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### THIRD ITEM ON THE AGENDA

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

#### Purpose of the document

In the present document, the Governing Body is invited to comment on the information submitted under the Annual Reviews for 2011 and 2012 and to provide guidance to the Office on key issues and priorities for helping member States to respect, promote and realize fundamental principles and rights at work (see the proposed points for discussion in paragraph 135).

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

**Policy implications:** Based on the lessons learned, the follow-up of the countries under the Annual Review can further develop in three priority areas: (1) the ILO's effective response to outstanding requests for technical assistance; (2) dialogue and sharing of experiences in realizing fundamental principles and rights at work; and (3) the launch of further country-specific programmes on fundamental principles and rights at work.

**Legal implications:** None

**Financial implications:** None

**Follow-up action required:** The paper is submitted to the Governing Body for debate and guidance.

**Related documents:** ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998); ILO Declaration on Social Justice for a Fair Globalization (2008); resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work (2010).

*Nota bene: The information in this report is a summary of the statements contained in government reports, country baselines and comments submitted to the Office by national and international employers' and workers' organizations for the Annual Review 2012. The Office has not verified the accuracy of the information received and reproduced in the compilation.*



## Executive summary

This document provides an overview of developments and trends concerning fundamental principles and rights in the countries that have not yet ratified the relevant fundamental Conventions.

This year all governments have fulfilled their reporting obligations, resulting in an unprecedented 100 per cent reporting rate. The participation of employers' and workers' organizations has also increased considerably. Although a higher number of countries have stated their intention to ratify the fundamental Conventions, the actual number of new ratifications was just six in 2011.

As regards the content of reports, for the first time no "no change" reports were registered. This indicates that in all reporting States there have been new activities to promote or implement fundamental principles and rights at work and that, in general, there is a commitment by member States to achieve progress towards the fuller realization of these principles and rights.

Yet challenges remain and more must be done at the national and international levels. The ILO must assist its member States in their efforts to respect, promote and realize fundamental principles and rights at work. A further 138 ratifications are still required to meet the objective of universal ratification of all the fundamental Conventions.



## I. Introduction: Context of the Annual Review 2012

1. The Annual Review process provides an opportunity for tripartite dialogue in the reporting States with a view to fuller realization of fundamental principles and rights. It is therefore encouraging that in addition to the 100 per cent reporting rate by governments (an increase of 34 per cent over last year), the number of observations received from employers' and workers' organizations has increased significantly as compared to previous reviews (four times as many as the previous year). A general observation covering all fundamental principles and rights was also received from the International Organisation of Employers (IOE).
2. This new momentum in the reporting process was facilitated by the Office through separate informal tripartite consultations to update baseline information for various countries during the 100th Session of the International Labour Conference. Technical assistance was also provided to some South Pacific countries, in the preparation of their first reports and baselines in the case of two new member States (**Marshall Islands** and **Tuvalu**), and in updating baseline information (**Solomon Islands**).
3. Although a higher number of countries have indicated an intention to ratify fundamental Conventions under the 2012 Annual Review cycle, there were only six new ratifications in 2011, up just one from five in 2010. Five of the 2011 ratifications relate to the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182),<sup>1</sup> and the remaining one relates to the Forced Labour Convention, 1930 (No. 29), which is the fundamental Convention with the most ratifications.<sup>2</sup> No ratifications were registered of the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), nor of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Conventions Nos 87 and 98 are the fundamental Conventions with the fewest ratifications.<sup>3</sup>
4. The ratifications of fundamental Conventions registered in 2011 concerned **Brunei Darussalam** (Convention No. 138), **Canada** (Convention No. 29), **Cape Verde** (Convention No. 138), **Ghana** (Convention No. 138) and **Sierra Leone** (Conventions Nos 138 and 182). As a result of these ratifications, **Cape Verde**, **Ghana** and **Sierra Leone** are no longer required to report under the Annual Review. As at 31 December 2011, the number of reporting States under this procedure, i.e. the number of States that have not yet ratified all the eight fundamental Conventions, had fallen to 48 of a total of 183 member States.<sup>4</sup>

<sup>1</sup> As at 31 December 2011, Conventions Nos 138 and 182 had received 161 and 174 ratifications, respectively.

<sup>2</sup> As at 31 December 2011, Convention No. 29 had received 175 ratifications.

<sup>3</sup> As at 31 December 2011, Conventions Nos 87 and 98 had received 150 and 160 ratifications, respectively. See Appendix I for further information on the number of ratifications of fundamental Conventions at the time of the adoption of the Declaration (18 June 1998) and as at 31 December 2011.

<sup>4</sup> See Appendices II and III for information on the number of reporting States under the Annual Review and for a list of the States concerned.

