well as the interests of workers in the electronics industry. Trade unions may refer to the Minister of Human Resources for his decision on matters relating to the definition of employees in managerial, executive, confidential or security capacities and their eligibility to be union members. Disputes relating to the scope of representation of such workers by industrial unions, should they arise, will be dealt with under section 9(1A) of the Industrial Relations Act.</p> <p><b>2006 AR:</b> In response to the ICFTU's observations, the Government made the following comments: (i) in order to speed up union recognition, the Government has taken steps to amend the Industrial Relations Act, 1967 and the Trade Unions Act, 1959. The cause of delay is mainly due to legal proceedings against the decision of DGTU; (ii) the laws and procedures relating to the formation and activities of trade unions are meant to grant trade unions certain rights, immunities and liabilities as a legal entity and to protect the interests of workers; (iii) it is necessary to impose conditions, restrictions and regulations on the formation and growth of trade unions to prevent the multiplication of trade unions within a particular establishment, trade, occupation or industry so as to avoid unions rivalry; (iv) a trade union is not denied the right to strike as long as the stipulated procedures are observed; (v) the Industrial Relations Act, 1967, deals adequately with disputes relating to illegal dismissals; (vi) essential services have already been identified specifically in the Schedule to the Industrial Relations Act; (vii) the Internal Security Act has been effective and relevant in maintaining national security; (viii) workers are granted the right to form or join a trade union under the Federal Constitution as well as the Employment Act, 1955, the Trade Unions Act, 1959 and the Industrial Relations Act, 1967; (ix) the DGTU decides if a trade union is competent to represent workers or not; if not the workers may join a competent trade union or, in the absence of such a trade union, they may form an establishment-based trade union; (x) trade unions are allowed to form or join federation of trade unions under the Trade Unions Act, 1959; (xi) employees in managerial and executive positions, employees entrusted with confidential matters or employees performing security-related tasks are not to be organized by industrial unions, but are free to form or join a union of their own particular category of workers; (xii) non-compliance of Industrial Court awards by employers is dealt with in accordance with the provisions of the Industrial Relations Act; (xiii) under the Trade Unions Act, 1959, migrant workers may join a trade union as union members, but they are not to be elected as trade union officials; (xiv) section 8 of the Industrial Relations Act allows for complaints relating to anti-union practices by employers, including dismissals, to be lodged with the DGIR.</p> <p><b>2004 AR:</b> The Government identified the main difficulties encountered in Malaysia in realizing the PR as follows: (i) social values; (ii) cultural traditions; and (iii) social and economic circumstances.</p> <p><b>2000-2002 ARs:</b> In response to the ICFTU's observations, the Government made the following comments: (i) the Federal Constitution and the labour laws provide for the right to form or join a trade union; (ii) the Minister has the power to order recognition to be granted</p>

		by the employer concerned if the union claiming recognition is found competent and/or represents the majority of the workers concerned; (iii) some restrictions on basic trade union rights are necessary in order to preserve national interests; (iv) general trade unions are prohibited so as to avoid competition among trade unions; (v) the power of regulation conferred on the DGTU and the Minister of Human Resources (MHR) is meant to ensure that trade unions operate in compliance with national, peoples' and the workers' interests; (vi) trade unions can affiliate only with lawful and responsible international consultative bodies or similar bodies; (vii) the Government recognizes the important role of trade unionism and has supported its growth in a regularized manner and is concerned for the welfare and interest of workers. Furthermore, the main reason for the backlog was the economic crisis prevailing in Malaysia since late 1997. The Government has taken appropriate measures to address the issue of the backlog of cases.
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	NIL
	<b>Offer</b>	NIL
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>2006 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed Malaysia among the countries where government authorization was required to establish employers' or workers' organizations and indicated that such restrictions would clearly deny the full potential of the principle of freedom of association (paragraph 36 of the 2006 Annual Review Introduction).	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**REFERENCIA POR PAIS DENTRO DEL MARCO DEL EXAMEN ANUAL DE LA DECLARACION DE L'OIT (2000-2007) <sup>1</sup>: MEXICO**

***LIBERTAD SINDICAL Y DE ASOCIACION Y RECONOCIMIENTO EFECTIVO DEL DERECHO DE NEGOCIACION COLECTIVA (LANC)***

<b>PRESENTACION DE MEMORIAS</b>	<b>Cumplimiento de las obligaciones gubernamentales</b>	SI, desde el principio del Examen anual (EA) en 2000.	
	<b>Cometido de las organizaciones de Empleadores y Trabajadores en la presentación de memorias</b>	SI, el Gobierno señala que han transmitido copias de memorias gubernamentales a las organizaciones de Empleadores, (Confederación de Cámaras Industriales de los Estados Unidos Mexicanos (CONCAMIN) y a la Confederación Patronal de la República Mexicana (COPARMEX) así como de Trabajadores (Confederación de Trabajadores de México (CTM)).	
<b>OBSERVACIONES DE LOS INTERLOCUTORES SOCIALES</b>	<b>Organizaciones de Empleadores</b>	<b>EA 2007:</b> Observaciones de la CONCAMIN y de la COPARMEX. <b>EA 2005:</b> Observaciones de la CONCAMIN. <b>EA 2002:</b> Observaciones de la CONCAMIN. <b>EA 2001:</b> Observaciones de la CONCAMIN. Observaciones de la COPARMEX. <b>EA 2000:</b> Observaciones de la CONCAMIN.	
	<b>Organizaciones de Trabajadores</b>	<b>EA 2007:</b> Observaciones de la CTM. Observaciones de la Confederación Internacional de Organizaciones Sindicales Libres (CIOSL). <b>EA 2005:</b> Observaciones de la CTM. Observaciones de la CIOSL. <b>EA 2002:</b> Observaciones de la CTM. Observaciones de la CIOSL. <b>EA 2001:</b> Observaciones de la CONCAMIN. Observaciones de la COPARMEX. <b>EA 2000:</b> Observaciones de la CONCAMIN.	
<b>ESFUERZOS Y PROGRESOS DESPLEGADOS PARA</b>	<b>Ratificación</b>	<b>Estado de ratificaciones</b>	<b>México ratificó en 1950 el Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 (núm. 87). Sin embargo, no ha todavía ratificado el Convenio sobre el derecho de</b>

<sup>1</sup> Referencias dentro del Examen anual de la Declaración de la OIT están basadas sobre los elementos siguientes en la medida en que estén disponibles: memorias de Gobiernos dentro del Examen anual de la Declaración, observaciones de Organizaciones de Empleadores y Trabajadores, estudios específicos con profundidad preparados sobre la patrocinación del país y de la OIT, y observaciones/recomendaciones de los Expertos Consejeros en la Declaración de la OIT y del Consejo de Administración.

<b>REALIZAR EL PRINCIPIO Y DERECHO</b>			<b>sindicación y de negociación colectiva, 1949 (núm. 98).</b>
		<b>Intención de ratificación</b>	<p><b>Según el Gobierno hay actualmente una imposibilidad jurídica nacional de ratificar el C.98.</b></p> <p><b>EA 2006:</b> Según el Gobierno: México no ha ratificado el Convenio sobre el derecho de sindicación y de negociación colectiva, 1949 (núm. 98). De hecho, la Cámara de Senadores de la República decretó ratificar el mismo con una reserva por lo que se refiere al inciso b), apartado 2 del artículo 1 del Convenio. De esta manera, los mandatos establecidos en el artículo 123 de la Constitución y la Ley Federal del Trabajo tendrían precedencia por lo que se refiere a la libertad de asociación y la libertad sindical. Sin embargo, la OIT no ha admitido la ratificación de México, debido a que esta Organización no admite reservas. Sin embargo, en el marco de la “Nueva Cultura Laboral”, se trabaja en una reforma legislativa laboral que coadyuve a promover la capacitación, la participación y una remuneración de los trabajadores, mismo que culminó en un proyecto de reformas en La LFT que aborda el tema de la libertad sindical y el reconocimiento efectivo del derecho de a la negociación colectiva, mismo que se convirtió en iniciativa de ley el 12 diciembre de 2002. En respuesta a los comentarios de la CIOSL, el Gobierno señala lo siguiente: (i ) En relación con la ratificación del C.98, a la fecha no ha habido algún cambio sobre la reserva hecha por el Senado de la Republica al Inciso b), numeral 2 del artículo 1° del convenio.</p> <p><b>EA 2003:</b> El Gobierno señala que la Cámara de Senadores de la República decretó ratificar el mismo con una reserva por lo que se refiere al inciso b), apartado 2 del artículo 1 del Convenio. La OIT no ha aceptado esta ratificación ya que no se aceptan reservas.</p>
<b>ESFUERZOS Y PROGRESOS DESPLEGADOS PARA REALIZAR EL PRINCIPIO Y DERECHO</b>	<b>Reconocimiento del principio y derecho (perspectiva(s), medios de acción, disposiciones jurídicas básicas)</b>	<b>Constitución</b>	<p><b>SI</b></p> <p><b>La Constitución Política de los Estados Unidos Mexicanos de 1917</b> (Artículo 9) establece que no se podrá coartar el derecho de asociarse o reunirse pacíficamente con cualquier objeto lícito. El artículo 123 apartado A, fracción XVI del mismo ordenamiento, dispone que tanto los obreros como los empresarios tengan derecho para coaligarse en defensa de sus respectivos intereses, formando sindicatos, asociaciones profesionales, etc. Asimismo, el apartado B, fracción X del mencionado artículo, establece que los trabajadores tendrán el derecho de asociarse para la defensa de sus intereses comunes</p>
		<b>Política, legislación y/o reglamentación</b>	<ul style="list-style-type: none"> <li>• <b>Legislación</b></li> </ul> <p><b>La Ley Federal del Trabajo (LFT)</b>, en sus artículos 441, 356, 357, 359 y 381, contempla disposiciones relativas al contrato colectivo de trabajo y al contrato-ley, dispuestos en los capítulos III y IV.</p> <p><b>La Ley Federal de los Trabajadores al Servicio del Estado (LFTSE)</b>, en su título cuarto establece disposiciones relativas a la organización colectiva de los trabajadores y a las condiciones de trabajo.</p> <p>El <b>registro sindical</b> es una garantía que le brinda a las organizaciones seguridad jurídica.</p> <p>La negociación colectiva se lleva a cabo en tres modalidades que se determinan según la práctica y entendimiento entre las organizaciones de los trabajadores y los empleadores o sus organizaciones. Los contratos colectivos no están sujetos a la autorización del Gobierno, las autoridades únicamente fungen como depositarias para registro de los documentos que los contienen.</p>
		<b>Disposiciones jurídicas básicas:</b>	(i) Ley Federal del Trabajo; y (ii) Ley Federal de los Trabajadores al Servicio del Estado.

		<b>Decisiones judiciales</b>	Ninguna mención particular.	
	<b>Ejercicio del principio y derecho</b>	<b>En el nivel nacional (empresas, sectores/ industrias, nacional)</b>	<b>Para Empleadores</b>	<b>EA 2003:</b> Según el Gobierno: Todas las categorías de empleadores pueden ejercer el DNC, y no es necesario pedir la autorización/aprobación del Gobierno para celebrar convenios colectivos.
			<b>Para Trabajadores</b>	<b>EA 2003:</b> Según el Gobierno: Pueden ejercer el DNC: (i) todos los trabajadores de los servicios públicos; (ii) los profesionales de la medicina; (iii) el personal docente; (iv) agricultores; (v) los trabajadores que desempeñan trabajos a domicilio; (vi) los trabajadores en las zonas francas (ZFI) o empresas/industrias con categoría ZFI; (vii) Todos los trabajadores. Además, no es necesario pedir la autorización/aprobación del Gobierno para celebrar convenios colectivos.
<b>ESFUERZOS Y PROGRESOS DESPLEGADOS PARA REALIZAR EL PRINCIPIO Y DERECHO</b>	<b>Ejercicio del principio y derecho</b>	<b>En el nivel nacional (empresas, sectores/ industrias, nacional)</b>	<b>Tratamiento especial a determinadas situaciones</b>	<b>EA 2003: NO</b> , según el Gobierno.
			<b>Recopilación y divulgación de información y datos</b>	<b>EA 2007:</b> Según el Gobierno: Dentro de la negociación sindical del periodo de julio de 2005 a. mayo de 2006, se han registrado 6,832 emplazamientos a huelga, de las cuales únicamente 42 se han convertido en huelgas estalladas, 10 que representa un índice de entallamiento de huelgas de un 0.4 %. Por medio del diálogo y la conciliación se han celebrado 5,415 revisiones salariales y contractuales en el mismo periodo, resultando beneficiados 1, 687,065 trabajadores.  <b>EAs 2000-2006:</b> Las autoridades administrativas han publicitado y enviado a la OIT diversos información y cuadros estadísticos sobre contratos y convenios colectivos. La CTM comunicó también a la OIT información y datos sobre contratos negociados con los empleadores.
	<b>En el nivel internacional</b>	Ninguna mención particular		
	<b>Mecanismos de supervisión, aplicación y sanción</b>	<p><b>EA 2003:</b> Según el Gobierno: Se han establecido tres instancias a nivel federal y local: 1) inspección del trabajo (artículo 541 de la LFT) para verificar el cumplimiento de las normas de trabajo; 2) La procuraduría de la defensa del trabajo: su objeto es proponer a las partes interesadas (trabajadores y patrones), soluciones amistosas para el arreglo de sus conflictos y hacer constar los resultados en actas autorizadas (artículo 530 de la LFT); 3) <i>juntas de conciliación y arbitraje</i>: se encargan de conocer y resolver los conflictos de trabajo que se susciten entre trabajadores y patrones, sólo entre aquellos o sólo entre éstos, derivados de las relaciones de trabajo o de hechos íntimamente relacionados con ellas (artículos 601 y 604 de la LFT).</p> <p><b>EAs 2000 y 2003:</b> Según el Gobierno: La negociación colectiva se lleva a cabo en tres modalidades que se determinan según la práctica y entendimiento entre las organizaciones de los trabajadores y los empleadores o sus organizaciones: (i) La primera modalidad consiste en una negociación voluntaria entre las partes, quienes previa negociación, sólo se concretan a depositar el contrato colectivo ante la autoridad competente; (ii) La segunda modalidad, o sea la negociación administrativa consiste en que una de las partes o ambas solicitan a la autoridad laboral la conciliación, previo emplazamiento a la huelga en caso de no llegar a un acuerdo entre las organizaciones. En estos casos la autoridad laboral orienta a ambas partes, y en algunos otros sólo participa como testigo en la celebración de sus convenios que se expresan en contratos colectivos y que a su vez deben depositarse ante la autoridad competente; (iii) En la tercera modalidad, los sindicatos acuden directamente a la vía jurisdiccional ante las Juntas de</p>		

		Conciliación y Arbitraje (federal o locales) competentes para llegar al entendimiento entre las partes durante el período conciliatorio del proceso laboral.	
	<b>Cometido de los interlocutores sociales</b>	<p><b>EA 2007:</b> Según el Gobierno: El Consejo para el Diálogo con los Sectores Productivos, ha sido una plataforma eficaz en la que los sindicatos, los organismos empresariales y los académicos mas representativos intercambian reflexiones y propuestas sobre las políticas que impulsa el Gobierno Federal en la agenda económica. Se ha institucionalizado al diálogo social como un elemento central de visión nacional, en México se permite el pleno ejercicio de los derechos laborales y la libertad sindical, sin que exista discrecionalidad en el registro de los sindicatos mediante el respeto a la libre contratación colectiva un compromiso sindical con la capacitación, la participación, la productividad y la competitividad de las empresas, así como con el mejoramiento del nivel de vida de los trabajadores.</p> <p><b>EAs 2003-2006:</b> Según el Gobierno: Se creó el Consejo para el Diálogo con los Sectores Productivos en 2001 Consejo en el cual se encuentran representantes de los sectores, obrero, campesino, patronal y público. El propósito de este Consejo es mantener un diálogo permanente de participación y colaboración para ventilar los programas generados por las nuevas condiciones nacionales e internacionales en materia laboral.</p>	
	<b>Actividades de promoción</b>	<p><b>EA 2007:</b> Según la CONCAMIN y la COPARMEX: La ley nacional cubre la negociación colectiva, y hay una práctica de contratos colectivos en México.</p> <p><b>EAs 2003-2006:</b> Según el Gobierno: (i) Un diálogo permanente se mantiene a través del Consejo para el Diálogo con los Sectores Productivos. Además, la Secretaría del Trabajo y Previsión Social promueve la utilización del Diálogo Social como herramienta para alcanzar acuerdos en materia de negociaciones colectivas donde el gobierno interviene únicamente como mediador, logrando con ello una nueva relación entre trabajadores, empresarios y gobierno.</p>	
	<b>Iniciativas especiales/Progreso</b>	<p><b>EA 2007:</b> Según el Gobierno: El Gobierno federal, por conducto de la Secretaria de Trabajo y Previsión Social impulsa y facilita el diálogo obrero empresarial hacia una Nueva Cultura Laboral que constituye un verdadero diálogo social entre fuerzas productivas. Propiciando la libertad de negociación de los contratos colectivos entre las partes, de acuerdo con las condiciones específicas de cada empresa, la libre negociación sindical se demuestra con el reconocimiento de los sindicatos y las organizaciones empresariales como actores en la formación de consensos sociales.</p> <p><b>EAs 2003-2006:</b> Según el Gobierno: Con respecto a las iniciativas emprendidas en el país que se pueden considerar como logros en relación con este principio, y como se señaló en la memoria de 2002, en el marco de la «Nueva Cultura Laboral» del Gobierno se trabaja en una reforma legislativa laboral que coadyuve a promover la capacitación, la participación y una justa remuneración de los trabajadores.</p> <p>Para ello, se creó la Mesa Central de Decisión para la Reforma de la Ley Federal del Trabajo, en la que las organizaciones de trabajadores y empleadores de México, teniendo al Gobierno como facilitador, lograron culminar un proyecto de reformas a la Ley Federal del Trabajo que aborda el tema de la libertad sindical y el reconocimiento efectivo del derecho a la negociación colectiva.</p>	
<b>PROBLEMAS PARA REALIZAR EL PRINCIPIO Y DERECHO</b>	<b>Según los interlocutores sociales</b>	<b>Organizaciones de Empleadores</b>	<b>EA 2000:</b> Según la CONCAMIN: El derecho de negociación colectiva (DNC) está reconocido en México y no se requiere ninguna autorización/aprobación del Gobierno para concertar convenios colectivos. Sin embargo, los trabajadores de la economía informal no pueden ejercer este derecho. Asimismo, en el caso de los servidores públicos, las «condiciones generales de trabajo» se definen en el instrumento que fija las relaciones contractuales con la administración pública y las posibilidades de mejora de los mismos se vinculan necesariamente con el presupuesto de egresos trianual.
		<b>Organizaciones de Trabajadores</b>	<b>EAs 2001, 2002 y 2005-2007:</b> Según la CIOSL: (i) Ciertas prácticas de las maquilladoras obligan a los empleados a firmar declaraciones que los dejan fuera de las negociaciones colectivas; (ii) sin registrarse, un sindicato no puede convocar una huelga o participar en convenios colectivos y está excluido de todos los comités tripartitos; (iii) la ley no permite a los trabajadores con contratos

		<p>precarios negociar contratos colectivos; y (iv) deficientes en la LFT han sido explotadas para crear falsos contratos colectivos que se llaman “contratos de protección”; y (v) la ley no permite la existencia de dos o más sindicatos en el mismo organismo estatal y los trabajadores tienen que afiliarse a sindicatos afiliados al sindicato de la función pública (i.e. la Federación de sindicatos de trabajadores del servicio de Estado).</p>
	<b>Según el Gobierno</b>	<p><b>EA 2007:</b> Según el Gobierno: El Gobierno considera indispensable el fortalecimiento de la concertación y el diálogo entre los factores de la producción, así como el análisis de la realidad desde los diferentes puntos de vista de los actores sociales, para buscar con ellos, de manera corresponsable, soluciones a los problemas y realidades sociales del país.</p> <p><b>EAs 2003 y 2006:</b> Según el Gobierno: México no ha ratificado el Convenio sobre el derecho de sindicación y de negociación colectiva, 1949 (núm. 98). De hecho, la Cámara de Senadores de la República decretó ratificar el mismo con una reserva por lo que se refiere al inciso b), apartado 2 del artículo 1 del Convenio. De esta manera, los mandatos establecidos en el artículo 123 de la Constitución y la Ley Federal del Trabajo tendrían precedencia por lo que se refiere a la libertad de asociación y la libertad sindical. Sin embargo, la OIT no ha admitido la ratificación de México, debido a que esta Organización no admite reservas. Sin embargo, en el marco de la “Nueva Cultura Laboral”, se trabaja en una reforma legislativa laboral que coadyuve a promover la capacitación, la participación y una remuneración de los trabajadores, mismo que culminó en un proyecto de reformas en La LFT que aborda el tema de la libertad sindical y el reconocimiento efectivo del derecho de a la negociación colectiva, mismo que se convirtió en iniciativa de ley el 12 diciembre de 2002.</p> <p>En respuesta a los comentarios de la CIOSL, el Gobierno señala lo siguiente: (i) ) En relación con la ratificación del C.98, a la fecha no ha habido algún cambio sobre la reserva hecha por el Senado de la República al Inciso b), numeral 2 del artículo 1° del convenio; (ii) la reforma laboral sigue pendiente y podría afectar el derecho de negociación colectiva; (iii) Dentro del marco del diálogo social que llevan a cabo los trabajadores y empleadores de México, el Gobierno actúa como facilitador y vigila que no se afecten las garantías o derechos constitucionales y legales, por lo tanto, son los partes inmersas en la negociación colectiva quienes deciden el resultado de la misma; (iv) En relación con los contratos precarios, hay que hacer la diferencia entre el contrato de prestación de servicios profesionales que es civil y los contratos laborales que son de índole – en caso de que se compruebe la existencia de los elementos de subordinación y dependencia económica, se presumirá la existencia de una relación laboral independientemente de que exista un contrato de prestación de servicios profesionales; y (v) los contratos colectivos de trabajo constituyen el resultado de la negociación directa entre ambas partes, reflejando sus experiencias y necesidades, creando con ello las normas laborales de las empresas, con la sola limitación de no afectar las garantías de los trabajadores previstas por las legislaciones correspondientes y se encuentren regidos por la voluntad de las partes que lo celebran, sin que la legislación contemple los acuerdos a los que el documento hace referencia.</p>
<b>COOPERACION TECNICA</b>	<b>Solicitud</b>	<p><b>EA 2005:</b> Según el Gobierno: No hace falta cooperación técnica de la OIT. Según la CONCAMIN, sin embargo, no solo es necesaria la cooperación técnica con la OIT y medidas para mejorar la concienciación respecto de estos principios, sino también llevar a cabo una reforma legislativa pertinente e intercambiar experiencias entre países y regiones</p>
	<b>Oferta</b>	No hay comentarios
<b>OBERVACIONES/ RECOMENDACIONES DE LOS EXPERTOS CONSEJEROS</b>	Ninguna	
<b>OBERVACIONES/ RECOMENDACIONES DEL CONSEJO DE</b>	Ninguna	

ADMINISTRACION		
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**BASE DE REFERENCE PAR PAYS AU TITRE DE L'EXAMEN ANNUEL DE LA DECLARATION DE L'OIT (2000-2007)<sup>1</sup>: MAROC**

***LIBERTE D'ASSOCIATION ET RECONNAISSANCE EFFECTIVE DU DROIT DE NEGOCIATION COLLECTIVE (LANC)***

<b>SOUSSION DES RAPPORTS</b>	<b>Accomplissement par le gouvernement de l'obligation de rapport</b>	<b>OUI</b> , depuis le début de l'examen annuel (EA) en 2000.  – Rapport faisant état d'une situation inchangée au titre de l'EA 2006.	
	<b>Implication des organisations d'employeurs et de travailleurs dans le processus d'élaboration des rapports</b>	<b>OUI</b> , selon le gouvernement: Implication des organisations représentatives d'employeurs et de travailleurs par voies de consultations et de communications des rapports gouvernementaux.	
<b>OBSERVATIONS DES PARTENAIRES SOCIAUX</b>	<b>Organisations d'employeurs</b>	RAS	
	<b>Organisations de travailleurs</b>	<b>EA 2007:</b> Observations de la Confédération internationale des syndicats libres (CISL). <b>EA 2006:</b> Observations de la CISL. <b>EA 2005:</b> Observations de la CISL. <b>EA 2004:</b> Observations de la Confédération mondiale du travail (CMT). <b>EA 2002:</b> Observations de la CISL. <b>EA 2001:</b> Observations de la CISL. <b>EA 2000:</b> Observations de la CISL.	
<b>EFFORTS ET PROGRES ACCOMPLIS POUR LA REALISATION DU PRINCIPE ET DROIT</b>	<b>Ratification</b>	<b>Etat des ratifications</b>	<b>Le Maroc a ratifié en 1957 la convention (n° 98) sur le droit d'organisation et de négociation collective, 1949 (C.98). Toutefois, il n'a pas encore ratifié la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948 (C.87).</b>
		<b>Intention de ratifications</b>	RAS
	<b>Reconnaissance du principe et droit (perspective(s), moyens</b>	<b>Constitution</b>	<b>OUI</b> La Constitution révisée en 1996 (article 9) garantit à tout citoyen la liberté d'association, ainsi que celle d'adhérer à toute organisation syndicale ou politique de son choix.

<sup>1</sup> Les bases de référence par pays contenues dans la Revue annuelle de la Déclaration sont basées sur les éléments suivants: les rapports des gouvernements, les observations des organisations d'employeurs et de travailleurs, les cas d'étude préparés par les Etats et le BIT, et les observations/recommandations faites par les experts-conseillers de la Déclaration et le Conseil d'administration.