5. As regards the content of reports, it is important to note that for the first time no “no change” reports were registered. This indicates a commitment by member States that have not yet ratified the fundamental Conventions to move towards a fuller realization of the fundamental principles and rights. This trend is especially timely given that, as part of the alignment between the follow-ups to the 1998 Declaration on Social Justice for a Fair Globalization, the report for the recurrent discussion of the upcoming 101st Session of the International Labour Conference will be based “in particular on the findings of the ... annual follow-up” as well as other information from official sources and gathered in accordance with established procedures.<sup>5</sup>

## II. Developments and trends concerning the four categories of fundamental principles and rights at work under the Annual Review 2012

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

#### *Ratifications*

6. Under the Annual Review 2012, and for the second consecutive year, no ratifications were registered for Conventions Nos 87 and 98. It is worth noting that the combined workforce of the 36 countries that have not yet ratified either one or both of these Conventions is equivalent to over half the workforce of the world as a whole.
7. The Governments of **Afghanistan, Guinea-Bissau, Islamic Republic of Iran, Iraq, Jordan, Kenya, Lao People’s Democratic Republic, Lebanon, Republic of Maldives, Nepal, Oman, Qatar, Solomon Islands**, and the **United Arab Emirates** reiterated their intention to ratify Conventions Nos 87 and/or 98.
8. The Governments of **Bahrain, Brunei Darussalam, Republic of Korea, Marshall Islands, Myanmar, Saudi Arabia, Sudan, Thailand** and **Uzbekistan** have stated that they are considering the ratification of Conventions Nos 87 and/or 98. **China** remains the only country that has not yet indicated its ratification position. The Governments of **Brazil, Canada, India, Malaysia, Mexico, New Zealand, Singapore** and **United States** have stated that they do not intend to ratify either one or both of these Conventions or that they are unable to ratify due to legal incompatibility or for contextual reasons. Under the current Annual Review, the Governments of **Bahrain, Brazil, Morocco, Myanmar, Saudi Arabia** and **Viet Nam** have modified their positions on the ratification of the two core Conventions.
9. The Government of **Bahrain** has withdrawn its previously stated intention to ratify Conventions Nos 87 and 98, instead indicating that it is considering whether and how to proceed with the ratification process. The Government of **Brazil** has replaced its previous position of considering the ratification of Convention No. 87 by a position of having no intention of ratifying it in the short term, arguing that the majority of Brazilian trade unions are in favour of the existing constitutional order. The Government of **Myanmar** has reported that the ratification of Convention No. 98 will be considered at the appropriate time.

<sup>5</sup> Follow-up to the 1998 Declaration (revised 2010), Part III(B)(i).

10. From previously having no intention to ratify either Convention No. 87 or No. 98, Saudi Arabia is now considering ratifying both. **Morocco** and **Viet Nam** have also moved forward in their process of considering ratification. According to the Government of **Viet Nam**, a national ratification plan for the non-ratified core Conventions has been adopted in consultation with the social partners and proposals for the ratification of Conventions Nos 87 and 98 were submitted to the National Assembly for review in October 2011. The ratification is therefore expected to take place during 2012.
11. In the first report received from the Government of **Tuvalu**, the Government expressed its intention to ratify Conventions Nos 87 and 98, along with the other fundamental Conventions, in the near future, as part of the Decent Work Country Programme (DWCP) 2010–12. Similarly, the first report from the **Marshall Islands** indicated that steps towards the ratification of Conventions Nos 87 and 98 would be discussed following general elections in November 2011.
12. Several other countries have stated that they are in the final steps of the ratification process, including: **Iraq**, where ratification of Convention No. 87 has been submitted to the Council of Ministers; **Republic of Maldives**, where ratification of all eight core Conventions has been submitted to the Parliament and was expected for September 2011; **Oman**, where the Government indicated that the ratification of Conventions Nos 87 and 98 would take place in the near future and requested ILO assistance to that end; **Solomon Islands**, where ratification of the seven non-ratified fundamental Conventions has been approved by the Cabinet; and **Thailand**, where proposals for ratification have been approved without reservation by the Cabinet. The Government of **Canada** has established a formal timetable whereby a review of Convention No. 98 will be conducted in 2013 with a view to its possible ratification. The Government of **Nepal** indicated that, although the ratification process of Convention No. 87 had been interrupted by a period of political transition, the Government was considering finalizing the process in the near future.
13. **Iraq, Republic of Maldives, Oman, Solomon Islands, Thailand, Tuvalu and Viet Nam** have all stated that tripartite consultations have been held throughout the consideration or preparation of ratification. Equally encouraging has been the reporting of strengthened social dialogue by States that are not in the final steps of ratification (**Bahrain, Brazil, India, Islamic Republic of Iran, Kenya, Malaysia, Marshall Islands, Mexico, Morocco, Qatar, Saudi Arabia, Singapore, Sudan, United Arab Emirates and Uzbekistan**).
14. As well as indicating its intention to ratify, the Government of Jordan indicated that the final adoption of a new Labour Code by Parliament would bring national labour laws closer to the requirements of Convention No. 87 by providing workers with extended freedom to organize without government interference.
15. While most workers' and employers' organizations support the ratification of Conventions Nos 87 and/or 98 in their respective countries, the Federation of Trade Unions of **Uzbekistan** (FTUU) and the **Bahrain** Chamber of Commerce and Industry (BCCI) indicated only that they had no objections to ratification.
16. However, the Employers' Confederation of **Thailand** (ECOT) expressed its reservations regarding the ratification of Conventions Nos 87 and 98, and the **Malaysian** Employers' Federation (MEF) stated that, under current circumstances, it was against the ratification of Convention No. 87. According to the MEF, the situation was functioning well under domestic regulations, as they made unions stronger than they would be under Convention No. 87. Business **New Zealand** (BNZ) maintained the same line as under the previous review cycle, saying that while it supported freedom of association, it did not support the ratification of Convention No. 87 because it might entitle workers to take strike action over