	<b>d'action, dispositions juridiques principales)</b>	<b>Politiques, législation et/ou réglementation</b>	<ul style="list-style-type: none"> <li>• <b>Politique</b> <b>EA 2004:</b> Dans le cadre des efforts déployés par le gouvernement pour promouvoir le principe et droit (PED), le Ministère de l'Emploi s'est fixé entre autres comme objectifs: (i) le renforcement du contrôle de l'application de la législation du travail; (ii) le développement du droit conventionnel; et (iii) l'harmonisation du droit de travail avec les normes internationales.</li> <li>• <b>Législation</b> Le Code du travail de 2004 (Article 398) a trait au PED. Il y a également un projet de loi sur le droit de grève.</li> <li>• <b>Réglementation</b> Le décret du 16 juillet 1957 ainsi que le Dahir [Décret] du 24 février 1958 font référence au PED.</li> </ul>	
		<b>Dispositions juridiques principales</b>	(i) Dahir du 16 juillet 1957 (article 2); (ii) Dahir du 24 février 1958 (article 14); (iii) nouveau Code du travail (2004) (article 398).	
		<b>Décisions judiciaires</b>	<b>EA 2006:</b> Selon la CISL: Suite à une décision judiciaire, les «sit-in» sont interdits et les employeurs peuvent suspendre pendant sept jours tout travailleur qui empêche les non-grévistes d'aller travailler. Une récidive au cours de la même année peut entraîner une suspension de 15 jours.	
<b>EFFORTS ET PROGRES ACCOMPLIS POUR LA REALISATION DU PRINCIPE ET DROIT</b>	<b>Exercice du principe et droit</b>	<b>Au niveau national (entreprise, secteur/industrie, national)</b>	<b>Pour les employeurs</b>	<p><b>EAs 2000-2005:</b> La constitution d'une organisation d'employeurs n'est pas soumise à l'autorisation ou à l'approbation préalable du gouvernement.</p> <p>Toutes les catégories d'employeurs peuvent exercer le PED aux niveaux de l'entreprise, du secteur ou de l'industrie, ainsi qu'aux niveaux national et international.</p>
			<b>Pour les travailleurs</b>	<p><b>EAs 2000-2005:</b> La constitution d'une organisation de travailleurs n'est pas soumise à l'autorisation ni à l'approbation préalable du gouvernement.</p> <p>Toutes les catégories socioprofessionnelles suivantes peuvent exercer le PED aux niveaux de l'entreprise, du secteur ou de l'industrie, ainsi qu'aux niveaux national et international: i) travailleurs des services publics; ii) médecins; enseignants; iii) travailleurs agricoles; iv) travailleurs employés au service domestique; v) travailleurs des zones franches (ZFE) ou entreprises/industries assimilées; travailleurs migrants; vi) travailleurs de tout âge; et vii) travailleurs de l'économie informelle.</p> <p>Toutefois, une restriction est apportée concernant les catégories suivantes de travailleurs qui ne peuvent se prévaloir du principe de la liberté d'association: i) les fonctionnaires et agents exerçant une fonction comportant le droit d'utiliser une arme; ii) les personnes relevant du statut particulier des administrateurs du ministère de l'Intérieur; et le corps de la magistrature.</p> <p>Le nouveau Code du travail permet aux magistrats de constituer des associations ayant pour but de défendre leurs intérêts professionnels.</p>
			<b>Attention spéciale accordée à des situations particulières</b>	<p><b>EA 2005:</b> Selon le gouvernement: Une attention spéciale est accordée à la situation de la femme salariée ainsi que celle des personnes handicapées.</p> <p>De même, une attention spéciale est aussi accordée aux secteurs du textile et de l'habillement, des transports urbains, de la construction et de la conserverie.</p>

			<b>Collecte et diffusion d'informations et de données</b>	<b>EAs 2000-2005:</b> Selon le gouvernement: Il y a un manque d'informations et de données statistiques sur le PED.
		<b>Au niveau international</b>	RAS	
	<b>Mécanismes de contrôle, mise en œuvre et/ou sanctions</b>	<p><b>EA 2003:</b> Selon le gouvernement: Les mesures suivantes ont été mises en œuvre en vue de respecter, promouvoir et réaliser le PED: i) mécanismes d'inspection/supervision; ii) renforcement des capacités des fonctionnaires; iii) mécanisme institutionnel spécial; iv) sanctions civiles ou administratives et v) sanctions pénales.</p> <p><b>EA 2001:</b> Selon le gouvernement: Une commission nationale d'enquête et de conciliation a été créée. Par ailleurs l'inspection du travail joue un rôle important au plan local. Les inspecteurs peuvent engager des poursuites et transmettre les dossiers aux tribunaux compétents. Le nouveau Code du travail a relevé le montant des amendes. En outre, des mesures particulières ont été mises en œuvre en vue de respecter, promouvoir et réaliser le PED dans le pays: i) mécanismes d'inspection/supervision; ii) renforcement des capacités des fonctionnaires responsables; iii) renforcement des capacités des organisations d'employeurs et de travailleurs; iv) activités de sensibilisation/mobilisation; v) mécanisme institutionnel spécial; vi) sanctions civiles ou administratives; et vii) sanctions pénales.</p>		
<b>EFFORTS ET PROGRES ACCOMPLIS POUR LA REALISATION DU PRINCIPE ET DROIT</b>	<b>Implication des partenaires sociaux</b>	<p><b>EA 2007:</b> Selon le gouvernement: Une rencontre tripartite sur le thème des «mécanismes de promotion des droits fondamentaux au travail» a été organisée par le gouvernement avec la participation du BIT et du Centre arabe de l'administration du travail et de l'emploi à Tunis.</p> <p><b>EA 2003:</b> Selon le gouvernement: La Confédération générale des entreprises du Maroc (CGEM) et la Fédération des chambres de commerce, d'industrie et de services du Maroc (FCCISM) participent à côté du gouvernement et des syndicats à la négociation, au règlement des conflits et à la formulation de la politique économique et sociale. En outre, des examens tripartites des questions ont été mis en œuvre en vue de respecter, promouvoir et réaliser le PED.</p> <p><b>EAs 2001-2005:</b> Selon le gouvernement: Les syndicats professionnels prennent une part active aux consultations menées par les pouvoirs publics dans le cadre de la formulation et de la mise en œuvre de la politique économique et sociale. Les partenaires sociaux sont impliqués au niveau de la Commission nationale d'enquête. Ils participent aussi aux négociations nationales (Code du travail, projet de loi sur la grève), au projet de coopération technique mis en œuvre par le BIT ainsi qu'aux examens tripartites des questions relatives au PED.</p>		
	<b>Activités promotionnelles</b>	<p><b>EA 2007:</b> Selon le gouvernement: Le département de l'Emploi et de la Formation professionnelle a organisé deux manifestations dans le cadre de la promotion de la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail.</p> <p><b>EA 2003:</b> Selon le gouvernement: Des opérations de sensibilisation/promotion sur le PED ont été entreprises. Le Programme régional de promotion du dialogue social en Afrique francophone (PRODIAF) a été lancé en octobre 2001.</p>		
	<b>Initiatives spéciales/progrès</b>	<p><b>EA 2004:</b> Selon le gouvernement: Le renforcement dans l'application de la législation du travail, le développement du droit conventionnel et l'harmonisation du droit du travail avec les normes internationales peuvent être considérées comme une réussite dans la réalisation du PED. Des modifications importantes concernant le PED sont intervenues: i) adoption du projet du Code du travail par le Parlement (fin 2003); ii) élaboration de la partie réglementaire (fin 2003-début 2004); et iii) lancement du programme sur le renforcement des relations professionnelles (mai 2004).</p>		
<b>DIFFICULTES DANS LA REALISATION</b>	<b>Selon les partenaires sociaux</b>	<b>Organisations d'employeurs</b>	RAS	

<p><b>DU PRINCIPE ET DROIT</b></p>		<p><b>Organisations de travailleurs</b></p>	<p><b>EA 2007:</b> Selon la CISL: La législation sur le droit du travail est ignorée dans les entreprises et notamment dans les zones franches qui sont en train de se développer.</p> <p><b>EAs 2006-2007:</b> Selon la CISL: i) Les agriculteurs jouissent de droits syndicaux restreints par rapport aux autres travailleurs; ii) toute activité syndicale reste complètement interdite pour les magistrats; iii) le projet de loi de 2004 sur le droit de grève rend impossible l'exercice de ce droit; iv) il y a de nouvelles restrictions sur les «sit-in», les piquets de grève et les manifestations publiques.</p> <p><b>EA 2005:</b> Selon la CISL: Le nouveau Code du travail ne satisfait pas complètement les organisations de travailleurs car il institutionnaliserait la précarité des emplois (pour le gouvernement, il s'agit de flexibilité et non pas de précarité).</p> <p><b>EA 2004:</b> Selon la CMT: i) Il existe de graves restrictions au droit de grève; ii) la législation ne garantit pas le plein exercice du droit de grève et le nouveau projet de législation en la matière ne semble pas tenir compte des considérations des organisations syndicales; iii) les organisations de travailleurs contestent en partie le projet de loi sur le droit de grève.</p> <p><b>EA 2002:</b> Selon la CISL: i) Le gouvernement continue de s'ingérer dans le travail quotidien des syndicats; ii) de nombreux conflits du travail ont surgi suite au non-respect des conventions collectives par les employeurs; iii) la loi (<i>dahir</i>) de 1957 sur les syndicats n'étend pas l'égalité des droits aux travailleurs du secteur agricole; (iv) dans plusieurs entreprises, et même dans le secteur public, il est fréquent que le droit du travail ne soit pas respecté; (v) l'article 288 du Code pénal sur le «droit de grève» ne donne pas véritablement aux travailleurs le choix de participer ou non à une grève.</p> <p><b>EAs 2000-2001:</b> Selon la CISL: i) Licenciements et emprisonnements de syndicalistes dans le secteur privé; (ii) arrestation et emprisonnement des grévistes sur le fondement de l'article 288 du Code du travail pour «entrave à la liberté du travail».</p>
	<p><b>Selon le gouvernement</b></p>	<p><b>EA 2007:</b> En réponse aux observations de la CISL, le gouvernement a indiqué ce qui suit: i) les travailleurs agricoles sont soumis aux dispositions du Code du travail, par conséquent ils jouissent des mêmes droits aux les travailleurs des autres secteurs soumis a cette loi; ii) les magistrats bénéficient du droit d'association, ils sont organisés en une association qui a pour but la défense de leurs intérêts; iii) en dépit de l'absence de cadre légal sur l'exercice du droit de grève, celui-ci s'exerce de fait, de façon libre est sans aucune entrave; iv) les grèves accompagnées de sit-in qui sont pacifiques sont tolérées, sous réserve qu'elles ne portent pas atteinte à l'outil de production, à la liberté du travail des non-grévistes et à la non-entrave des sorties et des entrées des marchandises; v) les entreprises exerçant dans les zones franches sont assujetties au contrôle de l'application de la législation nationale à l'instar de tous les établissements installés sur le territoire national dans tous les secteurs d'activité. Par ailleurs, des inspecteurs du travail effectuent des visites d'inspection dans les entreprises installées dans les zones franches, notamment dans le port de Tanger et de Casablanca.</p> <p><b>EA 2005:</b> Selon le gouvernement: les principales difficultés rencontrées dans la réalisation du PED sont les suivantes: i) valeurs sociales et traditions culturelles, ii) manque de moyens des institutions gouvernementales responsables, iii) manque de moyens des organisations d'employeurs et de travailleurs.</p> <p><b>EA 2002:</b> En réponse aux observations de la CISL, le gouvernement indique ce qui suit: i) le gouvernement n'intervient ni dans l'organisation ni dans le fonctionnement d'un groupement professionnel de travailleurs et d'employeurs; ii) plusieurs mesures ont été prises afin de garantir une protection adéquate contre tout acte d'ingérence dans les syndicats; iii) le principe de l'égalité des droits est reconnu aussi bien pour les travailleurs des secteurs de l'industrie et des services que pour les travailleurs du secteur agricole; iv) en cas</p>	

		<p>de non-application d'une des clauses de la convention collective, la partie lésée a le droit de saisir la justice; v) le respect du droit du travail dans le secteur privé est assuré par un contrôle effectué quotidiennement par les inspecteurs du travail par le moyen de visites d'inspection; vi) le droit de grève est un droit qui demeure garanti par la Constitution marocaine dans son article 14 aussi bien dans le secteur public que dans le secteur privé, les faits sanctionnés conformément à l'article 288 du Code pénal sont des actes de violence, voie de fait, menaces frauduleuses et l'entrave à la liberté de travail et non pas l'exercice du droit de grève.</p> <p><b>EA 2001:</b> En réponse aux observations de la CISL, le gouvernement a soutenu que la liberté syndicale et le droit de grève étaient reconnus par la Constitution nationale et que plusieurs mesures avaient été prises en ce sens.</p>
<b>COOPERATION TECHNIQUE</b>	<b>Demande</b>	<p><b>EA 2005:</b> Une coopération technique avec le BIT est nécessaire pour faciliter la réalisation du PED au Maroc en particulier dans les domaines suivants, classés par ordre de priorité: 1) échange d'expériences entre pays ou régions; renforcement du dialogue social tripartite; renforcement des capacités des organismes gouvernementaux responsables; (2) évaluation en coopération avec le BIT des difficultés constatées et de leur incidence sur la mise en pratique du principe; mise en œuvre de sensibilisation, initiation juridique et mobilisation; renforcement de la collecte des données et de l'aptitude à tenir et à analyser les statistiques; réforme des instruments juridiques (législation du travail et autres pertinentes); formation des fonctionnaires d'autres services (police, juristes, travailleurs sociaux, enseignants, etc.); Renforcement des capacités des organisations d'employeurs et de travailleurs.</p>
	<b>Offre</b>	BIT/Déclaration; PRADIAF, Centre arabe de l'administration du travail et de l'emploi
<b>OBSERVATIONS/ DES EXPERTS- CONSEILLERS</b>	<p><b>EA 2003:</b> Les experts- conseillers de la Déclaration notent avec satisfaction que le gouvernement du Maroc a souligné qu'il est nécessaire de renforcer les capacités des organisations de travailleurs et d'employeurs et qu'il sollicite l'aide du BIT à cet effet. Le Bureau devrait mobiliser ses ressources aussi rapidement que possible, sous réserve naturellement que le renforcement envisagé ne concerne pas des structures de syndicat unique imposé ou des organisations d'employeurs. A la lumière des demandes faites par le Maroc qui a sollicité la coopération du BIT pour l'évaluation des difficultés et leur incidence sur la réalisation des principes et droits de la liberté d'association et la négociation collective, ils souhaiteraient que le Conseil d'administration demande que des contacts de haut niveau soient pris immédiatement entre le Bureau et deux ou trois pays qui ne bénéficient pas encore de projets techniques du BIT dans ce domaine. (paragraphe 73 et 74 de l'examen annuel de l'Introduction de 2003).</p>	
<b>OBSERVATIONS/ RECOMMANDATIONS DU CONSEIL D'ADMINISTRATION</b>	RAS	



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: MYANMAR**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2000 and 2001 Annual Reviews (ARs). No change report for the 2006 and 2007 ARs.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) and the Workers' Welfare Associations concerned by means of consultations and communications of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Myanmar ratified in 1955 of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) (C.87). However, it has not yet ratified the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>YES, in 2002 for C.98.</b>  <b>2002 AR:</b> According to the Government: C.98 has been submitted to the competent authorities for review. – Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.98.

<b>EFFORTS AND PROGRESS</b>	<b>Recognition of the principle</b>	<b>Constitution</b>	<b>2004 AR:</b> According to the Government: The Constitution is in the drafting stage.
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<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and the ILO Governing Body.

<b>MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>and right (prospect(s), means of action, main legal provisions)</b>	<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p><b>2005 AR:</b> According to the Government: In the public sector, workers' rights are stressed in the fundamental rules, orders and directives. Workers in the private sector have their rights protected by the labour laws.</p> <p><b>2002 AR:</b> According to the Government: Labour laws were being reviewed in the light of social and economic changes. This labour law reform will take into account the provisions of the State Constitution, which is in a drafting stage, as well as the comments and observations made by the Committee of Experts on the Application of Conventions and Recommendations and the Conference Committee on the Application of Standards.</p>		
		<b>Main legal provisions</b>	(i) Pending the adoption of a new Constitution; (ii) the Labour Code; (iii) fundamental rules; (iv) orders; and (v) directives.		
		<b>Judicial decisions</b>	NIL		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2003 AR:</b> According to the Government: No government authorization/approval is required to conclude collective agreements. The right to collective bargaining can be exercised by all categories of employers.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Workers</b>	<p><b>2004 AR:</b> According to the Government: Workers have the right to bargain individually or collectively for their rights within the existing Workers' Welfare Associations. Workers of factories and establishments have also the right to bargain collectively.</p> <p><b>2003 AR:</b> No government authorization/approval is required to conclude collective agreements. The right to collective bargaining cannot be exercised in the public service. However, the principle and right (PR) can be exercised at the enterprise level.</p>	
			<b>Special attention to particular situations</b>	<b>2003 AR:</b> According to the Government: Special attention is given to women and specific categories of persons	
			<b>Information, data collection and dissemination</b>	<b>2004 AR:</b> According to the Government: From July 2002 to July 2003, the Township-Level Workers' Supervisory Committees heard and settled 305 cases concerning workers' rights that were either collectively or individually bargained for by the workers.	
		<b>At international level</b>	NIL		

	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2005 AR:</b> According to the Government: Inspection/monitoring mechanisms and capacity building of responsible government officials have been implemented. Legal reform and special institutional machinery are envisaged. In instances where the PR has not been respected, grievances can be submitted to the Ministry of Labour and to competent courts if no solution is found.</p> <p><b>2004-2005 ARs:</b> According to the Government: The Township Level Workers' Supervisory Committees ensure workers' rights by means of conciliation and negotiations with the parties concerned within the juridical confines of the 1929 Trade Disputes Act, the conciliation handbook, directives and rules. Between January 2000 and January 2003, the Supervisory Committees successfully settled 1,069 cases.</p> <p><b>2004 AR:</b> The Government indicated that it had assumed responsibility for ensuring the settlement and attainment of workers' rights.</p>	
	<b>Involvement of the social partners</b>	NIL	
	<b>Promotional activities</b>	NIL	
	<b>Special initiatives/Progress</b>	<b>2003 AR:</b> According to the Government: The establishment in 2001 of the Myanmar Overseas Seafarers' Association.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> The ICFTU raised the following additional challenges: (i) It is difficult to have a clear idea of the legal system in force; (ii) only one single trade union system exists; (iii) the current legislation does not recognize the principle of freedom of association; (iv) the independent Federation of Trade Unions-Myanmar (FTUM) is still obliged to operate clandestinely.</p> <p><b>2006 AR:</b> According to the ICFTU: (i) Legislation is obscure in Myanmar and any legal institutions can be overruled by military decrees or by the action of any powerful officials; (ii) restrictions are imposed under the 1929 Trade Disputes Act (amended in 1966), which appears to define the means of resolving industrial disputes; (iii) while negotiations are under way under the chairmanship of the Township Level Workers' Supervision Committees, the workers are to continue to work as not to affect production and no demonstrations are allowed either inside or outside the factory; (iv) the independent Federation of Trade Unions-Myanmar (FTUM) monitors among others the denial of collective bargaining rights in industrial sectors, which it communicates to the ILO and to the international labour movement. The FTUM members caught doing so incur the death penalty.</p> <p><b>2000-2002 ARs:</b> According to the ICFTU: (i) there is no legal framework to protect collective bargaining; (ii) abuse of workers' rights is rampant, especially in export-oriented industries.</p>
	<b>According to the Government</b>	<b>2007 AR:</b> In response to the ICFTU's observations, the Government made the following comments: (i) authorities have been set up to conciliate workers' and employers' disputes; (ii) some trade unionists have to function clandestinely because they transgress the law; (iii) the FTUM does not operate in the country, it is an unlawful association as mentioned in the Declaration of the Ministry of Home Affairs notification No. 3/2005.	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<b>2005 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Myanmar, in particular assessing difficulties and their implication for realizing the PR.	
	<b>Offer</b>	NIL	

<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>2003 AR:</b> In light of requests Myanmar for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, the ILO Declaration Expert-Advisers (IDEAs) called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field. (paragraph 74 of the 2003 Annual Review Introduction).
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: NEPAL**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2002 and 2003 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Federation of Nepalese Chambers of Commerce and Industries (FNCCI); the General Federation of Nepalese Trade Unions (GERONT); the Nepal Trade Union Congress (NTUC); and the Democratic Confederation of Nepalese Trade Unions (DECONT) by means of consultations and communications of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Nepal ratified in 1996 the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).</b>
		<b>Ratification intention</b>	<b>Yes, since 2000, for C.87 (in process since 2006).</b>  <b>2007 AR:</b> According to the Government: The ratification of C.87 is in process.  <b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.87.  <b>2001-2002 ARs:</b> According to the Government: Nepal is in the process of amending minor clauses in the Police Act and the Military Act to introduce some reservations for these sectors for the purpose of the ratification of C.87. Moreover, a technical committee has been implemented to initiate the process of ratifying ILO core Conventions.

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

	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Constitution</b>	<b>YES</b> Article 12 of the Constitution of the Kingdom of Nepal guarantees to all the citizens the right to freedom to assemble peacefully and without arms and to form unions and associations.	
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b> <b>2006 AR:</b> The Government indicated that it has developed a new Labour and Employment Policy and a National Plan of Action on Decent Work in consultations with the social partners and other stakeholders.</li> <li>• <b>Legislation</b> The Trade Union Act, 1993 and the Labour Act, 1992 deal with the principle and right (PR).</li> </ul>	
		<b>Main legal provisions</b>	(i) Constitution (article 12); (ii) Trade Union Act, 1993, (iii) Labour Act, 1992.	
		<b>Judicial decisions</b>	<b>2005 AR:</b> The Government mentioned a case filed by the Jagriti Child Club in the Supreme Court in 1998 which had challenged the Government's decision to deny the registration of the Child Club as an organization based on existing Organization Registration Act, 1977. The Act demanded a citizenship certificate, which children cannot obtain until the age of 16. It was also argued that the children as minors are not able to bear all the responsibilities or the liabilities arising thereof. The Supreme Court declared the decision void in 2001. This decision had set a precedent and was considered to be a milestone in the children's right to association.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2004-2005 ARs:</b> Government authorization or approval is required to establish employers' organizations, but not to conclude collective agreements. Freedom of association and the right to collective bargaining can be exercised at enterprise, sector/industry, national and international levels by all categories of employers.
			<b>For Workers</b>	<p><b>2004-2005 ARs:</b> Government authorization or approval is required to establish workers' organizations, but not to conclude collective agreements.</p> <p>The principle and right (PR) can be exercised at enterprise, sector/industry, national and international levels by the following categories of persons: medical professionals; teachers; agricultural workers; workers engaged in domestic work; migrant workers; workers of 18 years old or over (16 years old in the 2004 AR); workers in the informal economy.</p> <p>However, the gazetted level civil servants engaged in the management of state affairs and senior level employees of public enterprises cannot exercise freedom of association (FOA). All workers in the public service and any group of workers that fails to organize into collective entities or unions cannot exercise collective bargaining.</p>
			<b>Special attention to particular situations</b>	NIL
			<b>Information and Data collection</b>	According to the Government: Lack of information.
		<b>At international level</b>	According to the Government: There are no particular restrictions for the international affiliation of employers' and workers' organizations.	

	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2005 AR:</b> According to the Government: Action is taken where FOA has not been respected. The principle is constitutionally guaranteed and legally protected in the country, in case of violation of this from any quarter; the concerned party can have recourse to the Labour Court or Appellate Court and even to the Supreme Court for remedies. Since 1996, Nepal has a labour court to deal with industrial disputes.	
	<b>Involvement of the social partners</b>	<b>2006 AR:</b> According to the Government: a new Labour and Employment Policy and a National Plan of Action on Decent Work have been developed in consultations with the social partners and other stakeholders.  <b>2000-2002 ARs:</b> According to the Government: Consultations with the social partners concerning the ratification of C.87 have been held through the organization of a technical committee.	
	<b>Promotional activities</b>	<b>2001-2002 ARs:</b> The Government indicated that it had formed a technical committee with representatives from trade unions, employers' associations and non-governmental organizations (NGOs) with a view to ratifying ILO fundamental Conventions. In cooperation with the ILO it had organized a one-day workshop in Katmandu on November 1999 in order to raise awareness of all stakeholders at the national level on the liabilities linked to the ratification of the ILO core Conventions.	
	<b>Special initiatives/ Progress</b>	NIL	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL
		<b>Workers' organizations</b>	<b>2007 AR:</b> According to the ICFTU (Additional challenges): (i) the Government has revoked public servants' rights to belong to unions; and (ii) excessive strikes restrictions.  <b>2006 AR:</b> The ICFTU raised the following challenges: (i) the Government again made abusive use of the Essential Services Act to ban strikes; (ii) even though the PR is recognized by law, the Government has not yet implemented all the provisions of these laws; (iii) restrictions at the enterprise level to form trade unions; (iv) strike restrictions; (vi) only few workers are unionized in the informal sector that represents 90% of the national workforce.  <b>2002-2005 ARs:</b> The ICFTU raised the following challenges: (i) restriction on strikes; (ii) trade unions are not recognized in the country as representatives of workers, (iii) no structure to bargain and collective bargaining is rarely practiced; (iv) union rights are denied to public officials and bank workers; (v) no trade unions in the informal economy although it represents 70 per cent of the workforce (especially in the agricultural sector).
	<b>According to the Government</b>	<b>2005 AR:</b> According to the Government: The main difficulties encountered in Nepal concerning the realization of the PR are as follows: (i) lack of public awareness and/or support; (ii) lack of information and data; (iii) social and economic circumstances; (iv) political situation; and (v) lack of capacity of responsible government institutions.	

<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the Government: Priority needs for technical cooperation to facilitate the realization of the PR exist in the following areas, in order of priority: (1) capacity building (Government institutions, employers' and workers' organizations); (2) facilitate the legal reform (labour law, trade union law and other relevant regulations).</p> <p><b>2006 AR:</b> According to the Government: The new Labour and Employment Policy and the National Plan of Action on Decent Work anticipate support and technical cooperation from the ILO and other agencies.</p> <p><b>2005 AR:</b> According to the Government, priority needs for technical cooperation to facilitate the realization of the PR exist in the following areas, in order of priority: (1) strengthening capacity of employers' organizations, strengthening capacity of workers' organizations, sharing of experiences across countries/regions, capacity building of responsible government institutions, awareness raising, legal literacy and advocacy, strengthening data collection and capacity for statistical collection and analysis; (2) legal reform (labour law and other relevant legislation), strengthening tripartite social dialogue; (3) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle, training of other officials (police, judiciary, social workers, teachers).</p>
	<b>Offer</b>	<b>2001-2002 ARs:</b> ILO
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS/ OBSERVATIONS</b>	<b>2005 AR:</b> The ILO Declaration Expert-Advisers listed Nepal among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 AR Introduction). Moreover, they hope that the momentum of the positive dialogue on the realization of the PR will be and that the intention to ratify C.87 would be realized soon in Nepal (paragraph 139 of the 2005 AR Introduction).	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	

**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: NEW ZEALAND**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, but "no change" report for the 2002 and 2005 Annual Reviews (ARs).
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of Business New Zealand (BNZ) and the New Zealand Council of Trade Unions (NZCTU) through communication of Government reports; and involvement of the most representatives workers' and employers' federations by means of consultations for the 2005 AR.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by BNZ <b>2006 AR:</b> Observations by BNZ. <b>2005 AR:</b> Observations by BNZ. <b>2004 AR:</b> Observations by BNZ. <b>2003 AR:</b> Observations by BNZ. <b>2002 AR:</b> Observations by BNZ. <b>2001 AR:</b> Observations by NZEF. <b>2000 AR:</b> Observations by NZEF.
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by NZCTU. <b>2006 AR:</b> Observations by NZCTU. <b>2005 AR:</b> Observations by NZCTU. <b>2004 AR:</b> Observations by NZCTU. <b>2003 AR:</b> Observations by NZCTU. <b>2002 AR:</b> Observations by NZCTU. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2001 AR:</b> Observations by NZCTU. <b>2000 AR:</b> Observations by ICFTU.