social and economic matters or secondary strike action against employers not involved in a particular dispute. BNZ did not believe that strike action should be permissible over matters for which the affected employer had no responsibility or influence. The Mexican Confederation of Chambers of Industry (CONCAMIN) indicated that there was no need for **Mexico** to ratify Convention No. 98, arguing that the fundamental provisions of this instrument were already reflected in current legislation and practice.

17. In **Kenya**, the Central Organization of Trade Unions (COTU–Kenya) continued to express its concern that the ratification of Convention No. 87 would weaken trade unions in relation to employers with regard to collective bargaining, but stated its openness to participate in social dialogue to determine possible steps forward in the ratification process. The Government of Kenya has reported that its intention to ratify Convention No. 87 has been hampered by a lack of full endorsement by the social partners. The Federation of Kenya Employers (FKE) expressed its willingness to participate in social dialogue. It had yet to formulate a clear position, and noted that the ratification of Convention No. 87 would need to be discussed so that all parties could adopt a joint national position.

### ***Changes in legislation and judicial decisions***

18. A number of reporting States (**Brazil, Brunei Darussalam, China, Iraq, Islamic Republic of Iran, Jordan, Republic of Korea, Lao People’s Democratic Republic, Republic of Maldives, Myanmar, New Zealand, Oman, Saudi Arabia, Solomon Islands, Thailand, United Arab Emirates, United States and Viet Nam**) reported newly enacted laws or regulations, or expressed their intention to introduce them in the near future in order to advance the realization of this principle and right or facilitate the ratification process of Conventions Nos 87 and/or 98. Most notable during 2011 was the approval of the new Constitution of **Morocco**, recognizing the right of workers and employers to organize and bargain collectively. In addition, the Government of **Myanmar** reported that the new national Constitution provided workers with freedom of association, and the Government of **Nepal** indicated that its national Constitution was under revision. However, some States (**Brazil, Brunei Darussalam, Republic of Korea and Viet Nam**) continued indicating incompatibilities between their national legislation and the provisions of Conventions Nos 87 and 98.
19. Several judicial decisions have had an impact on respect of freedom of association and collective bargaining. In **Canada**, the Supreme Court issued a decision concerning the Canadian Charter on Rights and Freedoms, determining that section 2(d) protects the right to associate for the purpose of achieving collective goals and requires both employer and employees to meet and engage in meaningful dialogue on workplace issues, and the employer to engage with the employees’ representatives in good faith. Consequently, the 2002 legislation that removed the right of teachers to collectively bargain class size and composition with the Government through their unions was found to be in breach of the Charter, and therefore unconstitutional and invalid. The Government of the **Islamic Republic of Iran** expressed its recognition of rulings by the Legal Court of Tehran and the Revision Court of Tehran accepting the Confederation of Employers’ Associations (ICEA) as the country’s sole employers’ confederation. In **Malaysia**, the High Court, the Court of Appeal and the Federal Court dismissed a claim made by a national bank to revise a court decision concerning the registration of a union. And the Mexican Confederation of Chambers of Industry (CONCAMIN) reported that the Supreme Court of **Mexico** took a decision overturning a law that had restricted the possibility of recruiting non-unionized workers.
20. In 2010, the **United States** Supreme Court decided not to recognize an employer’s federal tort claim under section 301 of the Labor–Management Relations Act that an international



union had allegedly interfered with a collective bargaining agreement when it promoted the local union's strike. The employer was limited to a claim under contract law. Additionally, following a February 2011 decision by the Federal Labor Relations Authority, the Department of Homeland Security (DHS) issued a Determination providing transportation security officers employed by the DHS who chose to be represented by a union with an exclusive representative who would have the right to engage in limited collective bargaining that did not conflict with the DHS's mission to protect public security.

### **Promotional activities**

21. Promotional activities regarding this principle and right have been carried out by the majority of reporting States, including **Afghanistan, Bahrain, Brazil, Brunei Darussalam, Canada, China, Guinea-Bissau, India, Iraq, Islamic Republic of Iran, Jordan, Kenya, Lebanon, Malaysia, Republic of Maldives, Marshall Islands, Mexico, Morocco, Nepal, New Zealand, Oman, Qatar, Saudi Arabia, Singapore, Solomon Islands, Somalia, Sudan, Thailand, Tuvalu, United Arab Emirates, United States, Uzbekistan, and Viet Nam**. There are significantly more of such activities than those reported for other principles and rights.
22. The Government of **Canada** reported having carried out joint training and having provided other assistance on 35 occasions. The Government of **China** indicated that the All-China Federation of Trade Unions (ACFTU) had trained more than 5,500 trade union officials and collective bargaining instructors during 2011. According to the General Office of Workers' and Employers' Organizations in the **Islamic Republic of Iran**, 1,050 hours of education on freedom of association and collective bargaining were provided for 2,900 organizations in 2010. In the **United States**, National Labor Relations Board representatives participated in over 630 outreach events during 2010.
23. The number of promotional activities reported by workers' and employers' organizations is also substantially higher than the previous year. Particularly noteworthy is the considerable increase in participation by workers' organizations in consultation processes and social dialogue in this area, rising from only two trade unions reporting such involvement last year to 15 (in 12 different countries) under the current review. Promotional activities carried out by workers' organizations include training activities for leaders and members, policy initiatives and involvement in legislative developments, information and data collection, public-awareness campaigns and other initiatives.
24. The increase was even more marked in the number of promotional activities reported by employers' organizations. These include training, involvement in social dialogue and policy initiatives, awareness-raising and other practical activities. However, given the increase in the number of workers' and employers' organizations participating in the Annual Review 2012, it is difficult to determine whether there was an actual increase in their promotional activities or just in reporting of them. The IOE stresses the importance of the ILO itself, in its promotional efforts, recognizing that freedom of association does not only pertain to workers' organizations, and that employers should receive the same levels of engagement and support when their freedom of association is infringed.

### **Statistical information**

25. Statistics reported by governments and employers' and workers' organizations shed light on a number of situations. The Brunei Oilfield Workers Union (BOWU) reports a membership rate at Brunei Shell Petroleum in **Brunei Darussalam** of only 174 out of 3,500 workers. According to the Government of **Malaysia**, the number of registered trade

unions fell slightly between 2010 and 2011, from 690 to 687; membership rates also declined by 1,138 members. In **New Zealand**, the total number of trade union members decreased by 2.1 per cent between March 2009 and March 2010. Singapore has some 60 trade unions, with the **Singapore** National Trades Union Congress (SNTUC) reporting 650,000 members as at September 2011, compared with 500,000 in August 2007. About 18 per cent of members are estimated to be migrants. For the first time, the **Tuvalu** Overseas Seafarers' Union (TOSU) indicated an estimated 1,200 members, of whom only 300 were currently in employment. The Federation of Trade Unions of Uzbekistan (FTUU) stated that there were 12 sectoral and 14 regional trade unions in **Uzbekistan**. According to the **United Arab Emirates** Coordinating Committee of Professional Associations (UAECPPA), there were over 15 workers' committees in the country, structured by sector, as well as many other associations covering different workers' rights issues.

26. Regarding conflicts, conciliation and mediation, the Federal Mediation and Conciliation Service in **Canada** provided conciliation and mediation assistance in 302 collective bargaining disputes during the period 2010–11. The Islamic Labour Council of the **Islamic Republic of Iran** reported 30 labour disputes over the previous three years. The Government of **Mexico** provided detailed statistics concerning collective bargaining and related conflicts, showing a slight increase in the conflict resolution rate, from 87.8 to 88.2 per cent, and a fall in strike notifications from 0.2 to 0.09 per cent in one year. The Government of **Myanmar** reported that 672 disputes between workers and employers had been settled, resulting in 3,936 workers being granted financial compensation in 2010. The **United States** National Labor Relations Board General Counsel reported a 95.8 per cent settlement rate in regional offices in meritorious unfair labour practice cases in 2010. During the same period, National Labor Relations Board unfair labour practice and compliance decisions recovered \$86,557,684 on behalf of employees as back pay or as reimbursement of fees, dues and fines, with 2,250 employees being offered reinstatement.
27. The Government of **China** reported that 921,000 collective agreements covering 114 million workers had been reviewed during 2010. According to the All China Federation of Trade Unions (ACFTU), more than 592,500 specialized collective agreements for women workers, covering 978,200 enterprises and 49.4 million women workers, were signed in 2010. In the **Lao People's Democratic Republic**, 50 collective bargaining agreements have been signed following the adoption of the Trade Union Law (2008). The Government of **Mexico** reported that between August 2010 and June 2011, 60,726 collective agreements were revised, covering a total of 1,691,849 workers. The **Qatar** Chamber of Commerce and Industry (QCCI) mentioned that the first national collective agreement, which carried legal status and set rules, rights and obligations for both employers and workers, was being implemented.