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

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	New Zealand ratified in 2003 the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87).
		Ratification intention	<p>Unable, for the time being, to ratify C.87.</p> <p><b>2007 AR:</b> According to the Government: New Zealand's policy remains not to ratify any Convention unless law, policy and practice fully comply with the provisions of the Convention.</p> <p><b>2004 AR:</b> The Government stated that it is continuing to monitor the compatibility of national law, policy and practice with C.87 to assess whether ratification of this instrument will be possible in the future.</p> <p><b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C.87 and C.98.</p> <p><b>2001 AR:</b> The Government stated that its intention is to promote observance in New Zealand of the principles underlying in C.87 and C.98 in order to ratify them.</p>
	Recognition of the principle and right (prospect(s), means of action, main legal provisions)	Constitution	NIL
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p><b>2006 AR:</b> The Government indicated that the Employment Relations Amendment Act, 2004 came into force on 1 December 2004. The objectives of this Act are the promotion of union access, representation rights and collective bargaining. The amendments include among others the prohibition of employers from deliberately undermining union membership through the automatic passing on of union negotiated benefits to non-union employees</p> <p>NZCTU welcomes the employment law changes introduced by the Employment Relations Act (No. 2), 2004.</p> <p><b>2004 AR:</b> The Government points out that it is currently reviewing the Employment Relations Act, 2000 with the aim of considering what legislative changes are required so that the Act can better meet its statutory objectives of promoting freedom of association and the right to collective bargaining (PR).</p> <p><b>2001-2002 ARs:</b> The Employment Relations Act (ERA), 2000, which came into force on 2 October 2000, replaces the Employment Contracts Act (ECA). According to the Government: One of the overall objectives of the ERA is to promote observance of the principles underlying C.87 and C.98. The Act also modifies existing provisions relating to the rights to strike and lockout, including a change to provide that workers and their organizations are able to take industrial action in support of multi-employer collective agreements.</p>
		Main legal provisions	(i) the Employment Relations Amendment Act, 2004 (ii) the personal grievance provisions of the Act (Part IX); (iii) the New Zealand Bill of Rights Act 1990 (NZ BOR Act); (iv) the Human Rights Act, 1993 (HR Act); (v) the Employment Relations Act, 2000.
		Judicial decisions	J. Wilson, 24 August 2004, CA 100/04 — Judgment No. CC 12/05

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2003-2005 ARs:</b> The PR can be exercised at enterprise, sector/industry, national and international levels by all categories of employers, without Government authorization/approval.
			<b>For Workers</b>	<b>2003-2005 ARs:</b> Government authorization/approval is necessary to establish a workers' organization, but not to conclude collective agreements. The PR can be exercised at enterprise, sector/industry, national and international levels by the following categories of persons: all workers in the public service; medical professionals; teachers; agricultural workers; workers engaged in domestic work; migrant workers; workers of all ages workers in the informal economy.  The armed forces are not covered by the legislation and the police are covered under the ERA, but with certain separate arrangements that apply to sworn police officers under the Police Act, 1958.
			<b>Special attention to particular situations</b>	<b>2003-2005 ARs:</b> According to the Government: Women and young persons.
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>Information and data collection</b>	<p><b>2007 AR:</b> According to the Government: An amended Code of Good faith publication is available upon request, and information is also available at any time on the web at <a href="http://www.ers.govt.nz/goodfaith/code.html">www.ers.govt.nz/goodfaith/code.html</a>. Moreover, the Collective Agreement Database &amp; strike information databases are linking actively with the Department's Mediation Service to pre-empt potential collective bargaining problems. The databases contain information on proposed and historical strike action.</p> <p><b>2002 AR:</b> According to the Government: The Department of Labour has revised its database to cover all collective agreements and collect information relevant to the Employment Relations Act, including information on unions and union membership. Analysis of this information showing trends in collective bargaining arrangements and outcomes is presented in its magazine <i>ERA Info</i>, and distributed free to interested groups including unions and employers.</p> <p><b>2001 AR:</b> According to the Government: the Department of Labour's analysis of collective employment contracts, in its database of contracts covering 20 or more employees, shows that in September 2000, 79 per cent of employees covered by these contracts were represented by a union.</p> <p><b>2000 AR:</b> According to the Government: The Industrial Relations Centre at Victoria University continues to survey trade unions annually. The survey provides estimates of the number and membership of unions at 31 December of each year.</p>
		<b>At international level</b>		According to the Government: There are no particular restrictions on the international affiliation of employers' and workers' organizations.

	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2003-2006 ARs:</b> According to the Government: The following measures have been implemented to respect and implement the PR: (i) legal reform (labour law and other relevant legislation); (ii) inspection/monitoring mechanisms; (iii) penal sanctions; (iv) civil or administrative sanctions; (v) special institutional machinery.</p> <p><b>2001 AR:</b> According to the Government: The Registrar of Unions (as well as members of a union, other unions and affected employers) is able to take action through the appropriate authorities if they believe a union has acted contrary to the provisions of the Act or unlawfully in some other manner, or contrary to their own rules.</p> <p><b>2000 AR:</b> According to the Government: The ERA ensures the effectiveness of collective agreements by specifying minimum requirements for collective bargaining, including that there must be a ratification procedure, that collective contracts be in writing and that collective contracts include a date of expiry.</p>
	<p><b>Involvement of the social partners</b></p>	<p><b>2006 AR:</b> Involvement of the social partners in the amendment and promotion of the Employment Relations Amendment Act, 2004.</p> <p><b>2003 AR:</b> According to the Government: Through the implementation of tripartite discussion of issues. Moreover, consultation was underway with New Zealand's social partners – NZCTU and BNZ - to address the compatibility of the ERA with C.87 and C.98.</p>
<p><b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>Promotional activities</b></p>	<p><b>2007 AR:</b> According to the Government: A government budget of NZ \$ 2 millions is being provided annually towards an openly contestable employment relations education fund. This has resulted in the creation of 282 courses for 2005/06. The courses are designed to increase skills and knowledge of employers and workers in employment matters and to improve relationships within the workplace to allow parties to deal with each other in good faith.</p> <ul style="list-style-type: none"> <li>– The BNZ stated that its regional employers' organisations are involved in the provision of employment relations education and as well provide advice and information to their employer members through seminars, advice line services, collective and individual bargaining assistance and so on.</li> </ul> <p><b>2003 AR:</b> According to the Government: The following measures have been implemented to promote and implement the PR: (i) capacity building of responsible government officials; (ii) training of other government officials; (iii) capacity building for employers' and workers' organizations; (iv) awareness raising/advocacy activities.</p> <ul style="list-style-type: none"> <li>– Moreover, Information Officers and Labour Inspectors have conducted approximately 400 talks or seminars about employment rights and obligations with high schools, tertiary providers, Citizens Advice Bureaus, industry training providers, workplaces, community representatives, and employers.</li> <li>– A tripartite meeting was held in New Zealand in February 2002, with the Director of the International Labour Standards Department.</li> </ul> <p><b>2002 AR:</b> According to the Government: The ERA provides for paid leave for eligible employees (union members) to undertake approved courses in employment relations education.</p> <p><b>2001 AR:</b> According to the Government: The Department of Labour is currently undertaking an extensive information campaign, utilizing a number of forums, relating to the new statutory regime. This information campaign includes material relating to the promotion of freedom of association and the right to collective bargaining.</p>

	<b>Special initiatives/Progress</b>	<p><b>2006 AR:</b> According to the Government:</p> <ul style="list-style-type: none"> <li>- The Department of Labour held 'Roadshows' in major centers in 2005 that discussed the amendments implemented by the Employment Relations Amendment Act 2004. The 'Roadshows' were well attended by employers' and employees' representatives.</li> <li>- Employment Relations Education (ERE) continues to help employers, unions and employees improve their skills and knowledge of employment matters, including on the PR.</li> <li>- Involvement in ERE continues, and over 200 ERE courses are approved under the Employment Relations Act 2000.</li> <li>- The ERE Contestable Fund continues to have New Zealand \$ 2 million available annually for courses. In 2004/05, 24 organisations were funded for employment relations education, and two organisations for Health and Safety Representative training.</li> <li>- Some organisations, particularly NZCTU and BNZ, have become major providers of both ERE and Health and Safety Representative training. The range of projects funded continues to expand, and includes researching the employment relations needs of migrant workers and educating union representatives on enterprise and industry economics.</li> </ul>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2007 AR:</b> According to BNZ: ratification of C.87 would not be in the interests of New Zealanders generally, given that the Convention has been interpreted as permitting sympathy strikes and boycotts as well as strikes on social and economic grounds which would affect many more individuals than those whom such action is intended to influence.</p> <p><b>2006 AR:</b> According to BNZ, limiting the right to officially registered unions is a retrograde step which prevents the full realization of freedom of association.</p> <p><b>2003 AR:</b> BNZ raised the following challenges: (i) women in New Zealand do not suffer from labour market disadvantage; (ii) encourages the Government to ratify C.87 and C.98; (iii) and does not believe it is in the interest of New Zealanders, and more generally of employers, to face the possibility of sympathy strikes and boycotts and strikes on social, and economic grounds, which they have no ability to resolve; (iv) Such strikes are in contradiction with strike action as originally conceived, that is, as an action to enable employees with little bargaining power to challenge an employer with greater bargaining power.</p> <p><b>2002 AR:</b> BNZ's observations: (i) only unions are entitled to negotiate collective agreements, and to be so entitled, the union itself must be officially registered, (ii) freedom to associate is limited; (iii) paid employment relations educational leave is available only to employees who are union members; (iv) and the Act promotes registered unions only.</p> <p><b>2001 AR:</b> NZEF raised the following challenges: (i) before employees can form a union of their own choosing they need to have 15 potential members; (ii) unions are also required to register as an incorporated society.</p> <p><b>2000 AR:</b> No particular challenges have been raised in NZEF's comments.</p>

		<b>Workers' organizations</b>	<p><b>2007 AR:</b> According to NZCTU: lack of information and data collection caused by the cancellation of the magazine <i>ERA Info</i>.</p> <p><b>2000 and 2002 ARs:</b> According to ICFTU: (i) trade union membership plummeted; (ii) the limitation on strike rights remain the same in spite of the coming into force of the ERA; (iii) ICFTU encourages the Government to ratify C.87 and C.98; and (iv) the Government has not amended the ECA to make it consistent with the promotion and encouragement of collective bargaining, as well as to allow trade unions to go on strike in support of multi-employer collective agreements.</p> <p><b>2001-2004 ARs:</b> NZCTU raised the following challenges: (i) two categories of workers are restricted from the PR: people required to work in order to continue receiving the "community wage" or unemployment benefit under the Social Security (Work Test) Amendment Act 1998, and prisoners working for private enterprises during the course of their imprisonment; (ii) the ECA provides insufficient protections for the PR.</p>
	<b>According to the Government</b>		<p><b>2007 AR:</b> In response to NZCTU's comments, the Government indicated that the Department of Labour has undertaken to provide informations on the Employment Relations Service website. The information will be available to a wider audience and will be updated on a more frequent basis than the previous publication. This website should be online by Christmas 2006.</p> <p><b>2006 AR:</b> In response to BNZ's comments, the Government indicated that the requirements that only officially registered unions may bargain collectively does not constitute a barrier to freedom of association. Registration as a union protects members' interests and gives access to the rights afforded to unions under the Employment Relations Act.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	NIL	
	<b>Offer</b>	ILO, GCC.	
<b>EXPERT-ADVISERS' RECOMMENDATIONS</b>			<p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEA) listed New Zealand among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 AR Introduction). Furthermore, the ILO Declaration Expert-Advisers stated that they hope that the momentum of the positive dialogue on the realization of the PR will be kept, and the intention to ratify C.87 will be realized soon in New Zealand (paragraph 139 of the 2005 AR Introduction).</p> <p><b>2004 AR:</b> The IDEA note the meaningful exchange that can take place when employers' and workers' organizations enter the process of dialogue that is also constituted by this annual review process such as in New Zealand (paragraph 82 of the 2004 AR Introduction).</p> <p><b>2001 AR:</b> The IDEA note that relatively few national employers' organizations submitted separate observations; but where they did, they offered useful insights into their experiences and the implications of recent legislative and institutional developments, such as in New Zealand (paragraph 76 of the 2001 AR Introduction).</p>
<b>GOVERNING BODY RECOMMENDATIONS</b>			NIL



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: OMAN**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, since the start of the Annual Review (AR) in 2000.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Omani Chamber of Commerce and Industry (OCCI), the Main Omani Workers' Committee (MOWC) and the Board of Employers' and Workers' Organizations (the Oman Oil Company; Port Qaboos; the Dhafar Omani French Bank; and the Galfar Group of Companies) through communication of Government reports and tripartite meetings on reporting issues.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the OCCI.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the MOWC. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the MOWC. Observations by the ICFTU. <b>2005 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	Oman has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).
		<b>Ratification intention</b>	<b>YES, since 2002 for C.87 and C.98.</b>  <b>2007 AR:</b> The Government indicated that ratification of C.87 and C.98 was under consideration. It also mentioned, together with the OCCI and the MOWC, the need for tripartite discussions and ILO support for ratification of all ILO fundamental Conventions by Oman.

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

			<b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government intended to ratify C.87 and C.98.		
	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Constitution</b>	<b>YES</b> , the Basic Statute, article 80, provides for freedom of assembly and association.		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b> Government's prospects: Compliance with the fundamental principles and rights of workers in the Constitution, legislation and labour laws.</li> <li>• <b>Legislation</b> <ul style="list-style-type: none"> <li>– Oman has amended its Labour Law in 2006 by a Royal Decree (74/2006).</li> <li>– The 2003 Labour Law, the Statute on the establishment of associations and the Civil Service Law for the establishment of workers' committees in the Public Service relate to the principle and right (PR).</li> </ul> </li> <li>• <b>Regulations</b> Two Ministerial Decrees (No. 135/2004 and No. 136/2004) relate to the composition of workers' committees and committees for employers of enterprises that employ 50 workers or more. Sultan Decree No. 8/80 (1982) provides for service regulations in the Public Service, including the establishment of workers' committees and the settlement of disputes.</li> </ul>		
		<b>Main legal provisions</b>	<b>2007 AR:</b> Amendment of Decrees No. 135/2004 and 136/2004 to comply with the Royal Decree 74/2006.  (i) Section 80 of the Basic Statute; (ii) the Statute on the establishment of associations; (iii) the Labour Law (No. 35/2003); (iv) the Civil Service Law for the establishment of a staff committee for workers in the Public Service; (v) two Ministerial Decrees (No. 135/2004 and No. 136/2004) relating to the composition of workers' committees and employers of enterprises employing 50 workers or more.		
		<b>Judicial decisions</b>	NIL		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2007 AR:</b> According to the Government: There is no need for government approval to conclude collective agreements since the amendment of the Labour Law.  <b>2003-2005 ARs:</b> Prior government authorization is necessary to operate employers' organizations and conclude collective agreements. All categories of employers can set up their organizations.	
			<b>For Workers</b>	<b>2007 AR:</b> There is no more restriction on the right to form trade unions or to conclude collective bargaining since the amendment of the Labour Law.  <b>2002-2005 ARs:</b> Prior government authorization is necessary to operate workers' organizations (Law No. 35/2003 and two Ministerial Decrees (No. 135/2004 and No. 136/2004). Freedom of Association (FOA) can be exercised by all workers in the public service; medical professionals; teachers; agricultural workers; workers engaged in domestic work; workers in export processing zones (EPZs) or enterprises/industries with EPZ status; migrant workers; workers of all ages; and workers in the informal economy.	

				However, it cannot be exercised by categories of workers subject to the formation of committees and associations (Ministerial Decree No. 135/2004 for the establishment of labour committees in private sector companies, in line with sections 108-109-110 of the Labour Law No. 35/2003).
			<b>Special attention to particular situations</b>	<b>2005 AR:</b> According to the Government: Women. <b>2003 AR:</b> According to the Government: People with disabilities and persons with special needs.
			<b>Information/Data collection and dissemination</b>	<b>2007 AR:</b> According to the Government: the Directorate of Inspection collects information and data on the PR. According to the Government: There is a lack of information and data on the PR.
		<b>At international level</b>		According to the Government: There are no particular restrictions on the international affiliation of employers' and workers' organizations.
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2000-2005 ARs:</b> According to the Government: <ul style="list-style-type: none"> <li>- The Labour Law has already given the right to establish trade unions, and the committees only register themselves in the Ministry of Labour after being formed. The establishment of joint committees of employers and workers in enterprises with significant workforces can play a monitoring and defensive role in relation to the PR.</li> <li>- The Ministry of Civil Service settles labour disputes concerning workers in the civil service, in accordance with the Service Regulations promulgated by Sultan Decree No. 8/80 (1982). These regulations provide for the establishment of Workers' Committees to deal with personnel questions and the right to submit complaints.</li> <li>- Inspection/monitoring mechanisms have been implemented.</li> <li>- The PR is enforced through law, collective agreements, free dispute settlement procedures and tripartite consultations at all levels.</li> <li>- In instances where the Government finds that this PR has not been respected, tripartite discussions free dispute settlement procedures are held by the social partners. Measures are taken to ensure respect for this PR.</li> </ul>		
	<b>Involvement of the social partners</b>	<b>2001-2001 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in: (i) training and awareness programmes, (ii) decision-making process; (iii) improving labour market conditions; (iv) and promoting career development.		
	<b>Promotional activities</b>	<b>2007 AR:</b> According to the Government: A few seminars were organized to make social partners about their rights and obligations as stated in the amendment. Moreover, tripartite activities were organized in Oman with the support of the Arab Labour Organization (ALO). The Government, the OCCI and the MOWC referred to their participation in the Fourth ILO Gulf Cooperation Council (GCC) Regional Workshop on the ILO Declaration and International Labour Standards held in Kuwait City in April 2006.  <b>2005 AR:</b> The Government reported on frequent training and awareness-raising activities on the 2003 Labour Law, participation in programmes and symposia of training conferences, and publication of a series of public information pamphlets including on labour disputes.		
	<b>Special initiatives/Progress</b>	<b>2007 AR:</b> According to the Government: After the amendment of the Labour Law, the Joint Committees have become trade unions and the Main Omani Workers' Committee is renamed the Omani General Labour Federation. Moreover, trade unions have been established in 33 companies.  <b>2006 AR:</b> According to the Government: Under the 2003 Labour Law, 23 Workers' Committees have been established in 23 companies and they have elected a Main Omani Workers' Committee.		

		<b>2004-2005 ARs:</b> According to the Government: The new Labour Law in 2003 and the establishment of committees in each organization.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> The OCCI mentioned its lack of capacity building and training on the ILO Declaration and its follow-up.
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> The MOWC also mentioned its lack of capacity building and training on the ILO Declaration and its follow-up.</p> <p>According to the ICFTU: The law still does not recognise the right to form unions and to bargain collectively; (ii) strikes are not prohibited anymore but the right to strike is not clearly recognized.</p> <p><b>2006 AR:</b> According to the Main Omani Workers' Committee: Oman and countries of the Gulf Cooperation Council (GCC) need some time to organize themselves and adapt their structures progressively to freedom of association and the effective recognition of the right to collective bargaining.</p> <p><b>2006 AR:</b> The ICFTU raised the following challenges: (i) the Labour Law, 2003, does not allow workers to form trade unions but they can form representational committees; (ii) the Labour law does not apply to members of the armed forces, security and government personnel, or domestic workers; (iii) the right to collective bargaining is still not recognised under the new law; (iv) the joint labour-management committees do not appear to be effective.</p> <p><b>2000-2005 ARs:</b> The ICFTU raised the following challenges: (i) trade union rights are violated; (ii) the Government's position on strikes is not clear; (iii) there is a binding arbitration for solving labour disputes; (iv) there is no collective bargaining; and (v) joint labour-management committees are not efficient.</p>
	<b>According to the Government</b>	<p><b>2007 AR:</b> According to the Government: Lack of capacity of employers' and workers' organizations to understand their obligations, especially concerning collective bargaining.</p> <p><b>2003-2005 ARs:</b> According to the Government: The main difficulties encountered in realizing the PR in Oman are as follows: (i) lack of public awareness and/or support; (ii) social and economic circumstances; and (iii) lack of capacity of workers' organizations.</p> <p><b>2005 AR:</b> In response to the ICFTU's observations, the Government made the following comments: In the 2003 Labour Law, the Civil Service Law and the Laws on employment in the armed forces deal with issues related to employment and workers' rights in relation to the PR. The 2003 Labour Law does not mention prohibition of strikes and any punishment in case of strike. In addition, Chapter VIII (sections 104-107 of the 2003 Labour Law) deals with solving labour disputes. As regard collective bargaining, the establishment of representative committees will give incentive to workers to discuss issues related to employment with employers and the Government to achieve collective bargaining requirements.</p> <p><b>2002 AR:</b> In response to the ICFTU's observations, the Government made the following comments: Authorization is provided to establish associations for workers and employers in enterprises employing 50 workers or more. It is looking forward to enforce the new Labour Code in 2004, in line with the PR. The Labour Law does not determine wages and salaries, but only provides for the minimum wage, by virtue of Ministerial Order No. 222/98. In the private sector, wages are determined by both parties, and contracts should be in conformity with the Labour Laws and the Directives of the Government in this regard. Furthermore, the Sultanate enjoys benefits that do not justify strikes - which can be detrimental to the country.</p>	
<b>TECHNICAL</b>	<b>Request</b>	<b>2007 AR:</b> According to the Government, the OCCI and the MOWC: ILO technical cooperation would be needed to organize in Oman a	

<p><b>COOPERATION</b></p>		<p>national tripartite workshop on International Labour Standards and the ILO Declaration. Moreover, employers' and workers' organizations need special training on their roles in the Declaration follow-up.</p> <p><b>2006 AR:</b> According to the Main Omani Workers' Committee: A need for technical cooperation to facilitate the realization of the PR exists in establishing Workers' Committees and raising awareness on the role of the Workers' Committees in promoting the principle and right and other fundamental principles and rights at work in line with the 1998 ILO Declaration.</p> <p><b>2005 AR:</b> According to the Government: There is a need for technical cooperation to facilitate the realization of the PR in the following areas, in order of priority: 1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the principle; 2) strengthening data collection and capacity for statistical analysis; 3) strengthening tripartite social dialogue; and 4) sharing of experiences across countries/regions.</p> <p><b>2002 AR:</b> The Government stated that the assistance of the ILO and the Arab Labour Organization (ALO) were needed in carrying out studies to support the organization and development of the labour force in the country.</p>
	<p><b>Offer</b></p>	<p>ILO, GCC, ALO</p> <p><b>2007 AR:</b> According to the Government: A continuous dialogue is being held between Oman and the ILO. In this respect, a team of ILO experts visited Oman in April 2006, and a report on the Labour Law amendment was prepared. The ALO has supported some tripartite activities in Oman.</p> <p><b>2006 AR:</b> According to the Government: The Plan of Joint Activities 2004-05 concluded between the Council of Ministers of Labour and Social Affairs in the GCC States and its Executive Bureau and the ILO includes the fundamental principles and rights at work as a top priority.</p>
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p><b>2006 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed the following: "It is important to note that the majority of workers in some Gulf States are migrant workers. Therefore, while we note that certain measures have been reported relating to this principle [...] we stress that the principle should be given full effect as regards all the workers present in these countries, including migrant workers, if these countries are to progress meaningfully in this area". (paragraph 45 of the 2006 Annual Review Introduction)</p> <p><b>2005 AR:</b> The IDEAs listed Oman among the countries where progress was being made under the Annual Review on the promotion of freedom of association and the effective recognition of the right to collective bargaining (paragraph 12 of the 2005 Annual Review Introduction). Furthermore, the ILO Declaration Expert-Advisers noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (GCC) (paragraph 148 of the 2005 Annual Review Introduction).</p> <p><b>2004 AR:</b> The IDEAs mentioned that they were encouraged by the continuing steps taken by countries of the GCC in relation to this principle, but note that there is a long way to go and much to do. Moreover they observed that the GCC States were providing more information on the principle of freedom of association and the effective recognition of the right to collective bargaining, but they estimated that it would be useful to receive more information on the other three principles. This would help to illustrate the inter-linkages among all four principles. They also wished that the positive measures taken by countries in the Gulf Cooperation Council (GCC) be expanded upon. (paragraphs 29 and 84 of the 2005 Annual Review Introduction)</p> <p><b>2003 AR:</b> The IDEAs commended Oman for its continuing dialogue with the Office. (paragraph 4 of the 2003 Annual Review Introduction).</p> <p><b>2002 AR:</b> The IDEAs recommended that, with a view to a more in-depth discussion of certain aspects of the Introduction, the Governing Body invite clarifications from Oman in relation to the continuation of steps undertaken in the country, in cooperation with the Office, concerning the principle of freedom of association and effective recognition of the right to collective bargaining (paragraph 41 (b) of the 2002 Annual Review Introduction). Furthermore, they acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the Government (paragraph 82 of the 2002 Annual Review Introduction).</p> <p><b>2001 AR:</b> The IDEAs hoped that the Governments of Oman would continue a dialogue with the Office regarding the ways in which the PR could be achieved</p>	

	(paragraph 77 of the 2001 Annual Review Introduction). They also recommended to the governing body that further information be requested from the Government of Oman in relation to efforts made to promote the principle and right (paragraph 30 (b) (ii) of the 2001 Annual Review Introduction).
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: QATAR**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	<b>YES</b> , but no change reports for the 2001 and 2004 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Qatar Petroleum Workers' Committee (QPWC) and the Qatar Chamber of Commerce and Industry (QCCI) through consultations and communication of government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the QCCI.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the QPWC. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the QPWC. Observations by the ICFTU. <b>2005 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Qatar has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87), nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>YES, since 2002, for C.87 and C.98.</b>  <b>2007 AR:</b> The Government stated that it was looking forward to reaching, in future, the legal and practical level that would allow the ratification of both Conventions. Accordingly, it is cooperating with the ILO for the realization of the ILO Declaration.

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

			<b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002), the Government intended to ratify C.87 and C.98.	
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	NIL	
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b> The Labour Code was adopted by Law No. 14 (2004); it entered into force on 6 January 2005. Chapters 12, 13 and 14 provide for the setting up of workers' organizations, the Confederation of Workers of Qatar and for the right to collective bargaining as well as the right for joint committees, joint agreements and the collective settlement of disputes. Law No. 12 (2004) on Associations and Private Institutions was also adopted. The new Labour Code, and in particular part XII, also grants workers the right to form certain associations in establishments not employing less than hundred workers (section 116) which are not called trade unions, but workers committees. Section 118 of the law provided also that "The Workers' Organizations shall assume the taking care of the interests of their members and protection of their rights and their representation in all matters related to the affairs of the work."</li> </ul> <p><b>2003 AR:</b> According to the Government: Legal reform is implemented in order to realize the principle and right (PR).</p>	
		<b>Basic legal provisions</b>	(i) The Labour Code: Law No. 14 (2004) (Chapters 12, 13 and 14); (ii) the Law No. 12 (2004) on the Associations and Private Institutions; and (iii) the Law on Societies.	
		<b>Judicial decisions</b>	NIL	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<p><b>2005 AR:</b> The legislation has changed since the adoption of the new Labour Code in January 2005. Prior government authorization is necessary to establish employers' organizations but not to conclude collective agreements. The PR can be exercised by all categories of employers.</p> <p><b>2003-2004 ARs:</b> Freedom of association (FOA) cannot be exercised at enterprise, sector/industry, national and international levels by all categories of employers. The right to collective bargaining at enterprise level can be exercised by all categories of employers.</p>
			<b>For Workers</b>	<p><b>2006 AR:</b> Legislation has been elaborated to regulate the creation of unions at enterprise level in both the private and public sectors. Ministerial decrees have been issued providing for the preliminary terms and procedures for the setting up of workers' organizations.</p> <p><b>2005 AR:</b> Prior government authorization is necessary to establish workers' organizations but not to conclude collective agreements. Workers can exercise the PR at enterprise, sector/industry levels. The PR can be exercised by the following categories of persons: medical professionals, teachers, workers in export processing zones (EPZs) or enterprises/industries with EPZs status, migrant workers and workers of all age.</p>

				<p><b>2003-2004 ARs:</b> Prior government approval is necessary to exercise the PR. FOA cannot be exercised at enterprise, sector/industry, national and international levels by all categories of workers. The right to collective bargaining at enterprise level can be exercised by the following categories of persons: (i) medical professionals; (ii) teachers; workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (iii) migrant workers; and (iv) workers of all ages. However, it cannot be exercised by all workers in the public service, agricultural workers, workers engaged in domestic work, and workers in the informal economy.</p>
			<p><b>Special attention to particular situations</b></p>	NIL
			<p><b>Information/ Data collection and dissemination</b></p>	According to the Government: Lack of information and data.
		<p><b>At international level</b></p>	<p><b>2006 AR:</b> According to the Government: FOA can be exercised at the international level. The Confederation of the Workers of Qatar can join any international organization active in the sphere of workers' organizations (article 123).</p> <p><b>2000-2005 ARs:</b> According to the Government: FOA and the right to collective bargaining cannot be exercised at international level.</p>	
	<p><b>Monitoring, enforcement and sanctions mechanisms</b></p>	<p><b>2005 AR:</b> According to the Government: The new Labour Code (2004) contains detailed provisions to enforce the PR and provides for sanction in case of breaches to it. Moreover, additional civil, administrative and penal sanctions exist.</p>		
	<p><b>Involvement of the social partners</b></p>	<p><b>2007 AR:</b> The Government stated that progress had been made especially thanks to the improvement of industrial relations and the increasing dialogue between employers and workers.</p> <p><b>2002 AR:</b> According to the Government: The Labour Code allows for the setting up of consultative committees composed of employers' and workers' representatives, with a view to promoting cooperation between them.</p>		
	<p><b>Promotional activities</b></p>	<p><b>2007 AR:</b> According to the Government: (i) Various occasions and events are seized to present the Declaration and related Conventions well-known; and (ii) Officials working in the field of international relations and labour standards have participated in courses, seminars and symposia on the Declaration and International Labour Standards. In 2006, the Government participated in the ILO/Gulf Cooperation Council (GCC) Fourth regional workshop on the Declaration and its follow-up which was held in the framework of cooperation between the International Labour Office and the Executive Bureau of the Ministers of Labour and Social Affairs in. A female official in the Department of Labour has been sent to Geneva to attend a course on Standards at ILO headquarters.</p> <p>The QCCI and the QPWC referred to their participation in the ILO/Gulf Cooperation Council (GCC) Fourth Regional Workshop on the ILO Declaration and International Labour Standards held in Kuwait City in April 2006.</p> <p><b>2006 AR:</b> According to the Government: A promotional manual for migrant workers in Qatar has been prepared.</p> <p><b>2003-2005 ARs:</b> According to Government: Awareness-raising activities are envisaged.</p>		
	<p><b>Special initiatives/Progress</b></p>	<p><b>2007 AR:</b> According to the Government: Progress has been made especially thanks to the improvement of industrial relations and the increasing dialogue between employers and workers. The new Labour Code is a qualitative move in relation to the principle and right. For the first time it contains a specific chapter under the heading "Workers' Organizations" concerning the provisions governing the establishment of workers' committees at enterprise, sectorial and national levels. Other chapters address collective bargaining,</p>		

		<p>collective agreements and collective disputes. Article 127 of this Labour Code provides that the scope of collective bargaining and collective agreements shall embrace any matters relating to work. Moreover, the Law on Societies and Private Associations was promulgated in 2004. The second chapter of this law contains specific provisions concerning the organization rules for the establishment and functioning of professional associations. Indeed, a number of such associations have been already established as those of journalists, engineers, lawyers and physicians.</p> <p><b>2006 AR:</b> According to the Qatar Petroleum Workers' Committee: The Workers' Committees are being progressively established.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2007 AR:</b> According to the QCCI: Lack of social dialogue on the PR. The QCCI considered that tripartite discussions should be organized with a view to understand better how to respect, promote and realize the ILO Declaration in Qatar.</p>
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> According to the QPWC: Lack of social dialogue on the PR. The QPWC also supported the view that tripartite discussions should be organized with a view to better understanding how to respect, promote and realize the ILO Declaration in Qatar.</p> <p><b>2006-2007 ARs:</b> The ICFTU raised the following challenges: (i) the 2004 Labour Code allows for the formation of free trade unions but only for Qatari nationals (one quarter of the labour force) and is restricted; (ii) unions and the right to collective bargaining were still banned in Qatar in 2004; (iii) the right to strike is recognised, but is very difficult to exercise within the new law (mostly because of the compulsory arbitration by the labour department prior to any strike action) or is restricted for categories of workers such as domestic workers and civil servants.</p> <p><b>2000-2005 ARs:</b> According to the ICFTU: (i) even though workers' committee can be set up, trade unions do not exist in Qatar; (ii) collective bargaining is prohibited and the employers generally set wages, (iii) the right to strike is restricted (domestic workers are denied this right).</p>
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the Government</b>	<p><b>2007 AR:</b> The Government acknowledged the lack of social dialogue on the PR and mentioned that tripartite discussions should be organized with a view to better understanding how to respect, promote and realize the ILO Declaration in Qatar.</p> <p><b>2005 AR:</b> According to the Government: The new draft Labour Code has helped to overcome challenges in realizing the PR.</p> <p><b>2003 AR:</b> According to the Government: The main difficulties encountered in Qatar in the realization of the PR are related to the social and economic circumstances and legal provisions. Moreover, the established laws in the country do not deal with the question of freedom of association. The vast majority of the labour force is precarious, being composed of immigrant employees with different nationalities and languages.</p> <p><b>2004 AR:</b> In response to the ICFTU's observations, the Government made the following comments: (i) The new Labour Code provides that joint committees may be formed in view of negotiating and concluding collective agreements, (ii) wages are determined by an agreement between the employer and the worker; (iii) section 120 of the new Labour Law allows workers to strike if amicable settlement of the dispute, by conciliation or arbitration, between them and the employer becomes impossible, in accordance with the provisions of the Labour Law.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the Government, the QCCI and the QPWC, ILO technical cooperation is needed to promote a better understanding of the ILO Declaration in Qatar.</p> <p><b>2006 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Qatar exist in the following areas, in order of priority: (1) strengthening data collection and capacity for statistical analysis; (2) in case of establishment</p>	

		<p>of trade unions, there will be a need for awareness raising and training. Moreover, the Government would appreciate continued technical cooperation with the ILO in following up and implementing the Declaration on Fundamental Principles and Rights at Work, including the PR.</p> <p><b>2006 AR:</b> According to the Qatar Petroleum Workers' Committee: Once Workers' Committees are generalized in the country, the ILO technical cooperation would be needed on freedom of association and other fundamental principles and rights at work.</p> <p><b>2003 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Qatar exist in the following areas, in order of priority: (1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; (2) strengthening data collection and capacity for statistical analysis; and (3) legal reform (labour law and other relevant legislation). And, in case of establishment of trade unions, there will be a need for awareness raising and training. The Government would appreciate continued technical cooperation with the ILO in following up and realizing the Declaration on Fundamental Principles and Rights at Work, including the PR.</p>
	<b>Offer</b>	ILO, GCC
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed Qatar among the countries where progress was being made under the Annual review in the promotion of freedom of association and the effective recognition of the right to collective bargaining (paragraph 12 of the 2005 Annual Review Introduction). Furthermore, the ILO Declaration Expert-Advisers noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (paragraph 148 of the 2005 Annual Review Introduction).</p> <p><b>2004 AR:</b> The IDEAs mentioned that they were encouraged by the continuing steps taken by countries of the Gulf Cooperation Council (GCC) in relation to this principle, but noted that there is a long way to go and much to do. Moreover they observed that the Gulf Cooperation Council States were providing more information on the principle of freedom of association and the effective recognition of the right to collective bargaining, but they estimated that it would be useful to receive more information on the other three principles. This would help to illustrate the interlinkages among all four principles.</p> <p><b>2003 AR:</b> The IDEAs commended Qatar for its continuing dialogue with the Office (paragraph 4 of the 2003 Annual Review Introduction). In light of requests Myanmar for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, the IDEAs called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field. (paragraph 74 of the 2003 Annual Review Introduction).</p> <p><b>2002 AR:</b> The IDEAs recommended that, with a view to a more in-depth discussion of certain aspects of the Introduction, the Governing Body invite clarifications from Qatar in relation to the continuation of steps undertaken in the country, in cooperation with the Office, concerning the principle of freedom of association and effective recognition of the right to collective bargaining (paragraph 41 (b) of the 2002 Annual Review Introduction). Furthermore, they acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the Government (paragraph 82 of the 2002 Annual Review Introduction).</p> <p><b>2001 AR:</b> The IDEAs hoped that the Government of Qatar would continue a dialogue with the Office regarding the ways in which the PR could be achieved (paragraph 77 of the 2001 Annual Review Introduction). They also recommended to the governing body that further information be requested from the Government of Qatar in relation to efforts made to promote the principle and right (paragraph 30 (b) (ii) of the 2001 Annual Review Introduction).</p>	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: SAMOA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, under the 2006 Annual Review (AR). Samoa became an ILO member State in 2005.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to Government: Involvement of the employers' organizations (the Public Service Commission (PSC); the Samoa Association of Manufacturers and Exporters (SAME); and the Samoa Chamber of Commerce and Industry (CCI)) and workers' organizations (the Samoa Public Service Association (PSA); the Yazaki Employees' Association (YEA); the ANZ Staff Association; and the Polynesian Airlines Staff Association (PASA) by means of consultation and communication of a copy of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2006 AR:</b> Observations by the SAME. Observations by the CCI.	
	<b>Workers' organizations</b>	<b>2006 AR:</b> Observations by the PSA. Observations by the YEA. Observations by the PASA.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Samoa has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87), nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>Under consideration for both C.87 and C.98.</b>  <b>2006 AR:</b> The Government enjoyed the employers' and workers' organizations' (CCI, SAME, PSA, YEA and PASA) support for ratification of all ILO fundamental Conventions by Samoa.

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

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> , the national Constitution, Article 13, provides for freedom of association, including the rights of all citizens to form associations or unions.		
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b> The principle of freedom of association is recognized under the Labour and Employment Act, 1972.</li> <li>• <b>Regulations</b> The principle of freedom of association is recognized under the Labour and Employment Regulations, 1973.</li> </ul>		
		<b>Basic legal provisions</b>	(i) The Constitution (Article 13); (ii) the Labour and Employment Act, 1972; and the Labour and Employment Regulations, 1973.		
		<b>Judicial decisions</b>	NIL		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	Government authorisation is not required to establish employers' organisations. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for all categories of employers.	
			<b>For Workers</b>	Government authorisation is not required to establish workers' organisations. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for the following categories of workers: (i) all workers in the public service; (ii) medical professionals; (iii) teachers; (iv) agricultural workers; (v) workers engaged in domestic work; (vi) workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (vii) migrant workers; and (viii) workers in the informal economy.	
			<b>Special attention to particular situations</b>	NIL	
			<b>Information/Data collection and dissemination</b>	NIL	
		<b>At international level</b>	According to the Government: The PR is recognized at international level for employers' and workers' organizations.		
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2006-2007 ARs:</b> According to the Government: No specific governmental measures have been implemented or are envisaged to further promote and realize the PR in the country. In instances where the Government finds that the PR has not been respected, the Ministry of Commerce, Industry and Labour advises the employers and workers, and may take legal action.</p> <p>According to the SAME: Under the Labour and Employment Act 1972, "arbitration" is a function of the judiciary/court only. Conciliation is a more informal process and may be undertaken by the Commissioner or a Committee appointed for that purpose.</p> <p><b>2006 AR:</b> According to the SAME: The Commissioner of Labour generally plays a role of conciliation in case of conflict.</p>			

	<b>Involvement of the social partners</b>	NIL	
	<b>Promotional activities</b>	NIL	
	<b>Special initiatives/Progress</b>	NIL	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2006 AR:</b> According to the SAME: The main difficulties encountered in Samoa in realizing the PR are as follows: (i) lack of public awareness and support (greater powers conferred to the authority due to the culture, leading to lack of negotiation); (ii) social and economic circumstances make it difficult to realize the PR in the country; (iii) real weakness among Samoa organizations in addressing labour issues.</p> <p>According to the CCI: the main difficulties encountered in Samoa in realizing the PR are the following: (i) social values, cultural traditions (consideration has to be given to the Samoan culture and its impact on the PR; (ii) lack of public awareness and support; (iii) legislation; and (iv) enforcement mechanisms.</p>
		<b>Workers' organizations</b>	<p><b>2006 AR:</b> The PASA shared the SAME's views concerning the difficulties encountered for the realization of the PR in the country.</p> <p>According to the YEA: The main difficulties encountered in Samoa in realizing the PR are as follows:(i) lack of public awareness and support; and (ii) social and cultural values.</p>
	<b>According to Government</b>	<p><b>2006 AR:</b> According to Government: The main difficulties encountered in Samoa in realizing the PR are as follows: (i) lack of public awareness and support; (ii) social values, cultural traditions; (iii) legal provisions; (iv) lack of capacity of responsible government institutions; (v) lack of capacity of employers' organizations; (v) lack of capacity of workers' organizations; and (vi) lack of social dialogue on the PR.</p> <p>The Government agrees with the views expressed by CCI, PASA, PSA, SAME and YEA.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2006 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Samoa, in particular in the following areas, in order of priority: (1) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; Awareness-raising, legal literacy and advocacy; Strengthening data collection and capacity for statistical analysis; Sharing of experiences across countries/regions; Legal reform (labour law and other relevant legislation); Capacity building of responsible government institutions; Strengthening capacity of employers' organizations; Strengthening capacity of workers' organizations; Strengthening social dialogue; and (2) Training of other officials (police, judiciary, social workers, teachers). These priorities may be satisfied through the preparation (survey and validation seminar) and launch of a national Declaration Programme for Samoa.</p> <p>All employers' and workers' organizations supported the Government's request for ILO technical cooperation, including the launch of an ILO Declaration Programme to facilitate the promotion and realization of the fundamental principles and rights at work in Samoa.</p> <p>According to the CCI, the ILO technical cooperation would be necessary to assist in the realization of the principle and right in Samoa in the following areas: (i) greater public awareness on the principle and right as well as on the relevant legislation, including a focus on benefits/positives aspects of the principle and right from workers' and employers' viewpoints; (ii) labour law reform; (iii) enforcement mechanisms; and (iv) launch of an ILO Declaration Programme to facilitate the realization of the fundamental principles and rights at work.</p> <p>According to the PSA and the PASA, the ILO technical cooperation would be necessary to facilitate the realization of this principle and right in Samoa in the following areas: (i) strengthening capacity building of workers' organizations (especially on freedom of association and collective bargaining tools); (ii) implementing labour law reform; and (iii) launch of an ILO Declaration Programme to facilitate the promotion and realization of the fundamental principles and rights at work.</p>	

		<p>According to the YEA, the ILO technical cooperation would be necessary to facilitate the realization of this principle and right in Samoa in the following areas: (i) legislative reforms in compliance with the principle and right; (ii) awareness raising activities; and (iii) establishment of tripartite institutions.</p> <p>– The Government agreed with the views expressed by PASA, PSA, SAME and YEA. It also supported the CCI stand on the need to highlight the benefits/positive aspects of each PR from both the workers' and the employers' viewpoints.</p>
<b>TECHNICAL COOPERATION</b>	<b>Offer</b>	ILO: Assistance in reporting under the Declaration's Annual Review.
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>2006 AR:</b> The ILO Declaration Expert-Advisers encouraged the Government of Samoa that had provided its first report under the Declaration to follow up and had expressed its willingness to ratify C.87 and C.98.	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	

**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: SAUDI ARABIA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2003 Annual Review (AR).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Employer representative of the Council of Saudi Chambers of Commerce and Industry (SCCI), the Chairman of the Aramco Workers' Committee (AWC) and the Chairman of the Saudi Telecom Workers' Committee (STWC) through communication of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the SCCI.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the AWC. Observations by the STWC. <b>2006 AR:</b> Observations by the AWC. Observations by the STWC. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2005 AR:</b> Observations by the ICFTU. <b>2004 AR:</b> Observations by the ICFTU. <b>2003 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Saudi Arabia has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>Under consideration, since 2000, for C.87 and C.98.</b>  <b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002), the Government intended to

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

			ratify C.87 and C.98.		
	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Constitution</b>	<b>YES</b> According to the Government: The Constitution of the Kingdom of Saudi Arabia, represented by the Sharia (Islamic rules), pursues the same objectives as those of freedom of association and collective bargaining.		
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b> The Labour laws relate to the principle and right (PR).</li> <li>• <b>Regulations</b> Decree No. 12 dated 2 April 2001 approving rules for the establishment of labour committees at the enterprise level relate to the PR.</li> </ul>		
		<b>Basic legal provisions</b>	(i) Constitution of the Kingdom of Saudi Arabia (Islamic Sharia); (ii) Labour laws; and (iii) Decree No. 12 dated 2 April 2001 approving rules for the establishment of labour committees at the enterprise level.		
		<b>Judicial decisions</b>	NIL		
		<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	NIL
	<b>For Workers</b>			NIL	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>Special attention to particular situations</b>	NIL	
			<b>Information/Data collection and dissemination</b>	NIL	
		<b>At international level</b>	NIL		
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2004 AR:</b> According to the Government: Decree No. 12 dated 2 April 2001 opens the possibility of establishing one labour committee in each enterprise, consisting of Saudi workers employed in the enterprise.</p> <p><b>2001 AR:</b> According to the Government: The Shura Council (the Consultative Council) had recently approved a proposal on a mechanism for workers' organizations, which suits the conditions and particularities of the Kingdom of Saudi Arabia.</p> <p><b>2000 AR:</b> According to the Government: In the case of a conflict between an employer and a worker on a specific subject, the Labour Inspector plays the role of an intermediary providing advice and guidance and trying to bring about an amicable settlement of the dispute. The settlement is therefore consolidated and the Labour Inspector supervises its application.</p>			
	<b>Involvement of the social partners</b>	<b>2004 AR:</b> According to the Government: Information meetings were held to familiarize workers and employers with the fundamental principles and rights at work, and the role of the workers' committees in enterprises in this regard.			
<b>Promotional activities</b>	<b>2007 AR:</b> According to the Government: Some activities were organized to promote the ILO Declaration and the development of workers' committees all over the country. Moreover, the Government took part in workshops on small and medium enterprises (SMEs) held in Oman in 2006.				

		<p>The Government, the SCCI and the AWC mentioned their participation in the ILO/Gulf Cooperation Council (GCC) on the Declaration follow-up organized in Kuwait City in April 2006.</p> <p>According to AWC: Some progress is being made in the establishment of workers' committees in Saudi Arabia.</p> <p>According to STWC: The number of workers' committees has slightly increased, but the STWC is working on the establishment of additional ones.</p> <p><b>2004-2005 ARs:</b> According to the Government: Several information meetings on the role of workers' committees in enterprises were held in different regions, and the convening of a seminar on social dialogue is being discussed with the ILO.</p>	
	<p><b>Special initiatives/Progress</b></p>	<p><b>2006 AR:</b> The Government indicated that it is closely monitoring the creation of labour committees in enterprises. Recently, a number of committees were established in several enterprises and a number of other enterprises are setting up new labour committees.</p> <ul style="list-style-type: none"> <li>– According to the ICFTU: Four workers' committees were established in 2004. A draft Bill revising the Labour Law was sent to the Council of Ministers for adoption in September 2004; it would also cover domestic workers.</li> </ul> <p><b>2005 AR:</b> According to the Government: The setting up of several workers' committees in a number of establishments, and two committees chairpersons have participated for the first time in the 92<sup>nd</sup> Session of the International Labour Conference held in June 2004. The Government expects to establish more committees in the future.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p>NIL</p>
		<p><b>Workers' organizations</b></p>	<p>2007 AR: <b>The ICFTU raised the following additional challenges: The 2005 labour law still does not give workers the right to organise, bargain or strike, the law still only allows for workers' committees.</b></p> <p>2006 AR: <b>Observations by the Aramco Workers' Committee (AWC): (i) the establishment of workers' committees is supported by the Government, but some enterprises are very slow in establishing these committees; (ii) there is also a need to share experience on the development of freedom of association (FOA) and other fundamental principles and rights at work (FPRW) with unions of other countries.</b></p> <ul style="list-style-type: none"> <li>– <b>Observations by the Saudi Telecom Workers' Committee (STWC): (i) there is a need to speed up the process of establishment of workers' committees in enterprises where they do not exist; (ii) there is also a need to educate these committees on FOA issues and other FPRW; (iii) the STWC is supporting this process.</b></li> <li>– <b>The ICFTU raised the following additional challenges: (i) in spite of positive developments, such as the creation of workers' committees, trade unions and strikes are banned.</b></li> </ul> <p><b>2005-2006 ARs:</b> Observations by the ICFTU: (i) only one committee can be formed in each qualifying enterprise and it must have between three and nine members; (ii) only Saudi workers may be members of a workers' committee, and these workers must be older than 25 years and have worked for more than two years at the same enterprise; (iii) the main tasks of these committees are limited; (iv) the law allows the administrative dissolution of workers' committees.</p> <p><b>2000-2002 ARs:</b> The ICFTU raised the following challenges: (i) trade unions and strikes are banned by royal decree; (ii) collective bargaining is forbidden; (iii) anyone trying to form a union can be sacked,</p>

		jailed, or in the case of migrant workers, expelled from the country; (iv) there are no mechanisms to promote the aims set out in the Sharia.
	<b>According to the Government</b>	<p><b>2006 AR:</b> In response to the observations by the AWC and the STWC, the Government made the following comments: (i) The Government has requested the organization of a regional seminar on Social Dialogue and the Role of Workers' Committees in Enterprises; (ii) there is a need to promote Workers' Committees; (iii) the Ministry of Labour has set up a working group to tour the main cities of the Kingdom to raise awareness about the importance of Workers' Committees. 13 enterprises Workers' Committees have been established in 2005, and a further 7 are in the process of formation.</p> <p>In response to the ICFTU's observations, the Government observed that: (i) the rules governing the creation of Workers' Committees provide that a Minister may only dissolve a Committee if it commits a serious violation of the rules or undermines national security; (ii) the new Labour Code provides that the Ministry shall establish special rules for domestic workers; (iii) several bodies and professional associations have been set up such as the Journalist Association's Council or the Saudi Engineer's Council; (iv) the Ministry of Labour is monitoring these cases of work suspension due to protests over wage increase.</p> <p><b>2005 AR:</b> In response to the ICFTU's observations, the Government observed that: (i) four committees have been constituted to date; another four committees are being formed and the establishment of other committees is also expected.</p> <p><b>2000-2001 ARs:</b> In response to ICFTU's observations, the Government made the following comments: (i) There is no applicable Royal Decree that prohibits the establishment of trade unions; (ii) the Islamic Sharia (the Constitution of the Kingdom) guarantees the achievement of objectives that go beyond those pursued by trade unions.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> The Government, the SCCI and the AWC mentioned the need for ILO technical cooperation to promote the Declaration principles and rights in the country.</p> <p>According to the STWC: There is a need for workers' education to increase awareness among workers and the importance of workers' organizations and their role in improving working conditions. This step is fundamental to develop freedom of association and collective bargaining in Saudi Arabia and ILO should provide adequate training in this respect.</p> <p>ILO should also train the Government and employers' organizations so that they know how to deal with workers' organizations. This will at the same time decrease resistance to change and give to the Government and employers' organizations more acceptance to deal with workers and their organizations. All this process will help develop the capacity building of workers' organizations and their ability to be part of an initial collective bargaining and tripartite process.</p> <p>The AWC supported this view.</p>
	<b>Offer</b>	ILO and GCC
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>		<p><b>2006 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed the following: "It is important to note that the majority of workers in some Gulf States are migrant workers. Therefore, while we note that certain measures have been reported relating to this principle [...] we stress that the principle should be given full effect as regards all the workers present in these countries, including migrant workers, if these countries are to progress meaningfully in this area". (paragraph 45 of the 2006 Annual Review Introduction)</p> <p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (paragraph 148 of the 2005 Annual Review Introduction). Furthermore, they listed Saudi Arabia among the countries where progress was being made under the Annual Review in the promotion of freedom of association and the effective recognition of the right to collective bargaining (paragraph 12 of the 2005 Annual Review Introduction).</p> <p><b>2004 AR:</b> The IDEAs mentioned that they were encouraged by the continuing steps taken by countries of the GCC in relation to this principle and right, but noted that there was a long way to go and much to do. Moreover they observed that the Gulf Cooperation Council States were providing more information on the principle of freedom of association and the effective recognition of the right to collective bargaining, but they considered that it would be useful to receive more information on the other three principles. This would help to illustrate the interlinkages among all four principles (paragraph 85 of the 2004 Annual Review Introduction).</p>

	<p><b>2003 AR:</b> The IDEAs commended Saudi Arabia for its continuing dialogue with the Office (paragraph 4 of the 2003 Annual Review Introduction).</p> <p><b>2002 AR:</b> The IDEAs acknowledged the high-level dialogue and agreement on a plan of activities between the Office and the Government (paragraph 82 of the 2002 Annual Review Introduction).</p> <p><b>2001 AR:</b> The IDEAs hoped in particular that the Government of Saudi Arabia would continue a dialogue with the Office regarding the ways in which the principle and right could be achieved (paragraph 77 of the 2001Annual Review Introduction). They also recommended to the governing body that further information be requested from the Government of Saudi Arabia in relation to efforts made to promote the principle and right (paragraph 30 (b) (ii) of the 2001 Annual Review Introduction).</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p>NIL</p>



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: SINGAPORE**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, since the start of the Annual Review (AR) in 2000.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Singapore National Employers' Federation (SNEF) and the National Trades Union Congress (NTUC) through communication of Government reports and tripartite meetings on reporting issues.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the Singapore National Employers' Federation (SNEF). <b>2006 AR:</b> Observations by the SNEF.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the NTUC. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the NTUC Observation by the ICFTU. <b>2005 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Singapore ratified in 1965 the Right to Organize and Collective Bargaining Convention, 1949 (No.98) (C.98). However, it has not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87) (C.87).</b>
		<b>Ratification intention</b>	Under consideration, since 2006, for C.87.  <b>2006 AR:</b> In response to the ICFTU's observations, the Government stated "Singapore will continue to review ILO Conventions with the view to additional ratifications.