### ***New initiatives and progress made in advancing the principle and right***

28. In **Bahrain**, the General Federation of Bahrain Trade Unions (GFBTU) actively focused its efforts in 2011 on advocating the ratification of Conventions Nos 87 and 98, and raised the awareness of trade union members about their right to freedom of association and collective bargaining.
29. The IOE reported giving special attention to advocating freedom of association for employers. Its promotional activities and support have included corporate social responsibility. Through its members, the IOE continues to work to ensure the proper use of the ILO Declaration on Fundamental Principles and Rights at Work in corporate social responsibility initiatives.

30. The Government of **Brazil** reported that a Labour Relations Council had been established in 2010, comprising representatives of the Ministry of Labour and Employment, workers and employers. It also reported special efforts that had been made in respect of freedom of association and the effective recognition of the right to collective bargaining of public sector workers, with the Ministry of Labour and Employment now acting as mediator for that sector. In **Canada**, a special initiative under the Labour–Management Partnerships Program provided funding to develop skills to facilitate the resolution of existing and future problems, to improve labour–management relationships, to reduce conflict in general through a more collaborative approach to communication, to reduce costs associated with conflict and to transfer knowledge of collective bargaining best practices to other negotiation units.
31. The Government of **China** has implemented crisis-related measures that incorporate guidelines urging enterprises to participate in collective bargaining as an institutional safeguard for uniting enterprises and workers in sharing the risks related to the crisis, and for encouraging the social partners to seek common positions for development. Many initiatives have been reported that aim to expand the coverage and use of collective bargaining in China. Special attention has been given to protecting the rights of women workers through specialized collective agreements. According to the All-China Federation of Trade Unions (ACFTU), this has significantly improved the degree of protection accorded to the rights and interests of women workers, including in the area of maternity protection.
32. According to the Malaysian Employers’ Federation (MEF), progress has been made in labour relations in **Malaysia**, including in respect of union recognition, the right to create unions at the regional level, and the right to freedom of association of foreign workers, who can now join unions and benefit from collective agreements. The Malaysian Trades Union Congress (MTUC) observed that progress had been made in reducing some of the restrictions on freedom of association in the electronics sector, one of the most labour-intensive in the country. Subsequently, four unions had been registered, but were still limited to operating at the regional level.
33. New initiatives in **Mexico** covered collective bargaining, social dialogue, conciliation and a system for the measurement and improvement of productivity (SIMAPRO). In 2011 the collective agreements for the textile industry, the higher education sector and the automotive industry were revised. The Government reported that a culture favouring labour productivity had been established through social dialogue initiatives, which was contributing to improving national competitiveness, enterprise sustainability and the living standards of workers. The SIMAPRO system has been applied since January 2011 in 40 enterprises in the State of Morales, with its initial impacts including qualitative and quantitative improvements in working conditions and a return on investments in nine enterprises.
34. The General Federation of **Nepalese** Trade Unions (GEFONT) reported progress in the promotion of freedom of association following a national campaign in 2010 and 2011 and advocacy activities for the ratification of Convention No. 87.
35. According to the Government of **Oman**, the number of trade unions is constantly increasing in the country, and the General Federation of Oman Trade Unions (GFOTU) is seriously engaging with the Government and employers’ representatives in social dialogue and collective bargaining, having recently signed several enterprise-based collective agreements. The Government was attempting to create a new labour relations culture between employers and workers in order to overcome challenges related to social and cultural traditions. For this purpose, a Ministerial Decision issued in early 2010 established a National Social Dialogue Committee.

36. **Saudi Arabia** has reported encouraging developments, such as the creation of the first National Workers' Committee and the adoption of a model for social dialogue. At the initiative of the Government, enterprises with over 100 employees now each have a labour committee, which together form a National Workers' Committee with a mandatory quota for women. In its latest report, the Government of Saudi Arabia expressed its commitment to social dialogue, indicating that it considered the full involvement of employers' and workers' organizations a priority. This was mirrored in the statement by the Saudi Arabia National Workers' Committee (NWC), which reported that there had recently been a change in the Government's position in terms of labour relations.
37. The Government of **Singapore**, in consultation with the social partners, has set up a dispute resolution mechanism for professionals, managers and executives, which entered into force in February 2011, allowing tripartite mediation to help unionized professionals, managers and executives and their employers resolve disputes.
38. The Government of the **United Arab Emirates** reported the development and implementation of initiatives to support mechanisms for social dialogue at the enterprise level and to organize national awareness campaigns for workers at their workplaces, with the full cooperation and support of employers.
39. In the United States, the National Labor Relations Board General Counsel instituted new timelines and procedures to accelerate the review of unfair labour practice charges, alleging that unlawful dismissals had occurred during a union organizing campaign. The initiative requires the Board's regional offices to investigate charges and to submit a report within one week of their findings to the Acting General Counsel.