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

	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> , according to the Government, although Singapore has not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the principle and right (PR) is enshrined in Singapore's laws.		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> <li>• Government's prospects: Enhancing cooperative and effective industrial relationships in order to facilitate the realization of the principle and right.</li> <li>• Means of action: Mainstreaming tripartite framework.</li> <li>• <b>Legislation</b></li> </ul> The Trade Unions Act, the Trade Dispute Act, the Criminal Law (Temporary Provisions) (Part III); and the Industrial Relations Act relate to the principle and right (PR).		
		<b>Basic legal provisions</b>	(i) The Constitution; (ii) the Trade Unions Act; (iii) the Trade Disputes Act, (iv) Part III of the Criminal Law (Temporary Provisions); and (v) the Industrial Relations Act.		
		<b>Judicial decisions</b>	NIL		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	NIL	
			<b>For Workers</b>	<b>2003 AR:</b> Prior government authorization is necessary to operate workers' organizations (the Industrial Relations Act, 1940). Freedom of Association (FOA) can be exercised by employees working in the teaching and medical professions and by foreign workers operating in Singapore. Public sector employees can form or join a trade union, except for those engaged in the security and defence of the country. FOA cannot be exercised by workers under 16 years of age.	
			<b>Special attention to particular situations</b>	NIL	
			<b>Information/Data collection and dissemination</b>	According to the Government: There is a lack of information and data on the PR.	
			<b>At international level</b>	NIL	
<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2005 AR:</b> According to the Government: Any group of seven or more prospective members can establish a union. The establishment of a union is also subject to the approval of the Registrar of Trade Unions, who has the power to refuse or cancel registration under certain conditions, particularly where one trade union already exists for workers in a particular occupation or industry (Trade Unions Act, 1940). The PR is enforced through law, collective agreements and tripartite consultations at all levels.</p> <p><b>In instances where the PR is not respected (for instance on the issue of termination and dismissal), the Ministry for Manpower has the power to decide on whether the termination is substantiate or not, after an inquiry conducted by the Commissioner for Labour. It may order reinstatement if the employer is found to have terminated the employee's service without just cause. The Minister may award compensation to the affected worker if reinstatement is considered to be undesirable and could affect labour relations at the workplace (Sections 17(2) b) and 17(2)(e)) of the Industrial Relations Act).</b></p>				

	<p><b>Involvement of the social partners</b></p>	<p>2006 AR: <b>According to the Government: In addition to the National Wage Council, tripartite taskforces have been formed to tackle policy issues such as older workers or job re-creation efforts.</b></p> <p>-The Singapore National Employers' Federation (SNEF) indicated that tripartite cooperation was well established through consultation and collaboration on various economic and social issues such as policy formulation and review or dispute settlement.</p> <p><b>2000-2004 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in: (i) tripartite consultations on industrial relations; (ii) the formulation and implementation of wage policies and wage guidelines; (iii) the review of labour laws and promotion of good employment practices; (iv) the improvement of productivity and skill development of workers.</p>	
	<p><b>Promotional activities</b></p>	<p>2006 AR: <b>The National Trades Union Congress mentioned that it was increasing its efforts to enforce the right to organise and reach 1 million members by 2015. Training courses to union leaders are also conducted.</b></p> <p><b>2000-2004 ARs:</b> The Government reported on frequent training of workers to promote skill development and productivity and collective bargaining.</p>	
	<p><b>Special initiatives/Progress</b></p>	<p><b>2007 AR:</b> According to the Government: Union membership figures stand at 450,000 in 2005. The Ministry of Manpower noted from the National Trades Union Congress reports that about 30% of unionised companies have included a clause in their collective agreements to allow employment of older workers beyond the retirement age of 62 years old. Moreover, a new union for workers operating in private educational institutions was set up in March 2006 and has a potential of 50,000 members.</p> <p>The NTUC indicated that it had set up a Unit for Contract Workers to help address the concerns of a growing number of contract workers although the overall number vis-à-vis permanent employees is still small. A new union for employees working in private educational institutions was set up in March 2006, with a potential of 50,000 members.</p> <p>2006 AR: <b>According to the Government: The fact that unions have widened their membership from about 314,000 in 2000 to 443,000 in 2004 can be regarded as a successful example in the realization of the PR.</b></p> <p><b>2003 AR:</b> According to the Government: Special initiatives have been taken through the training of officials; the promotion of workers' productivity and the increase in the number of trade unions.</p>	
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Employers' organizations</b></p>	<p><b>2007 AR:</b> No particular challenges have been raised in the SNEF's observations.</p>
		<p><b>Workers' organizations</b></p>	<p><b>2007 AR:</b> According to the ICFTU: (i) the Labour law is outdated; (ii) the right to form unions is recognized but parliament may impose restrictions on the formation of a union on the grounds of security, public order or morality; (iv) excessive powers of the Registrar of Trade Union; (iii) prohibition of government employees from joining or forming trade unions; (iv) interference in trade unions affairs such as restrictions of trade unions on the right to elect their officers under the Trade Union Act or control over trade unions finances; (v) there is no effective recognition of freedom of association for migrant workers.</p> <p><b>2002 and 2005-2006 ARs:</b> The ICFTU raised the following challenges: (i) excessive powers of the Registrar of Trade Union; (ii) prohibition of government employees from joining or forming trade unions; (iii) no enforcement of binding arbitration; (iv) restrictions on the right to strike and prohibition of strike in essential services (water, gas, electricity); (v) restrictions of trade unions on the right to elect their officers under the Trade Union Act; (vi) prohibition of citizens with criminal record and migrant workers to work for a trade union; (vii) investigations of union finances; (viii) increased representation for executives; (ix) restrictions on the formation of union on the grounds of security, public order or morality.</p>

	<b>According to the Government</b>	<p><b>2006 and 2007 ARs:</b> In response to the ICFTU's observations, the Government made the following comments: (i) Trade union leaders in Singapore are democratically elected and if they fail to be accountable for their decisions, they can be voted out by their members; (ii) restrictions on trade unions' activities only apply to persons who are criminally convicted and foreigners whose stay is transient in nature; (iii) Singapore's laws continue to be relevant for the country and have helped to prevent and resolve unnecessary industrial disputes which are detrimental to business and workers' interests; (iv) workers' fundamental rights in respect of the PR are enshrined in national laws; (v) Singapore has closely worked with the ILO in promoting constructive industrial relations, workers' rights, occupational safety and health and training and skills. In response to the ICFTU's observations for the 2002 and 2005 ARs, the Government observed that government employees were allowed to form and join trade unions.</p> <p><b>2002 AR:</b> In response to the ICFTU's observations, the Government made the following comments: (i) The purpose of the union registration is to confer on registered trade unions certain rights, immunities and privileges, not to exercise control. Refusal for a registration of a trade union by the Registrar can help limit the proliferation of trade unions and strengthen solidarity of the labour movement; (ii) a decision to carry out strike action must be supported by the majority of union members; (iii) restrictions on the rights of trade unions to appoint their officials cover persons convicted of serious criminal offences; (iv) restrictions on expenditure of union funds prevent the union funds from being used as contributions to a political party or for a political purpose. In conclusion, the Government stated that the objectives of the Trade Union Act are to ensure fair elections and proper management of the union for the benefits of union members.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	NIL
	<b>Offer</b>	NIL
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL	



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: SOLOMON ISLANDS**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

*Note: This draft baseline is waiting for Government's approval*

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, but ONLY ONCE under the 2006 Annual Review (AR).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to Government: Involvement of the employers' organizations (the Solomon Islands Chamber of Commerce and Industry (SICCI); the Solomon Islands Chinese Association (SICA); the Solomon Islands Indigenous Business Association (SIIBA); the Solomon Islands Women in Business Association (SIWIB); the Association of Solomon Islands Manufacturers (ASIM); the Solomon Forestry Association (SFA)) and workers' organizations (the Solomon Islands Council of Trade Unions (SICTU); the Solomon Islands Public Employees Union (SIPEU); the Solomon Islands National Union of Workers (SINUW); and the Solomon Islands National Teachers' Association (SINTA) by means of consultation and communication of a copy of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2006 AR:</b> Observations by SCCI, SICA, SIIBA, SIWIB, ASIM and SFA.	
	<b>Workers' organizations</b>	<b>2006 AR:</b> Observations by SICTU, SIPEU, SINUW and SINTA.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Solomon Islands has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>YES, for both C.87 and C.98.</b>  <b>2006 AR:</b> The Government indicated that it had the intention to ratify C.87 and C.98. It also appreciated the employers' and workers' organizations' (ASIM, SFA, SICCI, SIIBA, SIWIB, SICA, SICTU, SINUW, SINTA and SIPEU) support for the ratification of all ILO fundamental Conventions not ratified by Solomon Islands. In this respect, it requested ILO's technical assistance on the Declaration and standard-related issues and for capacity building in reporting.
	<b>Recognition of the principle and right</b>	<b>Constitution</b>	<b>YES</b> , the national Constitution, 1978, Article 3 (b), provides for the freedom of conscience, of expression and of assembly and association. Under Article 13 of the same text, the right to freedom of assembly and

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

	<b>(prospect(s), means of action, basic legal provisions)</b>		association and the right to belong to trade unions or other associations for the protection of interest shall not be hindered.		
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p>Parts III and IV of the Trade Unions' Act (CAP 76), 1970 (as revised in 1998), provides for the registration and the rights and liabilities of trade unions. Freedom of association of employees shall not be subject to employers' interference under Section 60 of the same Act. In addition, the Solomon Islands ratified in 1985 the Right of Association (Agriculture) Convention, 1921 (No.11).</p> <p>Although there is no explicit reference to the right to collective bargaining in national laws and rules, this right is recognized under Section 26 of the Trade Unions Act, which provides that every trade union shall be liable on any contract entered into it or by an agent acting on its behalf, and under Section 59 which refers to agreements. Furthermore, this right is recognized in practice, and many collective bargaining agreements are currently in force in the country.</p>		
		<b>Basic legal provisions</b>	(i) The national Constitution, 1978 (Articles 3(b) and 13); (ii) the Trade Unions' Act (CAP 76), 1970 (as revised in 1998), Parts III and IV, and Sections 26 and 59; and the Trade Unions Act (CAP 161), 1983).		
		<b>Judicial decisions</b>	NIL		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2006 AR:</b> Government authorization or approval is not required to establish an employers' organization, but it is required the conclusion of collective agreements (Trade Unions Act (CAP 76), 1970 (as revised in 1998). The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for all categories of employers.	
			<b>For Workers</b>	<b>2006 AR:</b> Government authorization or approval is not required to establish a workers' organization, but it is required the conclusion of collective agreements under Part III of the Trade Unions Act (CAP 76), 1970 (as revised in 1998), which provides for the conditions of registration of trade unions. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for the following categories of workers: (i) all workers in the public service; (ii) medical professionals; (iii) teachers; (iv) agricultural workers; (v) workers engaged in domestic work; (vi) workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (vii) migrant workers; (viii) workers above the age 16 years (with exceptions- Cf. Trade Unions Act (CAP 161), 1983); and (ix) workers in the informal economy.	
			<b>Special attention to particular situations</b>	NIL	
			<b>Information/ Data collection and</b>	NIL	

			<b>dissemination</b>
		<b>At international level</b>	According to Government: The principle and right (PR) is recognized at international level for employers' and workers' organizations.
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2006 AR:</b> According to Government: Specific governmental measures have been implemented (inspection and monitoring mechanisms - but not enough; penal, civil or administrative sanctions; special institutional machinery) or are envisaged (legal reform, capacity building of government officials and employers' and workers' organizations; tripartite discussion of issue; awareness raising/advocacy) to respect, promote and realize the PR in the country. In instances where the principle of freedom of association and the effective recognition of the right to collective bargaining has not been respected, above-mentioned Section 13 of the national Constitution applies. In case of contravention of the right to freedom of assembly and association and the right to belong to trade unions or other associations for the protection of interest, the victims may apply to High Court for redress and shall be entitled to compensation (Sections 17 and 18 of the Constitution). Moreover, an employer who infringes the right to freedom of association of employees shall be guilty of an offence and shall be liable to a fine of two hundred dollars (about US\$ 20 as of September 2005) or to imprisonment for six months, or to both penalties (Section 60 of the Trade Unions, Act (CAP 76)).	
	<b>Involvement of the social partners</b>	<b>YES</b> <b>2006 AR:</b> According to Government: A labour law reform is being initiated in association with the social partners.	
	<b>Promotional activities</b>	<b>NIL, but envisaged.</b>	
	<b>Special initiatives/Progress</b>	<b>2006 AR:</b> According to Government: (i) The existence of Police associations can be regarded as successful examples in relation to freedom of association; (ii) the Government intends to ratify C.87 and C.98; and (iii) the Government is currently initiating a labour law reform in association with the social partners and the ILO in order to ensure compliance of national laws with the provisions of C.87 and C.98.	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>2006 AR:</b> According to the employers' organizations, the main difficulties encountered in realizing the PR in Solomon Islands are as follows:  SFA: (i) lack of employment opportunities; (ii) lack of social dialogue; (iii) inadequate labour laws; (iv) lack of enforcement capacities; and (v) lack of public awareness on the PR;  SICA: (i) lack of adequate legislation; (ii) lack of information and data; (iii) lack of public awareness-raising; and (iv) lack of ILO support and technical cooperation programmes;  SIWIB: (i) lack of adequate legislation; (ii) lack of ratification of C.87 and C.98 by the Government; and (iii) lack of awareness-raising among workers' organizations, given that many workers are not aware of their rights and unemployment is very high in the country;  SICCI: (i) inadequate legislation; (ii) inadequate enforcement of the legislation; (iii) lack of desire of certain employers to comply with the laws; (iv) lack of resources and staff for the labour inspection; and (v) lack of ILO support and technical cooperation programmes;  ASIM: (i) lack of communication and social dialogue on the PR; (ii) lack of coordination among government officials; (iii) inadequate legislation; (iv) lack of expertise, resources and capacity of the Labour Division; and (v) lack of information and data collection;  SIIBA: (i) inadequate legislation; (ii) inadequate enforcement of the legislation; (iii) lack of expertise and

			resources in the Labour Division; (iv) lack of resources and staff for the labour inspection; (v) lack of information and data collection; and (vi) lack of ILO support and technical cooperation programmes.
		<b>Workers' organizations</b>	<p><b>2006 AR:</b> According to the workers' organizations, the main difficulties encountered in realizing the PR in Solomon Islands are as follows:</p> <p>SIPEU: (i) very poor legislation; (ii) lack of capacity of the Labour Division to enforce laws and regulations; and (iii) lack of training and capacity building among employers' and workers' organizations;</p> <p>SINTA: (i) lack of adequate legislation; (ii) lack of capacity of the Labour Division; and (iii) lack of training and capacity building among employers' and workers' organizations;</p> <p>SICTU and SINUW: (i) lack of adequate legislation; (ii) lack of ratification of C.87 and C.98 by the Government; and (iii) lack of awareness-raising among employers' and workers' organizations.</p>
	<b>According to Government</b>		<b>2006 AR:</b> The main difficulties encountered in realizing the PR in Solomon Islands are as follows: (i) lack of public awareness and support; (ii) lack of information and data; (iii) social values, cultural traditions; (iv) social and economic circumstances; (v) legal provisions; (vi) lack of capacity of responsible government institutions; (vii) lack of capacity of employers' organizations; (viii) lack of capacity of workers' organizations; and (ix) lack of social dialogue on the PR.
<b>TECHNICAL COOPERATION</b>	<b>Request</b>		<p><b>2006 AR:</b> According to Government: There is a need for ILO technical cooperation to facilitate the realization of the principle and right in Solomon Islands, in particular in the following areas, in order of priority: (1) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; strengthening data collection and capacity for statistical analysis; legal reform (labour law and other relevant legislation); capacity building of responsible government institutions; Strengthening capacity of employers' organizations; strengthening capacity of workers' organizations; strengthening social dialogue; and (2) Awareness-raising, legal literacy and advocacy; sharing of experiences across countries/regions; training of other officials (police, judiciary, social workers, teachers)</p> <p>These priorities may be satisfied through the preparation (survey and validation seminar) and launch of a national Declaration Programme for the Solomon Islands. Mediation, arbitration and conciliation procedures should also be strengthened.</p> <p>All employers' and workers' organizations supported the Government's request for ILO technical cooperation, including the launch of an ILO Declaration Programme to facilitate the promotion and realization of the fundamental principles and rights at work in Solomon Islands.</p> <p>According to the employers' organizations, the ILO technical cooperation would be necessary to assist in the realization of the PR in Solomon Islands in the following areas:</p> <p>SFA: (i) labour law reform; (ii) employment creation, (iii) social dialogue; and (iv) public awareness raising on the PR;</p>

<p><b>TECHNICAL COOPERATION</b></p>		<p>SICA: (i) legislation; (ii) data collection; and (iii) public awareness raising on the PR;</p> <p>SIWIB: (i) educational programmes; (ii) capacity building; and (iii) adequate coordination among employers' and workers' organizations concerning the promotion and realization of the PR;</p> <p>SICCI: (i) legal reform; and (ii) strengthening of the Government and the employers' and workers' organizations capacities in enforcing laws and realizing the PR;</p> <p>ASIM: (i) social dialogue, (ii) labour law reform, (iii) data collection; and (iv) capacity building of Government institutions and of employers' and workers' organizations;</p> <p>SIIBA: (i) labour law reform; and (ii) capacity building of Government institutions and of employers' and workers' organizations.</p> <p>According to the workers' organizations, the ILO technical cooperation would be necessary to assist in the realization of the PR in Solomon Islands in the following areas:</p> <p>SIPEU, SINTA, SICTU and SINUW: (i) capacity building of Government institutions and of employers' and workers' organizations.</p>
	<p><b>Offer</b></p>	<p>ILO (ILO: Assistance in reporting under the Declaration' Annual Review; labour law reform; and decent work country programme)</p>
<p><b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b></p>		<p><b>2006 AR:</b> The ILO Declaration Expert-Advisers encouraged the Government of Solomon Islands that had provided its first report under the Declaration to follow up and had expressed its willingness to ratify C.87 and C.98 (Cf. paragraph 34 of the 2006 Annual Review Introduction).</p> <p><b>2005 AR:</b> The Expert-Advisers looked forward to receiving a first reply from the Solomon Islands and other countries that had never reported under the Declaration Annual Review (Cf. paragraph 8 of the 2005 Annual Review Introduction).</p> <p><b>2000-2004 ARs:</b> The ILO Declaration Expert-Advisers expressed concern that several countries, including Solomon Islands, had never reported under the Declaration Annual review. They recommended that the Office initiate a dialogue with Solomon Islands and other countries that had never reported under the Declaration Annual Review.</p>
<p><b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b></p>	<p>NIL</p>	



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: SOMALIA**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, since the 2006 Annual Review (AR). No change report under the 2007 AR (national crisis).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>NO (there are no employers' and workers' organizations in Somalia).</b> According to the Government: A process is being developed in view of establishing in the country new employers' and workers' organizations.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL	
	<b>Workers' organizations</b>	NIL	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Somalia has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>Under consideration, since 2006, for C.87 and C.98.</b>  <b>2006 AR:</b> According to the Government: With a view to considering ratification of all ILO fundamental Conventions, the Government would appreciate receiving ILO technical assistance in organizing a national workshop on labour standards and the Declaration on Fundamental Principles and Rights at Work.

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

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> , the principle of freedom of association and the effective recognition of the right to collective bargaining (PR) is recognized in Somalia under articles 19.1 a) and 22.1 a) of the 2004 Somali Transitional Federal Charter (STFC).		
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> The principle of freedom of association and the effective recognition of the right to collective bargaining is recognized in Somalia under Sections 9-30 of the Labour Code, Law No. 65 of 18 October 1972.		
		<b>Basic legal provisions</b>	(i) The 2004 Somali Transitional Federal Charter (STFC) (articles 19.1 a) and 22.1 a), (ii) the Labour Code, Law No. 65 of 18 October 1972 (sections 9-30).		
		<b>Judicial decisions</b>	NIL		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2006 AR:</b> Government authorization or approval is required neither to establish an employers' organization (in accordance with article 14.2 b9 of the Somali Transitional Federal Charter (STFC)), nor to conclude collective agreements. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for all categories of employers.	
			<b>For Workers</b>	<b>2006 AR:</b> Government authorization or approval is required neither to establish an workers' organization (in accordance with Article 14.2 b9 of the Somali Transitional Federal Charter (STFC)), nor to conclude collective agreements. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for the following categories of workers: (i) all workers in the public service; (ii) medical professionals; (iii) teachers; (iv) agricultural workers; (v) workers engaged in domestic work; (vi) workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (vii) migrant workers; (viii) workers above the age 15 years under certain conditions (section 11 of the Labour Code); and (ix) workers in the informal economy.	
			<b>Special attention to particular situations</b>	NIL	
			<b>Information/Data collection and dissemination</b>	NIL	
		<b>At international level</b>	According to the Government: The principle and right (PR) is recognized at international level for employers' and workers' organizations.		
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2006 AR:</b> According to the Government: No specific measures have been implemented to respect, promote and realize the principle and right in the country. In instances where the principle of freedom of association and the effective recognition of the right to collective bargaining has not been respected, penalties, including fines and imprisonment, are provided for under Part X (sections 143-146) of the Labour Code.			

	<b>Involvement of the social partners</b>	NIL	
	<b>Promotional activities</b>	<b>2006 AR:</b> According to the Government: No specific measures have been implemented to respect, promote and realize the principle and right in the country. However, After 15 years of civil war and political turmoil, a Transitional Federal Parliament and a Transitional Federal Government have been formed in 2004 in Nairobi, Kenya. A process is being developed in view of establishing in the country a new labour administration, new employers' and workers' organizations, new tripartite institutions, revised labour laws and new labour courts.	
	<b>Special initiatives/Progress</b>	<b>NIL.</b>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL
		<b>Workers' organizations</b>	NIL
	<b>According to the Government</b>	<b>2007 AR:</b> The Government reported no change because of difficult national circumstances.  <b>2006 AR:</b> The main difficulties encountered in realizing the PR in Somalia are as follows: (i) lack of public awareness and support; (ii) lack of information and data; (iii) social and economic circumstances; (iv) political situation; (v) lack of capacity of responsible government institutions; (vi) lack of capacity of employers' organizations; (vii) lack of capacity of workers' organizations; and (viii) lack of social dialogue on the PR.	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<b>2006 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Somalia, in particular in the following areas, in order of priority: (1) Capacity building of responsible government institutions; (2) Strengthening capacity of workers' organizations; (3) Strengthening capacity of employers' organizations; (4) Strengthening social dialogue; (5) Training of other officials (police, judiciary, social workers, teachers); (6) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; (7) Legal reform (labour law and other relevant legislation); (8) Awareness-raising, legal literacy and advocacy; (9) Strengthening data collection and capacity for statistical analysis; (10) Sharing of experiences across countries/regions; Moreover, in the current historical and instrumental process of national peace, stability and reconstruction, the ILO assistance is most needed to enable the Government to apply the Conventions in law and practice and report accordingly. In view of considering the ratification of all ILO fundamental Conventions, the Government would appreciate receiving ILO technical assistance in organizing a national workshop on labour standards and the Declaration on Fundamental Principles and Rights at Work.	
<b>TECHNICAL COOPERATION</b>	<b>Offer</b>	ILO (ILO: Assistance in reporting under the Declaration' Annual Review).	
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>2006 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) encouraged the Government of Somalia that had provided its first report under the Declaration to follow up and had expressed its willingness to ratify C.87 and C.98 (Cf. paragraph 34 of the 2006 Annual Review Introduction).  <b>2005 AR:</b> The IDEAs looked forward to receiving a first reply from the Somalia and other countries that had never reported under the Declaration Annual Review (Cf. paragraph 8 of the 2005 Annual Review Introduction).  <b>2003-2004 ARs:</b> The IDEAs expressed concern that several countries, including Somalia, had never reported under the Declaration Annual review. They recommended that the Office initiate a dialogue with Somalia and other countries that had never reported under the Declaration Annual Review (Cf. paragraph 9 of the 2003 Annual Review Introduction and paragraph 16 of the 2004 Annual Review Introduction).		