## Challenges

40. Despite the action reported and progress recorded, major challenges remain. These relate mainly to national legal incompatibilities with Conventions Nos 87 and 98 (**Brazil, Brunei Darussalam, China, Marshall Islands, Mexico, Republic of Korea, Thailand, Tuvalu, United States and Viet Nam**). Several States, including **Brazil, Brunei Darussalam, China, Marshall Islands, Oman, Somalia and Tuvalu** also mentioned lack of institutional capacity as an obstacle to realizing freedom of association or collective agreements. The Governments of **Iraq, Republic of Maldives, Nepal and Sudan** reported that political instability and/or transition periods had interrupted or hampered ratification processes, while the Governments of the **Islamic Republic of Iran, Mexico, Morocco and Singapore** mentioned other contextual factors related to political, social or economic circumstances as challenging. Additional difficulties included: lack of public awareness and/or support (**Brunei Darussalam, Marshall Islands, Oman and Thailand**); lack of information and data (**Brunei Darussalam and Marshall Islands**); prevailing employment practices (**Guinea-Bissau, Morocco and United States**); lack of capacity of responsible government bodies (**Brunei Darussalam, China, India, Marshall Islands, Solomon Islands and Tuvalu**); and lack of social dialogue on this principle and right (**Brunei Darussalam, China, Kenya, Marshall Islands and Tuvalu**).
41. While 24 out of 36 reporting governments identified challenges in realizing freedom of association and the right to collective bargaining, workers' organizations elaborated more on the subject, mostly identifying legal obstacles, and in particular provisions that excluded certain sectors from freedom of association, as the main challenge. In **Bahrain**, for example, the Workers' Trade Union Law, section 10, does not recognize the right to establish trade unions in the public sector. Similarly, in **Guinea-Bissau** trade unions are not permitted in financial institutions and certain commercial enterprises. In **Malaysia**, the Trade Union Act, 1959, excludes several categories of workers from any form of organization.

42. According to the Government of the **Marshall Islands**, the principle of the effective recognition of the right to collective bargaining is not applied in the country. This is to a large extent due to the fact that there are no unions in the private sector. The Marshall Islands Teachers' Union (MITU) expressed the urgent need for ratification of both Conventions in order to overcome prevailing labour market practices. The Marshall Islands Chamber of Commerce (MICC) expressed the wish to see trade unions in the private sector taking up their role as social partner in the collective bargaining process.
43. Workers' and employers' organizations in **India** reported that regional differences within the country posed several challenges. According to the Standing Conference of Public Enterprises (SCOPE), regional differences were the main challenge hampering the ratification of Conventions Nos 87 and 98. According to the Centre of Indian Trade Unions (CITU), the lack of legal provisions at national level concerning mandatory recognition of trade unions has created a situation where recently established multinational enterprises do not recognize freedom of association equally throughout the different regions of the country.
44. In comparison to the previous year, the spectrum of identified challenges has slightly broadened. Although legal provisions clearly remain the most significant obstacles identified by workers' and employers' organizations, greater emphasis is being placed on the challenges posed by contextual factors, such as political, economic and/or social circumstances. This is particularly the case for workers' organizations in **Afghanistan, India, Islamic Republic of Iran, Iraq, Kenya, Malaysia, Marshall Islands, Morocco, Nepal, Saudi Arabia, Somalia** and **Sudan**. For example, according to the National Union of **Afghanistan** Employees (NUAE-AMKA), the main challenges relate to poverty, corruption and lack of transparency, as well as to various forms of trafficking. Both the General Confederation of Enterprises of **Morocco** (CGEM) and the General Union of Workers of Morocco (UGTM) identified judicial factors as the main obstacle hindering the ratification process of Convention No. 87. The General Federation of **Nepalese** Trade Unions (GEFONT) identified the mandate of the armed forces as one of the main challenges. Employers' organizations also identified contextual factors as challenging in the **Islamic Republic of Iran, Iraq, Lebanon, Morocco, Marshall Islands** and **Sudan**.
45. In **Saudi Arabia** and the **United Arab Emirates**, lack of capacity among workers' organizations was identified as a major challenge. While the **Saudi Arabia** National Workers' Committee (NWC) underlined that the Government would not be able to successfully implement Conventions Nos 87 and 98 until an organization of workers and its representatives has been established in line with international standards, the **United Arab Emirates** Coordinating Committee of Professional Associations (UAECPPA) emphasized that its main challenges were lack of awareness about workers' rights, lack of unity among workers and serious legal obstacles to the creation of trade unions.
46. The Government of the **United Arab Emirates** highlighted the large number of migrant workers as an additional challenge to ensuring that all workers enjoy freedom of association and the right to be covered by collective agreements. This was a challenge not only for the Government, but also for trade unions, which would have to embrace the migrant workforce and equally ensure their rights, and for employers, which would have to ensure that they did not take advantage of the vulnerable conditions that many migrant workers find themselves in.
47. In **Somalia**, the Federation of Somali Trade Unions (FESTU) pointed to the Government's lack of political will and to the lack of capacity of responsible public institutions as the main challenges in a country torn by conflict. The FESTU further identified the lack of advocacy and awareness raising as challenges, as well as the national labour law, which poses critical problems to trade union activities and respect for workers' rights. The

Government identified a lack of capacity among trade unions as being a significant obstacle.