<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL
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**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: SUDAN**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2000 Annual Review (AR).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Sudan Businessmen and Employers' Federation (SBEF) and the Sudan Workers' Trade Union Federation (SWTUF) by means of consultations and communication of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the SBEF. <b>2001 AR:</b> Observations by the SBEF.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the SWTUF. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the SWTUF. Observations by the ICFTU. <b>2005 AR:</b> Observations by the SWTUF Observation by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Sudan ratified in 1957 the Right to Organize and Collective Bargaining Convention, 1949 (No.98) (C. 98). However, it has not yet ratified the Freedom of Association and the Protection of the Right to Organize Convention 1948 (No.87) (C.87).</b>
		<b>Ratification intention</b>	<b>Under consideration, since 2002, for C.87</b>  <b>2007 AR:</b> According to the Government: After the Comprehensive Peace Agreement (CPA), an interim committee was adopted in December 2005, which caters for basic freedoms, including the right to organize. Accordingly, all Sudanese laws are being revised. Ratification will be possible after the adoption of new laws. The SWTUF supported the ratification of C.87 by Sudan.

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

			<p><b>2006 AR:</b> According to the Government: Ratification of C.87 is under consideration.</p> <p><b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001), the Government intended to ratify C.87.</p>		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<p><b>YES</b> The 1998 Constitution (article 26) provides for freedom of assembly and association for cultural, social, economic, professional or trade union purposes in accordance with the law.</p> <p><b>2006 AR:</b> According to the Government: An Interim Constitution that covers all human rights including the right to organize is being drafted, following the Comprehensive Peace Agreement.</p>		
		<b>Policy, legislation and/or regulations</b>	<p>• <b>Legislation:</b> <b>2006 AR:</b> According to the Government: The Labour Law, 1997 has been revised by a tripartite committee. A tripartite body has also been set up to revise the Public Service Act, 1995.</p>		
		<b>Basic legal provisions</b>	(i) The 1998 Constitution (article 26); (ii) The Trade Union Act; (iii) The Labour Law, 1997, and (iv) The Public Service Act, 1998.		
		<b>Judicial decisions</b>	NIL		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2001-2003 ARs:</b> No prior government authorization is needed to establish employers' organizations (section 33 of the Trade Union Act, 2001). Freedom of association can be exercised at enterprise, sector/industry and international levels by all categories of employers.	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Workers</b>	<b>2001-2003 ARs:</b> Government authorization/approval is required to establish workers' organizations. Freedom of association can be exercised at enterprise, sector/industry and international levels by the following categories of persons: (i) all workers in the public service; (ii) medical professionals; (iii) teachers; agricultural workers; (iv) workers engaged in domestic work; (v) workers in export processing zones (EPZs) or enterprises/industries with EPZ status; migrant workers; workers in the informal economy. Diplomats, judges, and legal advisors of the Attorney general, national security forces and domestic servants cannot exercise freedom of association (section 3 of the Labour Law, 1997).	
			<b>Special attention to particular situations</b>	<b>2003 AR:</b> According to the Government: Special attention has been given to some specific industries/sectors.	
			<b>Information/data collection and dissemination</b>	<b>2001 AR:</b> According to the Government: There is an annual report on collective bargaining and settlement of disputes. The Higher Council for Wages publishes periodical reports.	
			<b>At international level</b>	According to the Government: There are no particular restrictions for the international affiliation of employers' or workers' organizations.	
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2003 AR:</b> According to the Government: The SWTUF and the Attorney General have joint jurisdiction over instances where the principle and right (PR) has not been respected. In cases where the right to collective bargaining has not been respected, the problem is solved through special judicial procedures.			

		<p><b>2001 AR:</b> According to the Government: In case of the violation of the PR, the measures adopted are as follows: (i) labour inspection and complaints procedures (which are also available to employers' and workers' organizations); (ii) penal sanctions, (iii) sentences by judicial courts; (iv) enforcement of article 34 of the Constitution which provides that every aggrieved person who has exhausted the means of submitting grievance and complaints to the executive and administrative organs shall have the right of access to the Constitutional Court to protect their freedom, sanctities and rights. The Constitutional Court may, according to due process, exercise the power to annul any law or order that contravenes the Constitution, in order to restore the right to the aggrieved person or to compensate him/her for damage sustained.</p>	
	<b>Involvement of the social partners</b>	<p><b>2007 AR:</b> According to the Government: The Minister of Labour is engaged in revising the labour laws in cooperation with the social partners. The SBEF mentioned its participation in the labour law review process that should ensure the right to organize in Sudan. According to SWUTF: Employers' and workers' organizations participated in the labour law revision process which should ensure the right to organize.</p> <p><b>2006 AR:</b> According to the Government: Tripartite committees have revised the Labour Law, 1997 and the Public Service Act, 1995. According to the SWTUF: Following the Ouagadougou African Unit (AU) Summit in September 2004, the SWTUF participated in the tripartite Committees to revise the Labour Law, 1997 and the Public Service Act, 1995. The President of the SWTUF is also a member of the Drafting Committee of the Interim Constitution.</p> <p><b>2001 AR:</b> According to the Government: Social partners participated on an equal footing in the reform of the Trade Union Act, 1992 to promote and apply the PR.</p>	
	<b>Promotional activities</b>	<p><b>2007 AR:</b> The SWTUF indicated that it has organized a workshop on the PR and participated in the labour law review process.</p> <p><b>2006 AR:</b> According to the Government: A national tripartite workshop on fundamental ILO Conventions and the Declaration is planned, in cooperation with the ILO.</p> <p>The SWTUF stated the following: The SWTUF organized in 2004 and 2005 three training workshops on gender, with a focus on women in trade unions. It also prepared a working paper on workers' education activities in Sudan, which was also used in a joint workshop for trade union leaders in Sudan and Eritrea. Moreover, during the meeting of the Executive Council of the Organization of African Trade Union Unity (OATUU) held in Khartoum in May 2005, a regional workshop on trade and globalization was organized for African trade union leaders, in cooperation with the United Nations Economic Commission for Africa (UNECA).</p> <p><b>2005 AR:</b> The SWTUF indicated that it had organized in January 2004 a workshop in collaboration with ILO. It hosted in January 2004 the 8<sup>th</sup> Ordinary Conference of OATUU with ILO attendance. It had also organized in March 2004 of a regional meeting to support women's participation in the trade union movement in the Arab countries.</p>	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Special initiatives/Progress</b>	<p><b>2007 AR:</b> According to SWTUF: Trade union elections and congress were held in April 2006. Moreover, women's participation in the trade union movement is promoted: they represent 25% in many trade unions.</p> <p><b>2006 AR:</b> According to the Government: (i) an interim Constitution covering all human rights including the right to organize, is being drafted; and (ii) tripartite committees have revised the Labour Law, 1997 and are revising the Public Service, 1995 Act in the spirit of the PR.</p> <p><b>2003 AR:</b> According to the Government: In the public sector, collective bargaining concerning specific benefits have been carried out at sector and enterprise levels.</p>	
<b>CHALLENGES IN</b>	<b>According to the social</b>	<b>Employers'</b>	NIL

<b>REALIZING THE PRINCIPLE AND RIGHT</b>	<b>partners</b>	<b>organizations</b>	
		<b>Workers' organizations</b>	<p><b>2002-2007 ARs:</b> According to the ICFTU: (i) the current Labour Code that came into effect in December 2000 continues to deny trade union freedoms and reinforces Government control over trade unions; (ii) the General Registrar has extensive power on trade unions' elections; (iii) trade unions that operate outside the state-controlled SWUTF live in constant fear; (iv) in the same vein, the Trade Union Act, 1992, establishes a trade union monopoly controlled by the Government; (v) since the adoption of the Trade Union Act, 1992, strikes have been outlawed.</p> <p><b>2001 AR:</b> According to the ICFTU: Since 1989, there are no democratic trade unions in Sudan.</p>
	<b>According to the Government</b>	<b>2003 AR:</b> According to the Government: The main difficulties encountered in Sudan in realizing the PR are as follows: (i) social and economic circumstances, (ii) political situation, (iii) prevailing employment practices and (iv) legal provisions.	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> The Government reiterated its request for ILO technical cooperation to organize a national tripartite workshop with a view to raising awareness-raising activities on the PR. According to the SBEF: ILO technical cooperation would be necessary especially in training and capacity building for employers' organizations. According to the SWTUF: Capacity building is really needed for trade unions in Southern Sudan.</p> <p><b>2006 AR:</b> According to the Government: ILO technical support to Sudan should be strengthened to promote and realize the PR, with a particular focus on freedom on association. The SWTUF requested ILO's support for the organization of training courses and workshops for trade unionists in Sudan, with a special emphasis on war-affected areas.</p> <p><b>2005 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Sudan exist in the following areas: (i) awareness rising on the PR; (ii) capacity building of labour administration and social partners.</p> <p><b>2005 AR:</b> According to the SWTUF: ILO technical cooperation would be necessary especially in raising awareness on the PR.</p>	
	<b>Offer</b>	<b>2005 AR:</b> According to the Government: In 2004, a number of activities were organized by the SWTUF in cooperation with the ILO, the Organization of African Trade Union Unity (OATUU) and Arab countries.	
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>2003 AR:</b> The International Declaration Expert-Advisers (IDEAs) were encouraged to see the Government of Sudan pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help (paragraph 73 of the 2003 Annual Review Introduction).		
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL		

**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: THAILAND**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2000 Annual Review (AR).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the employers' (Employers' Confederation of Thai Trade and Industry (ECONTHAI) and the Employers' Confederation of Thailand (ECOT)) and workers' organizations (the National Congress of Thai Labour (NCTL)) through communication of government reports and tripartite meetings on reporting issues.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by ECOT. <b>2004 AR:</b> Observations by ECONTHAI. <b>2003 AR:</b> Observations by ECOT.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the ICFTU. <b>2004 AR:</b> Observations by the NCTL. <b>2003 AR:</b> Observations by the NCTL. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Thailand has ratified neither the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) (C.87), nor the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>Under consideration since 2001 for C.87 and C.98.</b>  <b>2007 AR:</b> According to the Government: The survey for ratification of C.87 and C.98 has been completed. However, ILO technical cooperation would be needed to ensure compliance of national labour laws with the provisions of C.87 and C.98. The ECOT stated that ratification of C.87 and C.98 should be considered following national labour law

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

			<p>review and tripartite consultations.</p> <p><b>2004 AR:</b> The Government, through the Department of Labour Protection and Welfare (DLPW), stated that a budget had been allocated to study the readiness of Thailand to ratify C.87 and C.98.</p> <p><b>2002 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government intended to ratify C.87 and C.98.</p> <p><b>2001 AR:</b> The Government indicated that it had undertaken to review national legislation and practices in respect of C.87 and C.98, after discussions with ILO experts in the multidisciplinary team (MDT) in Bangkok. It had planned to undertake a study and research in the first quarter of 2001, funded by the ILO on relevant existing national laws and practices.</p>
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<p><b>YES</b></p> <p>The Constitution of the Kingdom of Thailand, B.E. 2540 (1997), in Chapter 8, sections 199 and 200, provides for freedom of assembly and association, except by virtue of a law specifically enacted for protecting the common interest of the public, maintaining public order or good morals or preventing economic monopoly (section 45).</p>
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> </ul> <p><b>2007 AR:</b> According to the Government: the Department of Labour Protection and Welfare (DLPW) of the Ministry of Labour and Social Welfare has established a policy and procedures to enhance the capacity of the social partners on the principle and right (PR).</p> <p><b>2001 AR:</b> According to the Government: the Department of Labour Protection and Welfare of the Ministry of Labour and Social Welfare has established policy guidelines for labour officers to promote sound industrial relations through: (i) bipartite consultation system in order to prevent labour disputes and labour management committees; (ii) grievance procedures; (iii) effective mechanisms; (iv) tripartite bodies for joint consultations on broad social and economic policies affecting industrial relations; (v) the establishment of employers' and workers' organizations; (vi) training programmes for employers and workers; and (vii) review of industrial relations provisions.</p> <ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p><b>2007 AR:</b> According to the Government: In 2005, the DLPW set the Code of Practice for Promotion of Labour Relations in Thailand B.E.2548, which was a revision of Code of Practice B.E. 2539, aiming to rectify the Code to be appropriate with changing of current situations to enhance trade unions competitiveness especially in industrial sector.</p> <ul style="list-style-type: none"> <li>• Government's prospects: Harmonize national labour laws with ratified Conventions and ILO Fundamental Conventions.</li> <li>• Means of action: Legal reform in process since 2001 in cooperation with the ILO.</li> </ul> <p>The Labour Relations Act, B.E. 2518 (1975); the State Enterprise Labour Relations Act, B.E. 2534 (1991) and its amendment (in 2000); the Establishment of the Labour Court and Labour Court Procedure Act, B.E. 2522 (1979) and the Code of Practice for the Promotion of Labour Relations in Thailand, B.E. 2539 (1996) relate to the principle and right (PR).</p>

			<p><b>2002 AR:</b> The Government received assistance from the ILO specialists based in the ILO Regional Office for Asia and the Pacific, in particular in reviewing existing labour relations laws to harmonize them with the PR. The Government, through the Ministry of Labour and Social Welfare, strongly encouraged and invited civil society and social partners to participate actively in strengthening the PR at national and international levels.</p> <p><b>2001-2002 ARs:</b> According to the Government: The country labour laws are being reviewed to incorporate the provisions of ratified Conventions and those of the fundamental principles and rights at work. Human, material and financial resources have been provided to facilitate the realization of the PR and amendments have been made to the Labour Relations Act of 1975 to make it more compatible with the PR.</p>	
		<b>Basic legal provisions</b>	(i) Constitution of the Kingdom of Thailand, B.E. 2540 (1997), (Chapter 8, sections 199 and 200); (ii) Labour Relations Act, B.E. 2518 (1975); (iii) State Enterprise Labour Relations Act, B.E. 2534 (1991) and its amendment (in 2000); (iv) Establishment of the Labour Court and Labour Court Procedure Act, B.E. 2522 (1979); (v) Code of Practice for the Promotion of Labour Relations in Thailand, B.E. 2539 (1996).	
		<b>Judicial decisions</b>	NIL	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2003 AR: Prior government authorization is necessary to operate employers' organizations (compulsory registration by the Registrar under the Labour Relations Act B.E. 2518, section 55). All categories of employers can set up their organizations.</b>
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Workers</b>	<p><b>2003 AR:</b> Prior government authorization is necessary to operate workers' organizations (compulsory registration by the Registrar under the Labour Law, section 87). Freedom of Association (FOA) can be exercised by medical professionals, teachers, agricultural workers, workers engaged in domestic work, workers in export processing zones (EPZs) or enterprises/industries with EPZ status, migrant workers, workers of all ages, and workers in the informal economy. The State Enterprise Labour Relations Act B.E. 2543, section 42, contains provisions for the establishment of a State Enterprise Trade Union.</p> <p>However, FOA cannot be exercised by all public servants or workers under the age of 15. Concerning domestic workers, the right to organize and the right to collective bargaining shall be considered as the basis of the legal relations between employers and employees under the labour law.</p>
			<b>Special attention to particular situations</b>	NIL
			<b>Information, data collection and dissemination</b>	According to the Government: There is a lack of information and data.
		<b>At international level</b>	According to the Government: There are no particular restrictions for the international affiliation of employers' and workers' organizations.	

	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2001-2005 ARs:</b> According to the Government: Inspection/monitoring mechanisms are envisaged to ensure the implementation of the PR. The PR is enforced through law, collective agreements, free dispute settlement procedures and tripartite consultations at all levels.</p> <p><b>2004 AR:</b> According to the Government: Any employer who violates the PR shall be liable to a fine or to imprisonment (section 130 of the Labour Relations Act, B.E. 2518, sections 158 and section 159).</p>	
	<b>Involvement of the social partners</b>	<p><b>2001-2002 ARs:</b> According to the Government: Employers' and workers' organizations have been involved in the promotion and training on labour relations and in strengthening the PR at both the national and international levels.</p>	
	<b>Promotional activities</b>	<p><b>2007 AR:</b> According to the Government: The DLPW has established a policy and procedure for preparing the capacity of the social partners by means of organising training courses on the PR. Since Government Fiscal Year 2004, training courses on labour relations have been organized for employers and employees. Number of training courses, 125 and number of trainees 8,365.</p> <p><b>2001-2005 ARs:</b> The Government reported on frequent training of, and dissemination of information to government officials and social partners. Awareness-raising initiatives have been implemented in relation to the PR, through the Code of Practice for the Promotion of Labour Relations in Thailand, 1996.</p>	
	<b>Special initiatives/Progress</b>	<p><b>2004 AR:</b> According to the Government: Special initiatives on the PR have been taken through: (i) the revision of existing labour relations laws; (ii) the promotion of a bipartite and tripartite labour relations system; and (iii) the support provided to trade unions, training of employers and workers.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2004 AR:</b> According to the ECOT: There is a lack of information and data.</p>
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> According to ECOT: There is a lack of data on the PR.</p> <p>According to the ICFTU: (i) lack of priority given by the Government to labour issues; (ii) labour courts are very slow to handling disputes; (iii) no effective protection against anti-union discrimination; (iv) no union protection in universities; (v) restrictions on trade-unions rights to have more than two advisors; (vi) limitation of freedom of association in state enterprises; (vii) only a small proportion of workers are unionised; (viii) an estimated five per cent of employed workers are covered by collective bargaining agreements; (ix) migrant workers cannot enjoy full freedom of association.</p> <p><b>2006 AR:</b> The ICFTU raised the following additional challenges: (i) there are no specific protections for union founders or committee members; (ii) affiliation between State enterprise unions and private sector labour congresses or federations is restricted by the State Enterprise Labour Relations Act; (iii) a very small proportion of the total workforce is unionised (3.5 per cent in 2002); (iv) an estimated five per cent of employed workers are covered by collective bargaining agreements; (v) workers who do enjoy the right to join a union and collective bargaining are often victims of anti-union harassment; (vi) employers frequently dismiss workers trying to form trade unions; (vii) even where a court has ordered the reinstatement of an illegally fired worker, employers often react by offering substantial severance pay in lieu of reinstatement.</p> <p><b>2000-2005 ARs:</b> The ICFTU raised the following challenges: (i) there is a lack of protection of unions; (ii) restrictions on trade union rights to have advisers; (iii) legal and political barriers in establishing and operating trade unions; (iv) absence of union for civil servants; (v) there are restrictions on the right to strike; (vi) trade union rights are weak under the proposed new law; (vii) there are restriction on FOA in the context of privatization; (viii) there are abuses of legal provisions (such as Article 75 of the 1998 Labour Protection Act) to keep trade unionists out of the factory; (ix) labour courts are inefficient; (x) there are restrictions on freedom of association of migrant workers; (xi) decentralized industries are located in border areas, where</p>

		<p>union density is low or non-existent.</p> <p><b>2005 AR:</b> The NCTL raised the following challenges: (i) there are no major improvement in FOA; (ii) there is a lack of organization of workers in the public service and in the informal sector; (iii) the right to organize is denied to workers that are not employees; and (iv) there is lack of a general union in lieu of of enterprise unions.</p> <p><b>2002-2004 ARs:</b> The NCTL raised the following challenges: (i) there are restrictions on the right to establish trade unions; (ii) State enterprise employees in the private sector are banned from joining a federation or a confederation; (iii) the right to establish trade unions is violated; and (iv) there is a need to amend the Labour Relations Act, 1975.</p>
	According to the Government	<p>2004-2006 ARs: <b>The Government identified the main difficulties encountered in Thailand in realizing the PR as follows: (i) social values, cultural traditions; (ii) social and economic circumstances; (iii) political situation; (iv) legal provisions; (vi) prevailing employment practices; and concerning collective bargaining, the Government also encounters difficulties related to the lack of capacity of employers' and workers' organizations.</b></p> <p><b>2004-2005 ARs:</b> In response to the ICFTU's observations, the Government made the following comments: Prior to taking any legal actions, a trade union must be registered under the Labour Relations Act (LRA 1975). The revised draft of the LRA 1975 prohibits unfair labour practices, promotes FOA and provides for collective bargaining and dispute settlement. Furthermore, under section 4 of the LRA 2000 (3<sup>rd</sup> issue), a State enterprise trade union federation can become a member of an employees' organization council. Moreover, the Government has undertaken a survey with a view to ratifying C.87 and C.98. When strikes are prohibited, it happens especially in enterprises of public interest. In addition, tripartite consultations are being planned by the Department of Labour Protection and Welfare with a view to revising the LRA. The draft revision of the LRA provides for the protection of the rights to establish trade unions. Moreover, the Constitution, article 30, guarantees equal protection for all. Unfair labour practices are prohibited by LRA 1975.</p>
TECHNICAL COOPERATION	Request	<p><b>2007 AR:</b> According to the Government: With a view to ratifying C.87 and C.98, ILO technical cooperation is needed to harmonize national labour laws with the provisions of these Conventions.</p> <p>The ECOT requested ILO technical cooperation for awareness raising on the PR.</p> <p><b>2005 AR:</b> According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Thailand exist in the following areas, in order of priority: (1) strengthening capacity of workers' organizations; (2) strengthening tripartite social dialogue; (3) awareness-raising, legal literacy and advocacy; (4) strengthening data collection and capacity for statistical analysis; (5) sharing of experiences across countries/regions; legal reform (labour law and other relevant legislation); capacity building of responsible government institutions; training of other officials; assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR.</p> <p><b>2001-2005 ARs:</b> According to the Government: There is a need for further ILO cooperation in terms of capacity building and reporting.</p>
	Offer	NIL
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS		<p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed Thailand among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 AR Introduction).</p> <p><b>2003 AR:</b> The IDEAs were encouraged to see the Government of Thailand pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help. In light of requests by Thailand for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three</p>

	countries not yet served by ILO technical projects in this field. (paragraphs 73 and 74 of the 2003 Annual Review Introduction).
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL

**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: TIMOR-LESTE**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, since the 2006 Annual Review (AR). The Democratic Republic of Timor-Leste joined the ILO in 2003.		
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to Government: Involvement of the União Nacional de Pequenas Empresas (UNAPE) (National Union of Small Enterprises), the Associação Empresários Timor Loro Sa'e (ASSET LORO SA'E) (Employers' Association of Timor Leste), the Serikat Bekerja Sosialist Timorese (SBST) (Socialist Timorese Trade Union); and the Konfederasaun Sindikatu Timor Leste (KSTL) (Timor-Leste Confederation of Trade Unions) by means of consultation and communication of a copy of Government's reports.		
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL		
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU).		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>The Democratic Republic of Timor-Leste has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>	
		<b>Ratification intention</b>	NIL	
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	YES, Article 52 of the national Constitution provides for the principle of freedom of association and the effective recognition of the right to collective bargaining (PR).	
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Legislation</b> Sections 9.1 and 24 of the Labour Code (Regulation No.2002/25) provide for employers' and workers' rights to freedom of association and collective bargaining. Section 18 of the same text provides for the registration of employers' and workers' organizations.</li> </ul>	
		<b>Basic legal provisions</b>	(i) The Constitution (article 52); (ii) the Labour Code (sections 3.4, 9.1, 18 and 24); and (iii) the Timor-Leste Public Service Law No.8/2004.	
		<b>Judicial decisions</b>	NIL	

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

	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2006 AR:</b> No Government authorization is required to establish an employers' organization, or to conclude collective agreements. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for all categories of employers.
			<b>For Workers</b>	<b>2006 AR:</b> No Government authorization is required to establish a workers' organization, or to conclude collective agreements. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for the following categories of workers: (i) workers in the public service, except public servants (in accordance with section 3.4 (a) of the Labour Code); (ii) medical professionals; (iii) teachers; (iv) agricultural workers; (v) workers in export processing zones (EPZs) or enterprises/industries with EPZ status; (vi) migrant workers; (vi) workers above the age of 15 years; and (viii) workers employed by an employer who has been granted a temporary exemption under section 3.4 (c) of the Labour Code.
			<b>Special attention to particular situations</b>	NIL
			<b>Information/Data collection and dissemination</b>	<b>2006 AR:</b> According to Government: Six worker's organizations and 16 employer's organizations were registered in 2006.
		<b>At international level</b>	According to the Government: The international affiliation of employers' or workers' organizations is recognized.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Monitoring, enforcement and sanctions mechanisms</b>	<b>2006 AR:</b> According to Government: The Labour Relations Board is not functioning. However, the following measures have been implemented to promote and realize the principle and right (PR): (i) legal reform (labour law and other relevant legislation); and (ii) inspection/monitoring mechanisms. The establishment of special institutional machinery and sanctions is envisaged.		
	<b>Involvement of the social partners</b>	<b>2006 AR:</b> According to Government: There is a tripartite examination of issues. Employers' and workers' organizations have been involved in the development and implementation of government measures through their participation in the National Labour Board, which is the responsible Government institution for, <i>inter alia</i> , policy advice and dispute settlement.		
	<b>Promotional activities</b>	<b>2007 AR:</b> The Government indicated that it had organized workshops on labour issues.  <b>2006 AR:</b> According to the Government: The following measures have been implemented to promote and realize the PR in Timor-Leste: (i) capacity building of responsible Government officials; (ii) capacity building of employers' organizations; (iii) capacity building of workers' organizations; (iv) tripartite discussion of issues; and (v) awareness raising/advocacy.		
	<b>Special initiatives/Progress</b>	<b>2006 AR:</b> According to the Government: The establishment of the Office of the Registrar can be regarded as a successful example (section 18 of the Labour Code).		
<b>CHALLENGES IN REALIZING THE</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL	

<b>PRINCIPLE AND RIGHT</b>		<b>Workers' organizations</b>	<b>2007 AR:</b> According to the ICFTU: (i) Restrictions on the freedom to assemble publicly and to strike; (ii) the enforcement of the Labour Law is limited; (iii) the Labour Relation Board is implemented but not active; (iv) Article 11 of the Immigration and Asylum Act, 2003, provides that foreigners are forbidden from participating in the “administrative or social organs of a union”, and also prohibits foreigners from “organising or participating in demonstrations, processions, rallies, and meetings of a political nature.” Those who violate the law can be arrested and deported, and excluded from returning to Timor-Leste in the future.
	<b>According to Government</b>	<p><b>2007 AR:</b> According to the Government: The main difficulties encountered in realizing the PR are related to the lack of training and capacity-building on labour issues.</p> <p><b>2006 AR:</b> According to the Government: The main difficulties encountered in Timor-Leste in realizing this PR are as follows: (i) lack of public awareness and/or support; (ii) social values, cultural traditions; (iii) social and economical circumstances; (iv) political situation; (v) legal provisions; (vi) prevailing employment practices; (vii) lack of capacity of Government institutions; (viii) lack of capacity of employers' organizations; (ix) lack of capacity of workers' organizations; and (x) lack of social dialogue on this PR.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the Government: ILO technical cooperation is necessary for training on labour issues.</p> <p><b>2006 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the principle and right in Timor-Leste, in particular in the following areas, in order of priority: (1) Sharing of experiences across countries/regions; (2) Strengthening data collection and capacity for statistical analysis; (3) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; (4) Awareness-raising, legal literacy and advocacy; (5) Capacity building of responsible government institutions; (6) Training of other officials (police, judiciary, social workers, teachers); (7) Strengthening capacity of employers' organizations; (8) Strengthening capacity of workers' organizations; (9) Strengthening social dialogue; and (10) Legal reform (labour law and other relevant legislation).</p>	
	<b>Offer</b>	ILO (including assistance in reporting under the Declaration 2006 Annual Review).	
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>2005 AR:</b> The IDEAs looked forward to receiving a first report from the new member States, including Timor-Leste (Paragraph 8 of the 2005 AR Introduction).		
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL		

**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: UNITED ARAB EMIRATES (UAE)**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2000 and 2001 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the United Arab Emirates Federation of Chambers of Commerce and Industry (UAEFCCI, which operates as an employers' organization) and the United Arab Emirates Coordinating Committee of Professional Associations (UAECPPA, which operates as the representative of workers' organizations) by means of consultations and communications of Government reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the UAEFCCI.	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the UAECPPA. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the UAECPPA Observations by the ICFTU. <b>2005 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>The United Arab Emirates has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87), nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>YES, since 2006, for C.87 and C.98</b>  <b>2007 AR:</b> The Government indicated six ILO fundamental Conventions had been ratified, and that it would ratify the others (i.e. C.87 and C.98) soon. The UAECPPA supported ratification of C.87 and C.98, as well as the establishment of workers' organizations in the United Arab Emirates.
	<b>Recognition of the principle</b>	<b>Constitution</b>	<b>YES</b>

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

	<b>and right (prospect(s), means of action, basic legal provisions)</b>		Article 33 of the Constitution provides that “the freedom to organize and establish associations is guaranteed within the limits defined by law”.		
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• Policy <b>2005 AR:</b> The Labour Code is being reviewed in light of the provisions of ratified ILO Conventions and the fundamental principles and rights at work. The Cabinet has recently adopted a decision with a view to elaborating a federal law on the establishment of workers’ organizations.</li> <li>• Legislation: 2007 AR: <b>According to the Government: Amendment to the labour law is under review.</b></li> </ul> <p>2006 AR: <b>According to the Government: A draft law on workers’ organizations and other amendments to the Labour Relations Act, 1980, were submitted to the ILO in April 2005 for review. The Government is currently waiting for ILO comments to go ahead with the law and amendments.</b></p> <p><b>2005 AR:</b> Federal Law No. 8 of 1980 regulating labour relations defines in section 154 a collective labour dispute as “any dispute between an employer and his employee the subject of which concerns the joint interests of all or certain subgroups of employees working in a specific establishment, occupation or trade or in a specific occupational sector”.</p>		
		<b>Basic legal provisions</b>	<b>(i) Constitution (Art. 33); (ii) Federal Law No. 8 of 1980; (iii) Federal Law No. 6 of 1974, as amended by Federal Law No. 20 of 1981; (iv) Federal Law No. 22 of 2000 (section 9); and (v) Ministerial Decree No. 297 of 1994.</b>		
		<b>Judicial decisions</b>	NIL		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2002-2004 ARs:</b> Prior government authorization is required to establish an employers’ organization, but not to conclude collective agreements. All categories of employers can exercise freedom of association (FOA) and the right to collective bargaining at sector/enterprise, national and international levels.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Workers</b>	<b>2002-2004 ARs:</b> Prior government authorization is required to establish a workers’ organization, but not to conclude collective agreements. Medical professionals can exercise FOA, as can teachers at sector, national and international levels, but the right to collective bargaining is recognized at enterprise, sector/industry, national and international levels. However, FOA and the right to collective bargaining cannot be exercised by the following categories of persons: (i) workers in the public service; (ii) agricultural workers; (iii) workers engaged in domestic work; (iv) workers in export processing zones (EPZs) or enterprises/industries with EPZ status; (v) migrant workers; workers in the informal economy; and (vi) all categories of “non-professional” workers. The minimum age for exercising this right is 18 years.	
			<b>Special attention to particular situations</b>	<b>2003 AR:</b> According to the Government: Women workers and workers’ organizations in the industry, banking, petroleum and other sectors.	
			<b>Information/Data collection and dissemination</b>	<b>2003-2004 ARs:</b> According to the Government: There is a lack of information and data.	
		<b>At international level</b>	According to the Government: There are no particular restrictions for the international affiliation of		

			employers' and workers' organizations.
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2004 AR:</b> According to the Government: In instances where the principle of collective bargaining has not been respected, penal and administrative sanctions are taken, the matter being referred to the courts.</p> <p><b>2002 AR:</b> According to the Government: The Conciliation Committees and the Higher Arbitration Committee have been established to settle collective labour disputes.</p>	
	<b>Involvement of the social partners</b>	<p><b>2002 AR:</b> The Government indicated that it seeks to promote and expand the scope of FOA through consultations with employers and professional associations in the country. Tripartite discussions of issues have been set up.</p>	
	<b>Promotional activities</b>	<p><b>2007 AR:</b> The Government, the UAEFCCI and the UAECCPA mentioned their participation in the ILO/Gulf Cooperation Council (GCC) on the Declaration follow-up organized in Kuwait City in April 2006. According to them, a labour law review is being carried out to promote the ILO Declaration.</p> <p><b>2003 AR:</b> According to the Government: Women workers can enjoy the right to FOA by forming their own committees and federations; five women were appointed as members of the Consultative Council of Sharjah. In September 2002, the Conciliation Board and the Supreme Arbitration Board promoted the mechanism of collective bargaining. Moreover, a technical committee was implemented in order to create workers' organizations.</p> <p><b>2002 AR:</b> The Government indicated that it was seeking to amend relevant laws and regulations to achieve the realization of the principle of freedom of association and the effective recognition of the right to collective bargaining (PR).</p>	
	<b>Special initiatives/Progress</b>	<p><b>2004 AR:</b> According to the Government: A special initiative has been taken through the draft amendment of the Labour Law in relation to FOA, so as to allow the formation of workers' organizations, as jointly suggested by the Ministry of Labour and the Ministry of Justice. This amendment has been submitted to the Cabinet for approval. A technical committee is actively following up this matter.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<b>AR 2007:</b> According to the UAECCI, there is a lack of understanding of the ILO fundamental Conventions and the ILO Declaration among the tripartite partners.
		<b>Workers' organizations</b>	<p><b>2006-2007 ARs:</b> According to the Arab Emirates Coordinating Committee of Professional Associations, although the Government is making progress in relation to FOA and other fundamental principles and rights at work, some entities are expressing reluctance due to their lack of awareness on the PR.</p> <p>The ICFTU raised the following additional challenges: (i) the Bill allowing the formation of trade unions in the private sector had not become law by the end of 2004; (ii) in 2004, trade unions and collective bargaining were still banned, although some workers can associate; (iii) strike action is tolerated; (iv) each export processing zones has its own labour regulations.</p> <p><b>2000-2002, 2005-2005 ARs:</b> The ICFTU raised the following challenges: (i) trade unions are illegal; (ii) the law does not recognize the right to organize nor the right to collective bargaining and the right to strike; (iii) payment is set by individual contracts that are reviewed by the Ministry of Labour, or in the case of domestic workers, by the Ministry of Immigration; (iv) labour laws do not apply to government employees, agricultural workers and domestic servants; (v) migrant workers (85-90 per cent of the workforce) would risk deportation for trying to organize unions or going on strike.</p>
	<b>According to the Government</b>	<b>2003 and 2007 ARs:</b> The Government identified the main difficulties encountered in realizing the PR as follows: (i) lack of public awareness/support; (ii) lack of information and data; (iii) social values and cultural traditions; (iv) social and economic circumstances;	

		<p>(v) political situation; (vi) legal provisions; (vii) prevailing employment practices; (viii) lack of capacity of workers' organizations and (ix) lack of social dialogue on the PR.</p> <p><b>2000-2001 ARs:</b> In response to ICFTU's observations, the Government made the following comments: (i) FOA exists under the law; (ii) FOA is not denied, but established professional organizations are different in form from traditional workers' organizations; (iii) the United Arab Emirates is a Federation and has no previous experience in the establishment of trade unions or labour federations; (iv) the right to collective bargaining is guaranteed by Federal Law No. 8 of 1980, which has established a mechanism to settle labour disputes through specific structures that are supervised by the labour administration.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2007 AR:</b> According to the Government, the UAEFCCI and the UAECCPA: ILO technical cooperation is necessary for awareness raising on freedom of association and for the promotion of the Declaration in the United Arab Emirates.</p> <p><b>2006 AR:</b> According to the Arab Emirates Coordinating Committee of Professional Associations, there is a need for ILO technical cooperation to facilitate the realization of FOA in the country, especially in raising awareness on the PR.</p> <p><b>2003 and 2007 ARs:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in the country in the following areas, in order of priority: (1) sharing of experiences across countries/regions; (2) legal reform (labour law and other relevant legislation), strengthening capacity of workers' organizations, strengthening tripartite social dialogue; (3) capacity building of responsible government institutions, training of other officials, strengthening capacity of employers' organizations.</p>
	<b>Offer</b>	ILO, GCC
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2006 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) observed the following: "It is important to note that the majority of workers in the United Arab Emirates and other Gulf States are migrant workers. Therefore, while we note that certain measures have been reported relating to this principle [...] we stress that the principle should be given full effect as regards all the workers present in these countries, including migrant workers, if these countries are to progress meaningfully in this area". (paragraph 45 of the 2006 Annual Review Introduction)</p> <p><b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) listed the United Arab Emirates among the countries where progress had been made under the Annual Review in the promotion of freedom of association and the effective recognition of the right to collective bargaining (paragraph 12 of the 2005 Annual Review Introduction). Furthermore, the IDEAs noted with interest the continuing efforts made by the countries of the Gulf Cooperation Council (paragraph 148 of the 2005 Annual Review Introduction).</p> <p><b>2004 AR:</b> The IDEAs were encouraged by the continuing steps taken by countries of the Gulf Cooperation Council (GCC) in relation to this principle and right, but noted that there is a long way to go and much to do. They observed that the Gulf Cooperation Council States are providing more information on the principle of freedom of association and the effective recognition of the right to collective bargaining, but they estimated that it would be useful to receive more information on the other three principles. This would help to illustrate the interlinkages among all four principles.</p> <p><b>2003 AR:</b> The IDEAs commended the United Arab Emirates for their continuing dialogue with the Office. They also were encouraged to see the Government of the United Arab Emirates pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help. (paragraphs 73 of the 2003 Annual Review Introduction).</p> <p><b>2002 AR:</b> The IDEAs acknowledged, in particular, the high level dialogue and agreement on a plan of activities between the Office and the Government of United Arab Emirates (paragraph 82 of the 2002 Annual Review Introduction).</p> <p><b>2001 AR:</b> The IDEAs hoped that the Government of the United Arab Emirates would continue a dialogue with the Office regarding the ways in which the PR could be achieved (paragraph 77 of the 2001 Annual Review Introduction). They also recommended to the governing body that further information be requested from the</p>	

	Government of United Arab Emirates in relation to efforts made to promote the principle and right (paragraph 30 (b) (ii) of the 2001 Annual Review Introduction).
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: UNITED STATES**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2007 Annual Reviews (AR) and no change reports for the 2001 and 2002 ARs..
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the United States Council for International Business and the American Federation of Labor and Congress of International Organizations (AFL-CIO) by means of consultation and communication of a copy of Government's reports. The updated report under the 2007 AR has been communicated to the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the Change to Win Federation, and the U.S. Council of International Business. In addition, in keeping with longstanding practice, as well as U.S. obligations under Convention 144, the draft report was reviewed by members of the Tripartite Advisory Panel on International Labor Standards, a subgroup of the President's Committee on the ILO.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the AFL-CIO. <b>2005 AR:</b> Observations by the AFL-CIO. Observations by the ICFTU. <b>2004 AR:</b> Observations by the AFL-CIO. <b>2003 AR:</b> Observations by the AFL-CIO. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU

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

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>The United States has ratified neither the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) (C.87) nor the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>
		<b>Ratification intention</b>	<b>2004 AR: There are no ongoing efforts to ratify C.87 and C.98.</b> The Government made this statement in September 2003 (Cf. GB.291/LILS/4 (November 2004, paragraph 13).  <b>2002 AR:</b> According to the Government: There had been no development concerning ratification of C.87 and C.98 which was still under consideration (Cf. GB.291/LILS/7 (November 2001, paragraph 9).
	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> The First Amendment to the United States Constitution, adopted in 1791, provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances”.
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> </ul> <p><b>2000-2005 ARs:</b> According to the Government: it is the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection. This policy includes the concept that “sound and stable industrial peace and the advancement of the general welfare, health, and safety of the Nation and the best interests of employers and employees can most satisfactorily be secured by the settlement of issues between employers and employees through the process of conference and collective bargaining between employers and the representatives of their employees” (29 U.S.C. §171(a)).</p> <p>Railways and airline employees are covered by the Railway Labor Act (RLA) (45 U.S.C. §§151-188), and are provided protections similar to those contained in the NLRA. The RLA expressly recognizes that employees “have the right to organize and bargain collectively through representatives of their own choosing,” prohibits a carrier from denying “the right of its employees to join, organize, or assist in organizing the labor organization of their choice,” and makes it unlawful for an employer to interfere in any way with the organization its employees... or to influence or coerce employees in an effort to induce them to join or remain or not join or not remain members of any labor organization...” (41 U.S.C. § 152).</p> <p>The right of employees of the United States Government, except members of the Armed Forces and certain national security agencies, to organize is governed by the Civil Service Reform Act of 1978 (CSRA) (5 U.S.C. §§ 7101-7135). The CSRA applies to almost all federal civilian employees, and provides that “each employee shall have the right to form, join, or assist any labour organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right” (5 U.S.C. § 7102). Postal workers are protected under the NLRA and provisions of the Postal Reorganization Act of 1970, as amended (39 U.S.C. §§ 1201-1209).</p> <p>State and local government employees are excluded from coverage of the NLRA, but they too are entitled to the protections of the United States Constitution described above. In addition, the state and local governments have a diverse variety of legislation covering freedom of association and collective bargaining by state and local employees: however, those laws cannot be inconsistent with fundamental constitutional guarantees of freedom of association.</p> <p>Private sector employees who are not covered by the RLA or the NLRA (primarily agricultural, domestic, and supervisory employees who are excluded from NLRA coverage under 29 U.S.C. §152(3)), are nonetheless</p>

			protected by the First, Fifth and Fourteenth Amendments of the United States Constitution which, taken together, guarantee that workers are entitled to establish and join organizations of their own choosing, without previous authorization by or interference from either the Federal Government or the State Governments.		
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Basic legal provisions</b>	(i) The First Amendment to the United States Constitution, 1791; (ii) the National Labor Relations Act (NLRA) (29 U.S.C. §§ 151-187) (1935); (iii) the Labor-Management Relations Act (1947); (iv) the Labor-Management Reporting and Disclosure Act (1959); (v) the Civil Service Reform Act (1978); (vi) the Norris-LaGuardia Act (1932); (vii) The Railway Labor Act (1926); (viii) the Postal Reorganization Act (1970); (ix) the Congressional Accountability Act (1995); and (ix) the Presidential and Executive Office Accountability Act (1996).		
		<b>Judicial decisions</b>	<b>2007 AR:</b> According to the Government: <i>In American Federation of Government Employees, AFL-CIO, v. Rumsfeld, 452 F.3d 839 (D.C.Cir 2006)</i> the Court of Appeals enjoined the Department of Defense from implementing new personnel regulations. This decision has been appealed. <i>In National Treasury Employees Union v. Chertoff, 452 F.3d 839 (D.C.Cir 2006)</i> , affirming, reversing and remanding <i>National Treasury Employees Union v. Chertoff, 385 F. Supp.2d 1 (D.D.C.2005)</i> , the Court of Appeals invalidated portions of disputed personnel regulations. DHS did not appeal the ruling and plans to engage the DHS unions in further dialogue in order to redraft the regulations in compliance with the Court's ruling. Until DHS issues revised rules, DHS employees are still covered by the current federal civil service rules. <i>District of Columbia National Treasury Employees Union v. Chertoff, 385 F. Supp.2d 1,25 (D.D.C. 2005)</i> <i>Hoffmann Plastic Compounds v. National Relations Board, 535 US 137 (2002)</i> .		
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2003-2005 ARs:</b> No Government's authorization is required to establish an employers' organization or to conclude collective agreements. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for all categories of employers.	
			<b>For Workers</b>	<b>2003-2005 ARs:</b> No Government's authorization is required to establish a workers' organization, or to conclude collective agreements. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for the following categories of workers: (i) medical professionals; (ii) teachers; (iii) agricultural workers; (iv) workers engaged in domestic work; (v) workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (vi) migrant workers; (vii) workers of all ages; and (viii) workers in the informal economy. All workers in the public service can exercise freedom of association, but not the right to collective bargaining.	
			<b>Special attention to particular situations</b>	NIL	
			<b>Information/Data collection and dissemination</b>	<b>2000 AR:</b> According to the Government: Several Government agencies publish a wide variety of information regarding their operations, including statistics and trends relating to their areas of responsibility. This material includes weekly, periodic and annual reports; summaries of cases; information on representation and unfair labour practice cases; information on mediation, arbitration and other alternative dispute resolution methods	

				used to resolve labour-management issues; general information on United States labour law and enforcement of that law; and national labour force statistics, including collective bargaining agreements, major work stoppages, and union membership statistics.
		<b>At international level</b>	According to Government: There are no particular restrictions for the international affiliation of employers' or workers' organizations.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2003 AR:</b> According to the Government: The following measures have been implemented to promote and realize the principle and right (PR): (i) legal reform (labour law and other relevant legislation); (ii) inspection/monitoring mechanisms; (iii) penal, civil or administrative sanctions; (iv) special institutional machinery; and (v) capacity building of responsible Government officials.</p> <p><b>2000 AR:</b> According to the Government: The NLRA protects Enforcement of most provisions of the NLRA is by the National Labor Relations Board (NLRB), an independent General Counsel, and the judicial system. Disputes that cannot be resolved by the parties themselves are generally resolved through the use of mediation, conciliation and arbitration. The FMCS has authority to help resolve bargaining disputes between federal agencies and workers' organizations. If a federal-sector the dispute cannot be resolved voluntarily, either party may request the Federal Service Impasses Panel (FSIP) to consider the matter. The Federal Labor Relations Authority (FLRA) performs functions for federal employee labour organizations similar to those performed by the NLRB for private sector employees, including resolution of complaints of unfair labour practices and disputes over the scope of collective bargaining negotiations (5 U.S.C. §§ 7104-7105).</p>		
	<b>Involvement of the social partners</b>	NIL		
	<b>Promotional activities</b>	<b>2000 AR:</b> According to the Government: the FMCS has outreach programs that include promotion of a wider understanding, acceptance and proper use of the collective bargaining process and third-party assistance in the prevention and constructive resolution of labour-management and other disputes.		
	<b>Special initiatives/Progress</b>	NIL		
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL	
		<b>Workers' organizations</b>	<p><b>2007 AR:</b> The ICFTU raised the following additional challenges: (i) The NLRA excludes many categories of private sector employees from its scope, including agricultural and domestic workers, supervisors, and independent contractors; (ii) at federal level, in the public sector, approximately 40 per cent of all workers are still denied basic collective bargaining rights and the statutes outlaw strikes; (iii) the law allows employers to replace striking workers permanently; (iv) employers have a legal right to engage in a wide range of anti-union tactics that discourage the exercise of freedom of association; (v) the penalties are too weak to deter employers who violate labour laws from doing it again; (vi) 2005 showed a disturbing trend of employers using the bankruptcy system to declare collective bargaining agreements no longer valid.</p> <p><b>2006 AR:</b> According to the AFL-CIO: Actions on the part of the United States (U.S.) Government during the year 2005 continue an alarming trend of weakening workers' fundamental rights of freedom of association and collective bargaining. In <i>District of Columbia National Treasury Employees Union v. Chertoff</i>, 385 F. Supp.2d 1,25 (D.D.C. 2005), the Court opined that "collective bargaining has at least one irreducible minimum that is missing from the HR System: a binding contract." <i>Id.</i> at 17[2]. The Court's decision reveals the U.S. Government's so-called human resources management system for what it really is: a full-fledged and unprecedented assault on the fundamental rights of federal Government workers. In addition, decisions by the</p>	

			<p>National Labor Relations Board (NLRB or Board) in 2005 severely curtailed workers' rights in the private sector.</p> <p><b>2005 AR:</b> The AFL-CIO strongly disagreed with the draft update to the report on the PR. According to the AFL-CIO: (i) Legislation does not protect workers (e.g. the Homeland Security Act in 2002); (ii) other developments in 2004 threaten workers' fundamental rights, such as the National Labour Relations Board's decision to review the legality of the rules regarding majority verification and neutrality of procedures to form unions; (iii) the Department of Defense's employees are denied the right to collective bargaining under the Department of Defense Reauthorization Act, passed by Congress in 2003. According to the ICFTU: (i) Many categories of employees in the private sector are excluded from the right to freedom of association and the right to join trade unions; (ii) legal restrictions on the exercise of the PR; (iii) law also allows employers to replace striking workers permanently, and the statute of the 1978 Federal Labor Relations Act outlaws strikes for employees of the Federal Government; (iv) the U.S. Supreme Court ruled in 2002 that undocumented workers are not entitled to back pay as a remedy for unfair labour practices under the NLRA, and they are not entitled to reinstatement; (v) several restrictions have made difficult the enforcement of trade union rights on behalf of the millions of undocumented workers in the country.</p>
<p><b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b></p>	<p><b>According to the social partners</b></p>	<p><b>Workers' organizations</b></p>	<p><b>2004 AR:</b> The AFL-CIO stated the following: (i) The often glaring discrepancies between the rights guaranteed to workers in theory under United States law, and the failure to extend these same rights in actual practice; (ii) the situation has not improved since last year, and the conditions of undocumented workers are getting worse (e.g. <i>Hoffman Plastic Compounds v. National Labour Relations Board</i>, 535 US 137 (2002)).</p> <p><b>2003 AR:</b> The AFL-CIO strongly disagreed with the draft update to the report on the PR. According to the AFL-CIO: (i) By admitting no vulnerabilities whatsoever in law or practice, the United States report entirely lacks perspective, analysis, and self-awareness; (ii) the draft Report gave the highly misleading impression that under the NLRA, virtually all categories of workers in the United States can exercise meaningfully their rights to freedom of association and collective bargaining; (iii) State and local legislation fails to cover in any significant way workers excluded from coverage under the NLRA, thus no statutory protection or enforcement of their two key collective rights; (iv) almost half of all states within the United States either fail to cover entirely, or leave significant gaps in coverage for, their Government workers; (v) lack of capacity of responsible Government institutions; (vi) 75 per cent of employers hire consultants to help them fight organizing drives; (vii) 78 per cent of employers force workers to attend one-on-one anti-union meetings with managers, and 92 per cent force employees to attend mandatory anti-union meetings; (viii) a quarter of all employers illegally fire at least one worker for union activity during an organizing campaign; (ix) and lack of sanctions against employers where the PR has not been respected.</p>

<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>			<b>2000-2002 ARs:</b> ICFTU's observations: (i) One in ten union supporters campaigning to form a union is illegally fired; lack of protection of the trade union representatives against the employers; (ii) the procedures of the National Labor Relations Board (NLRB) do not provide workers with effective redress in the face of abuses by employers; (iii) trade union representatives are denied access to the employer's property to meet employees during non-working time; (iv) the National Labor Relations Act requires the NLRB to seek injunctions in a federal court against trade unions committing certain kinds of unfair labour practices but there is no corresponding obligation when the unfair labour practices are committed by employers; (v) employers regularly challenge the results when the union wins a representation vote, regardless of the margin of victory; (vi) restrictive strikes right; (vii) there is little collective bargaining in the construction industry; (viii) should the company and the union reach an agreement during a strike, striking workers do not automatically return to work; (ix) national labour legislation does not cover agricultural or domestic workers and certain kinds of supervisory workers; (x) approximately 40 per cent of all public sector workers, nearly 7 million people, are still denied basic collective bargaining rights.
	<b>According to the Government</b>		The Department of Homeland Security (DHS) and the Department of Defense (DoD) each issued regulations in 2005 that implement legislation authorizing them to establish new human resources management systems. DHS published its final regulations in the <i>Federal Register</i> on February 1, 2005 (70 Fed. Reg. 5,272) and DoD published its final regulations on November 1, 2005 (70 Fed. Reg. 66,116). The validity of each of these regulations is the subject of ongoing litigation. A federal judge enjoined the labour-management portions of the DHS regulations on August 12, 2005 (National Treasury Employees Union v. Chertoff, 385 F.Supp. 2d 1(D.D.C. 2005)), and she declined to modify the injunctions on October 7 (394 F.Supp. 2d 137 (D.D.C. 2005)). These decisions have been appealed. No ruling has been made on the pending challenge to the DoD regulations, which was scheduled to take effect on February 1, 2006.
<b>TECHNICAL COOPERATION</b>	<b>Request</b>		<b>2000 AR:</b> According to the Government: To the extent that the ILO might be able to recommend relevant forms of tripartite technical cooperation, the United States would be interested in any such proposals.  <b>2003 AR:</b> According to the AFL-CIO: Priority needs for technical cooperation to facilitate the realization of the PR in the United States exist in the following areas: (1) assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the principle; (2) strengthening data collection and capacity for statistical analysis; (3) legal reform; and (4) capacity building of responsible Government institutions.
<b>TECHNICAL COOPERATION</b>	<b>Offer</b>		NIL
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>			<b>2005 AR:</b> The ILO Declaration Expert-Advisers listed the United States among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (paragraph 13 of the 2005 AR Introduction). They also considered that the example of regular and constructive contributions by AFL-CIO should be expanded upon, in particular among other national workers' organizations, as well as employers' organizations (paragraph 190 of the 2005 Annual Review Introduction).
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>			NIL



**COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007) <sup>1</sup>: UZBEKISTAN**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2000-2002 and 2004 Annual Reviews (ARs) and no change report for the 2007 AR.	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Chamber of Commerce and Industry of Uzbekistan (CCIU) and the Executive Committee of the Federation of Trade Unions of Uzbekistan (CFTUU) and through communication of Government's reports.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the CFTUU. <b>2006 AR:</b> Observations by the CFTUU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Uzbekistan ratified in 1992 the Right to Organise and Collective Bargaining Convention (No. 98) (C.98). However, it has not yet ratified the Right to Organise Convention, 1948 (No. 87) (C.87).</b>
		<b>Ratification intention</b>	NIL

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

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>	<b>Constitution</b>	<b>YES</b> Article 56 of the Constitution relates to freedom of Association (FOA).	
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li><b>Legislation</b> The Labour Code (1996), the Law on Voluntary Organizations in the Republic of Uzbekistan (1991), the Law on Trade Unions, their Rights and Guarantees of their Activities (1992) and the Law on Non-Governmental and Non-Commercial Organizations (1999) relate to the principle and right (PR).</li> </ul> <p><b>2006 AR:</b> The Act on the Chamber of Trade and Industry of the Republic of Uzbekistan was passed on 3 December 2004.</p> <p><b>2003 AR:</b> On 21 August 2001, the Government adopted Resolution No. 347 on the “Development of Registration of Organizations and Enterprises”.</p>	
		<b>Basic legal provisions</b>	(i) Constitution (articles 34, 56 and 59); (ii) the Labour Code (1996), (iii) the Law on Voluntary Organizations in the Republic of Uzbekistan (1991); (iv) the Law on Trade Unions, their Rights and Guarantees of their Activities (1992); (v) the Law on Non-Governmental and Non-Commercial Organizations (1999); and (vi) the Administrative Code.	
		<b>Judicial decisions</b>	NIL	
	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<p><b>2005 AR:</b> Government authorization is not required to establish employers’ organizations.</p> <p><b>2003 AR:</b> Prior government authorization is required to establish an employers’ organization. FOA can be exercised at enterprise, sector/industry, and international levels by all categories of employers.</p>
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Workers</b>	<p><b>2005 AR:</b> Government authorization is not required to establish workers’ organizations.</p> <p><b>2003 AR:</b> Prior government authorization/approval is required to establish a workers’ organization. The PR can be exercised at enterprise, sector/industry, and international levels (only FOA can be exercised at national level) by the following categories of persons: (i) all workers in the public service; (ii) medical professionals; teachers; (iii) agricultural workers; (iv) workers engaged in domestic work; (v) workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (vi) migrant workers; (vii) workers of 14 years old and over. Only workers in the informal economy are not recognized as having such rights.</p>
			<b>Special attention to particular situations</b>	<b>2003 AR:</b> According to the Government: Women.
			<b>Information, data collection and dissemination</b>	According to the Government: There is a lack of information and data.
		<b>At international level</b>	According to the Government: There are no particular restrictions for the international affiliation of employers’ and workers’ organizations.	