48. The Korean Confederation of Trade Unions (KCTU) identified a range of challenges: (i) lack of political will by the Government of the **Republic of Korea** to reform domestic laws; (ii) the broad definition of essential services, which meant certain categories of public servants were denied freedom of association and recognition of collective bargaining; (iii) legal provisions that give employers the right to unilaterally cancel collective bargaining agreements, limiting the effective recognition of collective bargaining in the country; and (iv) lack of social dialogue. A tripartite committee, from which the KCTU had been excluded, had previously been established but was currently not operating.
49. In **Malaysia**, the Malaysian Trades Union Congress (MTUC) stressed that trade union activities were seriously obstructed by the fact that Convention No. 87 had not yet been ratified. The low unionization rate (7 per cent according to official statistics) was a consequence of prevailing restrictions, including only permitting trade unions to organize at enterprise level, thereby weakening their bargaining power.

### ***Requests for technical assistance***

50. Governments and employers' and workers' organizations in **Afghanistan, Brunei Darussalam, China, Kenya, Malaysia, Marshall Islands, Mexico, Thailand, Tuvalu** and **Uzbekistan** requested ILO technical cooperation to overcome the challenges facing them and to facilitate the ratification process. Technical cooperation needs included one or more of the following: (i) assessment of the difficulties identified and their implications; (ii) awareness raising, legal literacy and advocacy; (iii) capacity building for governments; (iv) data collection, analysis and research; (v) establishment or strengthening of specialized institutional machinery; (vi) policy advice; (vii) legal reform and interpretation; (viii) strengthening tripartism and social dialogue; (ix) strengthening the capacity of employers' and workers' organizations; (x) training of officials (e.g. police, judiciary, social workers, teachers); (xi) sharing of experience across countries and regions; and (xii) support through DWCPs. The urgent need to strengthen the capacity of workers' and employers' organizations was expressed jointly by many governments and social partners.

## **B. The elimination of all forms of forced or compulsory labour**

51. According to ILO statistics,<sup>6</sup> in 2005 12.3 million persons worldwide were in some form of forced labour or bondage, mostly in Asia. Profits generated by these activities were at least \$32 billion. Work is currently under way to update these global estimates.

### ***Ratifications***

52. Only one ratification of Convention No. 29, by **Canada**, was registered in 2011. No new ratification was received of the Abolition of Forced Labour Convention, 1957 (No. 105).

<sup>6</sup> ILO: *A global alliance against forced labour*, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), International Labour Conference, 93rd Session, Geneva, 2005.

53. However, **Afghanistan**, **Republic of Maldives**, **Marshall Islands** and **Tuvalu** have indicated a strong intention to ratify and implement Conventions Nos 29 and/or 105 in the near future. **Afghanistan** and **Republic of Maldives** further mentioned that ratifications were pending before Parliament for final approval. **The Lao People's Democratic Republic** indicated its willingness to ratify Convention No. 29 after further discussions and studies through its tripartite committee for labour relations. **Myanmar**, **Solomon Islands**, **Timor-Leste** and **Viet Nam** have also expressed their intention to ratify Conventions Nos 29 and/or 105. The Governments of **Malaysia** and **Singapore** were reconsidering the ratification of Convention No. 105, which they had previously denounced. **Myanmar** was in the process of amending its laws to better reflect and implement this principle and right. The **Republic of Korea**, **Japan** and **United States** have indicated that they are currently unable to ratify either of the Conventions. The **Republic of Korea** indicates that the Ministry of Employment and Labour carried out consultations with relevant ministries on the ratification prospects of both Conventions. It was currently unable to ratify either one as it had to maintain mandatory conscription for the protection of its borders. **China** is the only country that has not yet indicated its position as regards the ratification of these Conventions.

### ***Changes in legislation and judicial decisions***

54. China reports that an amendment to section 244 of the Criminal Law was adopted in February 2011 and came into force in May 2011. According to the Government, the amended section punishes any organizations or individuals that force others to work by violence, threat or restriction of personal freedom. It increases the sentence from three to ten years' imprisonment, and criminalizes recruitment and transportation by individuals or organizations that force others to work. These provisions have reinforced the protection of vulnerable groups, and stipulate more severe punishments for forced labour and related crimes.
55. According to the **Malaysian** Trades Union Congress (MTUC), an amendment of the Employment Act was presented to Parliament in June 2011 in Malaysia covering issues related to domestic workers.
56. According to the Government of **Timor-Leste**, the new Labour Code is in the process of final adoption by Parliament before promulgation by the President of the Republic in 2012. In addition, the new Penal Code (2010) contains explicit provisions against forced labour, human trafficking and servitude, as well as dissuasive sanctions against perpetrators.
57. The Government of **Viet Nam** states that the Labour Code and the Trade Union Law have been amended in cooperation with employers' and workers' organizations, so as to bring national law into conformity with Convention No. 105.