	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2005 AR:</b> According to the Government: Where FOA has not been respected, section 49 of the Administrative Code provides for a penalty such as a fine.</p> <p><b>2003 AR:</b> According to the Government: The following measures have been implemented in order to realize the PR: (i) legal reform (labour law and other relevant legislation); (ii) inspection/monitoring mechanisms; (iii) penal, civil or administrative sanctions.</p>	
	<b>Involvement of the social partners</b>	<p><b>2005 AR:</b> According to the Government: Tripartite discussions on specific measures to respect, promote and realize the PR have been held.</p>	
	<b>Promotional activities</b>	<p><b>2005 and 2007 ARs:</b> According to the Government: The following measures have been implemented: (i) capacity building of responsible government officials; (ii) training of other government officials; and (iii) capacity building for employers' and workers' organizations.</p>	
	<b>Special initiatives/Progress</b>	<p><b>2006 AR:</b> In accordance with Presidential Decree No. 3453 of 7 July 2004, the Chamber of Manufacturers and Entrepreneurs was reorganized, which led to the establishment of the Chamber of Trade and Industry of Uzbekistan.</p> <p><b>2003 AR:</b> According to the Government: A major change has been introduced in 2001 through the establishment of an easier registration process for organizations.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	NIL
		<b>Workers' organizations</b>	<b>2007 AR:</b> No particular challenges had been raised by the Council of the Federation of Trade Unions of Uzbekistan.
	<b>According to the Government</b>	<p><b>2005 AR:</b> According to the Government: There is a lack of capacity of responsible government institutions and employers' and workers' organizations.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2003-2005 ARs:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in Uzbekistan, in particular in the following areas, in order of priority: (1) assessment in collaboration with the ILO of the difficulties identified and their implications, for realizing the principle; awareness raising, legal literacy and advocacy; strengthening data collection and capacity for statistical analysis; sharing of experiences across countries/regions; training of other officials; strengthening capacity of employers' organizations; strengthening tripartite social dialogue, (2) capacity building of responsible government institutions; strengthening capacity of workers' organizations; (3) legal reform (labour law and other relevant legislation).</p>	
<b>TECHNICAL COOPERATION</b>	<b>Offer</b>	NIL	
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<p><b>2003 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were encouraged to see the Government of Uzbekistan pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help. In light of requests by Uzbekistan for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field. (paragraphs 73 and 74 of the 2003 Annual Review Introduction).</p>		
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL		

**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2007)<sup>1</sup>: VIET NAM**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfilment of Government's reporting obligations</b>	YES, except for the 2003 and 2004 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, according to the Government: Involvement of the Viet Nam Chamber of Commerce and Industry (VCCI), the Viet Nam Cooperatives Alliance (VCA) and the Viet Nam General Confederation of Labour (VGCL), by means of consultations and communication of government's reports and tripartite meeting on reporting issues.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	NIL	
	<b>Workers' organizations</b>	<b>2007 AR:</b> Observations by the International Confederation of Free Trade Unions (ICFTU) <b>2006 AR:</b> Observations by the Viet Nam General Confederation of Labour (VGCL). Observations by the ICFTU. <b>2005 AR:</b> Observations by the ICFTU. <b>2004 AR:</b> Observations by the ICFTU. <b>2003 AR:</b> Observations by the ICFTU. <b>2002 AR:</b> Observations by the ICFTU. <b>2001 AR:</b> Observations by the ICFTU <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<b>Viet Nam has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).</b>

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

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>		<b>Ratification intention</b>	<p><b>Under consideration since 2006, for C.87 and C.98.</b></p> <p><b>2007 AR:</b> According to the Government: The ratification of C.87 and C.98 is still under consideration in cooperation with employers' and workers' organizations.</p> <p><b>2006 AR:</b> The Government indicated that is studying ratification of C.87 and C.98 in consultation with the social partners. The VGCL hopes that C.87 and C.98 will be ratified by Viet Nam in due course.</p>	
	<b>Recognition of the principle and right (prospect(s), means of action, main legal provisions)</b>	<b>Constitution</b>	<p><b>YES</b></p> <p>According to the Government: The principle of freedom of association and the effective recognition of the right to collective bargaining (PR) is recognized in the Constitution of Viet Nam, 1992.</p>	
		<b>Policy, legislation and/or regulations</b>	<ul style="list-style-type: none"> <li>• Policy</li> </ul> <p>2006 AR: <b>According to the VGCL: Participation in the design of State policies regarding the labour legislation system, for example amending labour law, elaborating social insurance law, improving wage policy and handling housing issues for workers in industrial zones. In response, the Government supports VGCL observations.</b></p> <ul style="list-style-type: none"> <li>• Legislation</li> </ul> <p>The Labour Code and the Law on Trade Unions relate to the principle and right (PR).</p> <p><b>2006 AR:</b> According to the Government: Drafting of an Ordinance on strike action, which is listed as an item on the agenda of the National Assembly in 2005 – 2006.</p> <ul style="list-style-type: none"> <li>• Regulations</li> </ul> <p>Decree No. 102 of 20 May 1957, Decree No. 8/1998 ND-CP, Ordinance on labour dispute resolution of 20 April 1996, the Constitution of Viet Nam Trade Unions of 12 November 1993 relate to the principle and right.</p>	
		<b>Main legal provisions</b>	<p><b>(i) Constitution, 1992; (ii) Labour Code, 1994 (articles 7 and 173-179) (iii) Law on Trade Unions of 30 June 1990, (iv) Law No. 102/SL/L004 of 20 May 1957 (articles 1, 2 and 7 concern the right to organize); (v) Decree No. 102 of 20 May 1957; (vi) Decree No. 8/1998 ND-CP, (vii) Decree No. 88/2003/ND-CP (article 16); (viii) Ordinance on labour dispute resolution of 20 April 1996, (ix) Constitution of Viet Nam Trade Unions of 12 November 1993, (x) Circular No. 196/CP of 31 December 1992; and (xi) Circular No. 133/HDBT of 20 April.</b></p>	
		<b>Judicial decisions</b>	NIL	
		<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<p><b>2000-2005 ARs:</b> Prior government authorization or approval may be required before or after the establishment of an employers' organization, depending on its size and purpose. Employers can exercise freedom of association (FOA) at all levels.</p>
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>		<b>For Workers</b>	<p><b>2000-2005 ARs:</b> Government authorization/approval is not required to establish a workers' organization or to conclude collective agreements. Only workers in the public service can exercise FOA and the right to collective bargaining (CB). Workers can exercise FOA at sector, industry, and national level; and the right to CB can be exercised at enterprise, sector or industry levels.</p>

		Special attention to particular situations	NIL
		Information, data collection and dissemination	According to the Government: There is a lack of information and data.
		At international level	According to the Government: Workers can exercise FOA at the international level.
	Monitoring, enforcement and sanctions mechanisms	<p><b>2006 AR:</b> The VGCL stated that it has carried out many activities in the following areas: providing information on labour legislation; assistance to workers in legal matters; and supervising the implementation of labour policies and legislation on workers.</p> <p><b>2005 AR:</b> According to the Government: In instances where the PR has not been respected, in accordance with Section 44 of the Labour Code, a labour agreement should be concluded in a voluntary, fair, and transparent manner. Therefore, the conclusion of a collective agreement is not compulsory and does not involve the intervention of the State. If a concluded agreement violates the law, the competent labour body at the provincial level has the right to declare the whole or a part of the agreement void.</p> <p><b>2000 AR:</b> According to the Government: Any offences in relation to CB will be imposed with penalties by the Labour Inspectorate. Workers' organizations are administered by governmental agencies through CB. The collective bargaining agreement must be registered at the provincial Department of Labour, Invalids and Social Affairs. Moreover, the Government promotes and recognizes the PR through issuance of legal instruments and supervision of the implementation of those instruments at various levels.</p>	
	Involvement of the social partners	<b>2005 AR:</b> According to the Government: Tripartite discussions have been held on specific measures to respect, promote and realize the PR. Moreover, national laws have been revised in relation to the PR in consultation with the social partners.	
	Promotional activities	<p><b>2007 AR:</b> According to the Government: Workshops have been organised in cooperation with the ILO for raise awareness-raising in relation to the PR.</p> <p><b>2005 AR:</b> According to the Government: Revision of national laws; awareness raising/advocacy activities and vocational and skills training for young workers.</p>	
Special initiatives/Progress	<p><b>2006 AR: According to the Government: The VGCL stated that it is carrying out a five-year programme (2003-2008) for the recruitment of a million more members.</b></p> <p><b>2005 AR:</b> According to the Government: Successful examples: (1) the establishment of several trade unions; (ii) the 2002 Amendment to the Labour Code on the right to CB and the facilitation of establishment of associations; and (iii) the Amendment to the Labour Code (section 47, Paragraph 2) to enable a collective agreement to be acknowledged immediately after the signature of the agreement by the two parties or as of the date of effect indicated in the agreement.</p>		
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	According to the social partners	Employers' organizations	NIL
		Workers' organizations	<b>2007 AR:</b> The ICFTU raised the following challenges: (i) there are still no independent unions; (ii) workers are not free to organise or join unions of their choosing; (ii) the right to strike is recognized by law but there are several restrictions: very heavy pre-strike procedures and prohibition of strikes in the public sector;

			<p>(iii) the VGCL does not defend workers' rights in practice; (iv) lack of collective bargaining agreements in the private sector.</p> <p><b>2000-2006 ARs:</b> Observations of the ICTFU: (i) there are no independent trade unions; (ii) the law requires a trade union to receive prior authorization from the authorities before it can be set up; (iii) collective agreements are limited in scope and content; (iv) the right to strike is restricted for workers; (v) although export processing zones are covered by the same laws as the rest of the country, employers in these zones tend to ignore workers' rights.</p>
	<b>According to the Government</b>	<p><b>2006 AR:</b> In response to ICFTU observations', the Government stated that the law and practice in the country show that workers have the right and are not constrained to join or form unions. They also freely bargain collectively, and agreements are concluded in accordance with the provisions of the Labour Code. The right to strike must comply with certain rules. In this respect, a new Ordinance on strike is being discussed and should be adopted by the National Assembly Standing Committee in 2005. In practice, the number of union members in the private sector has been steadily increasing and is expected to continue to increase, which reflects the confidence of union members in the representative trade union. There is also a union representing agricultural workers.</p> <p><b>2005 AR:</b> According to the Government: The main difficulties encountered in Viet Nam in the realization of the PR are as follows: (i) lack of public awareness and/or support; (ii) lack of information and data; (iii) lack of capacity of responsible government institutions; (iv) lack of capacity of employers' and workers' organizations; and (v) lack of social dialogue on this PR.</p>	
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2006 AR:</b> According to the Government: There is a need for ILO technical cooperation in particular in assessing the impact of Viet Nam's entry in the World Trade Organization on labour and employment issues. The Government hopes that ILO technical cooperation will be extended in this respect.</p> <p>The VGCL commends the ILO for its valued support and requests strengthened ILO technical cooperation in order to provide better life for all workers.</p> <p><b>2005 AR:</b> According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the PR in particular in the following areas in order of priority: (i) strengthening data collection and capacity for statistical analysis; (ii) sharing of experiences across countries/regions; (iii) legal reform (labour law and other relevant legislation); (iv) strengthening capacity of employers' and workers' organizations; and (v) strengthening tripartite social dialogue.</p>	
	<b>Offer</b>	<b>ILO, WTO</b>	
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>	<b>2005 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) look forward to positive changes emerging with regard to legislation on FOA and CB, in cooperation with the ILO. In this respect, the IDEAs are glad to receive concrete information on the activities carried out in Viet Nam (Paragraph 146 of the 2005 Annual Review Introduction).		
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>	NIL		



**GENERAL OBSERVATION BY THE INTERNATIONAL ORGANIZATION  
OF EMPLOYERS (IOE) UNDER THE 2007 ANNUAL REVIEW<sup>1</sup>**

The International Organisation of Employers (“IOE”) continues to support the process of the Annual Follow-up concerning Non-Ratified Fundamental Conventions (“the Annual Review”) under the Declaration on Fundamental Principles and Rights at Work (the “Declaration”).

**1. The IOE’s efforts to support the Declaration**

The IOE takes this opportunity to reaffirm its strong commitment to the Declaration. The Declaration was created out of the employers’ initiative and the IOE remains firmly committed to ensuring its success. We have been involved in promoting and supporting the Declaration and the following are some examples of the ways in which our commitment was translated into action.

*1. The IOE and the Organisation of American States (OAS) in the Summit of the Americas:*

The IOE coordinates the involvement of its American members through the Business Technical Advisory Committee on Labour Affairs (CEATAL), one of the advisory bodies of the Inter-American Conference of Ministers of Labour (IACML).

In 2005, the XIV IACML adopted a Ministerial Declaration and a Plan of Action for the next biennium. The Declaration of Mexico recognizes that “the promotion and strengthening of democracy requires the full and effective exercise of workers’ rights and application of core labour standards, as recognized in the Declaration on Fundamental Principles and Rights at Work” (paragraph 3). In paragraph 4, it reaffirms the commitment to respect, promote and realize the principles of the ILO Declaration, as the basis for sustainable economic growth with social justice. For example, paragraphs 24, 25 and 26 recognize the fundamental importance of the principle of equality and non-discrimination in employment and encourages the coordination of policies that combat all forms of discrimination and seek for equality of opportunities at work. The effective abolition of child labour is specifically addressed on paragraph 27, reconfirming the commitment to protect children and adolescents from economic exploitation.

The plan of Action of Mexico is based on the Declaration of Mexico and one of its strategic objectives is to “promote the respect and provide for the effective application of the core international labour standards contained in the Declaration on the Fundamental Principles and Rights at Work of the International Labour Organization and its Follow-up of 1998.”

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

During the XIV IACML, workers (COSATE) and employers (CEATAL) once again issued a joint Declaration, addressed to their governments, highlighting the importance of involving the social partners in the process of addressing social and labour challenges deriving from the Summit Process. It reaffirms the importance of promoting the ILO Declaration of Fundamental Principles and Rights at Work (1998) and its Follow-up, as the framework of the social dimension of regional integration.

2. *IOE position paper on the Declaration on Fundamental Principles and Rights at Work*

The ILO Declaration on Fundamental Principles and Rights at Work has taken on a new importance for enterprises in recent years and has become a reference in the context of different debates, specifically on Corporate Social Responsibility (CSR) and international framework agreements. The IOE, aware of this importance, released the IOE Position Paper on the ILO Declaration on Fundamental Principles and Rights at Work at the beginning of this year [2006].

The document provides general background information about the Declaration and its Follow-up, addresses the views of employers on the important aspect of the Declaration and addresses how employers' organizations can play a role in ensuring that the profile and credibility of the Declaration remain high.

3. *The Global Report and ILC Discussions:*

The Global Report and its ILC discussions continue to be viewed by the IOE as effective promotional tools for the Declaration. These discussions represent an excellent opportunity for employers' organizations to become actively engaged in the Declaration since the issues that are addressed in the Report directly affect many of them.

The IOE, as the employers' group secretariat at the ILC, coordinated the participation of employer delegates in this year's debate [2006], worked closely with the employers' spokesperson and the speakers in order to present the views, positions and concerns of employers.

4. *Corporate Social Responsibility (CSR):*

The prominence and importance of CSR continue to increase, as did the significance of the Declaration as a useful reference point in the debate.

The IOE, through its CSR Working Group, continues to provide guidance to its members about how to apply and support the Declaration in this context.

At its annual European members' meeting, an update was provided to participants about recent trends on the different options available for engagement. Documents were provided by the IOE Secretariat, which are available on the IOE website.

The IOE coordinates the participation of its members in the International Standardization Organization (ISO) Working Group on Social Responsibility. We have been advised that the fourth Working Group meeting will be held in Sydney, Australia next year [2007]. Information about this meeting has been sent to all IOE members and the IOE will be also represented at the meeting.

5. *The Global Compact:*

The Global Compact's labour principles are drawn from the ILO Declaration. The IOE continues to be actively involved in the promotion of the Global Compact. In addition, we continue to be involved in country launches and regional initiatives.

Last summer [2005], the United Nations Global Compact Board convened its inaugural meeting in New York. The IOE was present at the Board through its Secretary-General.

The IOE has been asked to be part of the SME international expert team to draft a "UN Global Compact Operational Guide for SMEs" to assist in understanding the 10 principles and their relation to their daily operations. The team will meet later in the year [2006] to begin its work.

## **II. IOE initiatives in relation to the Four Fundamental Principles**

In addition to our involvement in the promotion of the Declaration, we actively promote and support each of the four fundamental principles. Below you will find some of our promotional efforts through the year [2006].

- *Freedom of Association and the effective recognition of the right to collective bargaining*

Our main means of engagement in relation to freedom of association remains the Committee on Freedom of the Association (“CFA”). The IOE continues to work closely with the employer members of the CFA to ensure that the work of the Committee remains relevant to employers.

The IOE was actively involved in the ILO publication on the CFA for employers, which was released last year. The publication is intended to provide employers with useful information about how the CFA can serve their interests. As part of the follow-up activities, in which the IOE has been actively involved, a sub-regional workshop took place in Panama at the beginning of 2006. On the same lines, in collaboration with the ILO International Training Centre (Turin), the ILO Standards department and the IOE, the Federation of Employers of Ukraine hosted a workshop with a special focus on freedom of association.

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

The IOE actively coordinates the participation of employers in activities concerning the elimination of all forms of forced or compulsory labour. The final meeting within the ILO/AGIS project “Combating the forced labour outcomes of human trafficking” was held in Lisbon last June [2006]. The IOE coordinated the participation of an employer representative who has participated in different activities on the subject.

- *The effective abolition of child labour*

This year’s [2006] Global Report addressed the abolition of child labour: “The end of child labour: Within reach”. In the debate, the employers’ group highlighted its satisfaction with the worldwide decline of child labour, especially in the region of South America and the Caribbean. The employers’ group, however, expressed its serious concerns about the fact that the positive lessons learned in regions that had experienced a decline were not reflected in the Report as good practices and helpful examples to other regions and countries.

Recognizing that there are currently no practical guides specifically drafted for employers to address child labour within their workplaces or their supply chain, the IOE and ACT/EMP, are working on a Kit for employers. Work on this kit is gathering pace and it is expected to be available in the coming months.

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

The IOE is actively involved both directly and indirectly in addressing various forms of discrimination. The following are key examples of our involvement:

Understanding the challenges faced by migrant workers, the IOE played an active role in the drafting of the ILO Multilateral Framework on Labour Migration.

The IOE has prepared a guidance note on Labour Migration as a reference for its members. The IOE also actively participated in the UN Preparatory Meeting for the High Level Dialogue on International Labour Migration held in Turin.

The XVII annual meeting of Iberoamerican Presidents of Business Organizations will take place in November [2006] in Uruguay. One of the main topics of discussion will be the migration trend. In preparation to this debate, the IOE prepared a questionnaire on the subject and sent it out to all its member federations of Latin America, Spain and Portugal. The results of this questionnaire will be used as the basis for the employers’ position. The main objective of the meeting is to reflect on and adopt a common statement to be submitted to the Heads of State Summit meeting that will also take place in Uruguay.

The IOE continues to be actively involved in addressing the issue of HIV/AIDS, which is a critical issue with potentially grave consequences for the world of work. It is important to tackle it in regions that are currently severely affected, but HIV/AIDS must also be addressed in regions where it has not yet reached dramatic proportions but has the potential to do so. In that spirit, the IOE was invited to the Sixteenth International AIDS Conference in Toronto to share the initiatives on HIV/AIDS in a number of panels.

Youth Employment continues to be a key feature of the work of the IOE. The IOE note on Youth Employment released last year [2005] remains a useful document on the subject. The IOE has participated in numerous meetings aimed at increasing job opportunities for young people. The subject of youth employment will be another important topic of debate during the XVII Meeting of Iberoamerican Presidents of Business Organizations, co-hosted by the IOE.

The IOE recognizes the importance of promoting women entrepreneurship in both developed and developing countries. In its publication “Approaches and Policies to Foster Entrepreneurship: A guide for Employers’ Organizations”, the IOE specifically addresses women’s business groups, stating the barriers that limit the potential of women entrepreneurs to develop and expand their business and how the employers’ organizations can provide better organization, increased representation, as well as support services.

During the second Business Membership Organization (BMO) Conference, hosted by Business Unity South Africa, the IOE participated actively in the debates. The Conference identified seven priority areas and women entrepreneurship was one of them.

During the UN Economic and Social Council (ECOSOC), the IOE was represented in different panels, one of them being “Innovative Strategy for Developing Women Entrepreneurship and Gender Equality in Nepal”. This intervention has been posted on the IOE website for easy access and promotion within our member federations.

The IOE participated in a conference entitled “Combating Discrimination and Promoting Equality for Decent Work” organised by the ILO, the Global Compact Office and the London Development Agency. The IOE’s discrimination expert presented the employers’ views on the role of the social partners in addressing discrimination.

### **III. Areas of concern**

Our support for the Declaration, its Follow-up and the four fundamental principles remain clear through our activities. However, as we have done in previous years, we take this opportunity to highlight particular concerns to employers in relation to the Declaration and its Follow-up.

#### *1. National Baselines Analysis*

We support the baseline approach since it represents a creative and innovative way to use the information gathered through the Annual Review. However, it is important that this analysis not be allowed to turn into a ranking tool between countries. The baselines should be continued as a useful tool to track the advancement of the efforts of member States over time - not against externally imposed standards - but against their own progress. Consistent with the spirit and intent of the Declaration, each member State must be allowed to give effect to the four fundamental principles in a manner that is nationally appropriate.

It remains to be seen what impact these analyses have. The IOE would like to take this opportunity to commend the Office for its openness to new ways of working.

#### *2. The obligations created under the Declaration*

The assessment under the Annual Review should focus on the steps taken by member States to give effect to the fundamental principles. This assessment should not involve a discussion of law and practice. The employers repeatedly raise the fact that the Declaration and its Follow-up is a political track, not a legal track like the ILO’s regular supervisory machinery. The political obligations required to promote, achieve and realize the principles under the Declaration must remain distinct from the specific legal obligations undertaken through the ratification of a Convention.

#### *3. Capacity building of employers’ organizations and technical cooperation*

The Declaration can only be effectively promoted within strong constituents. Attention must be paid to using the Declaration follow-up to build the capacity of employers' organizations to help improve the voice of business and strengthen the spirit of tripartism and social dialogue.

Resources should be set aside for the development of technical cooperation programmes that specifically target employers' organisations. Donors should also be encouraged to devote a portion of their funding towards the capacity building of the social partners.

#### *4. Employers and Freedom of Association*

Much progress in the promotion of this principle remains to be made, which relates to employers. Some employers' organizations still do not fully enjoy freedom of association. Though we are grateful to the Office for its support in ensuring that employers are aware of the ILO supervisory mechanisms, we look forward to continued efforts to ensure that the ILO remains a place to protect the rights of both workers' and employers' organisations.

In particular, we would highlight once again the fact that in a number of transition economies, the fees paid by enterprises to employers' organisations are frequently not tax exempted as are the fees paid by workers to trade unions. This undermines the development of employers' organisations and their ability to effectively represent their members. This issue has been repeatedly raised in many forums.

#### *5. Looking ahead*

With every passing year since the adoption of the ILO Declaration in 1998, we continue to learn more about what aspects of its follow-ups are useful and effective in achieving their aims and which aspects demonstrate room for improvement.

The upcoming 10th anniversary of the ILO Declaration in 2008 may present a useful opportunity to address the follow-ups with a view to finding ways to strengthen them. Using what has been learned over the past 10 years may help us to refine the follow-ups to ensure that they remain relevant. For its part, the employers' group would greatly welcome an opportunity to engage in such a discussion.

The Declaration remains an outstanding example of how the ILO should and can react to pressing social issues through its unique process of consensus building. We appreciate this opportunity to provide feedback and remain available to answer any questions arising from this document.