### ***Promotional activities***

58. **Afghanistan** indicates that a national tripartite workshop was organized to better promote fundamental principles and rights at work, including the fight against forced labour. Other similar workshops on labour laws were organized in cooperation with the Asian Foundation. **Brunei Darussalam** conducted workshops at national and regional levels in cooperation with the Association of Southeast Asian Nations (ASEAN). The Government of **China** reports that the All China Women's Federation has launched a campaign to prevent trafficking for labour exploitation in China and to help children under the age of 16 to complete compulsory education and young people over the age of 16 to enjoy safe mobility and decent employment.

59. The **Korean** Confederation of Trade Unions (KCTU) states that it has carried out advocacy campaigns for the promotion and ratification of both Conventions Nos 29 and 105.
60. The **Republic of Maldives, Marshall Islands, Solomon Islands, Tuvalu and Viet Nam** state that they have undertaken tripartite consultations concerning these principles and rights.
61. The Government of **Myanmar** states that its Ministry of Home Affairs organized a lecture delivered by the ILO Liaison Officer on the promotion and realization of this principle and right. Moreover, a brochure on forced labour has been widely distributed in the **Myanmar** language.
62. The Government of the **Solomon Islands** has organized weekly awareness-raising radio programmes on fundamental principles and rights at work, including on forced labour issues, as well as 1 May activities, in cooperation with employers' and workers' organizations.
63. The Government of the **United States** mentions that the Trafficking in Persons Report (2011), issued by the US Department of State, has outlined the challenges for countries across the globe, including the United States, involved in addressing trafficking in persons and forced labour. It further reports that the Attorney-General has submitted an annual report to Congress on the ongoing campaign to eliminate human trafficking in the country.
64. At the international level, the IOE states that it continues to promote the joint ILO–IOE publication *Combating forced labour: A handbook for employers and business*, along with the IOE guide *Forced labour: Why it is an issue for employers*. It further states that developments in the Arab region prevented the holding of a meeting foreseen for employers on this principle last year.

### ***New initiatives and progress made in advancing this principle and right***

65. The Government of **Brunei Darussalam** indicates that the Royal Brunei Police is in the process of setting up an intergovernmental agency to deal with cases of forced labour and human trafficking in the country.
66. According to the Government of **Malaysia**, the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 has strengthened the implementation of this principle and right through: (i) a Council of Anti-Trafficking in Persons, responsible for policy formulation regarding the elimination of all forms of forced or compulsory labour, and (ii) the adoption of a National Action Plan on Trafficking in Persons, intended to create public awareness. The Plan defines a set of key performance targets to better implement and realize the principle and right via nine programme areas: (i) strengthening legal mechanisms; (ii) integrated actions among enforcement agencies; (iii) public awareness and prevention; (iv) protection and rehabilitation; (v) combating labour trafficking; (vi) capacity building; (vii) information management; (viii) smart partnership; and (ix) measuring performance and sustainability.
67. The Government of **Singapore** indicates that it has set up an inter-agency task force to coordinate anti-trafficking initiatives, policy alignment and the development of the National Plan of Action to Eliminate Trafficking in Persons and Forced Labour. It further states that the Government engages actively with non-governmental organizations and other governments to build up closer partnerships to improve upstream victim identification and protection, and successful enforcement against trafficking syndicates.



68. The **United States** reports that the Bureau of International Labor Affairs has issued an updated list of goods produced under forced labour.

### **Challenges**

69. The main challenges mentioned by reporting States (**Afghanistan, Brunei Darussalam, Marshall Islands, Solomon Islands and Tuvalu**) in realizing this principle and right include: (i) lack of public awareness; (ii) lack of information and data; (iii) legal provisions; (iv) lack of capacity of responsible public institutions; (v) lack of capacity of employers' and workers' organizations; and (vi) lack of social dialogue.
70. According to the Japanese Trade Union Confederation (JTUC–RENGO), Diet members are not sufficiently sensitized to the importance of implementing Convention No. 105 in **Japan**.
71. The Korean Confederation of Trade Unions (KCTU) reports that the main challenge to the ratification of Conventions Nos 29 and 105 by the **Republic of Korea** is mandatory military service. Unsuitable individuals are exempted and are reoriented towards public service work, which they perform for over two years without receiving a salary or compensatory benefits. The KCTU says that political will is needed to adjust the military service system to bring it into line with Convention No. 105. According to the KCTU, forced labour is not widespread in the country, but has been experienced by trade union members participating in strikes.
72. According to the Malaysian Trades Union Congress (MTUC), the Anti-trafficking in Persons Act adopted in **Malaysia** has been slow in implementation and has certain limitations, covering only the criminal aspect of the practice. Recently, the Government granted licences for employers to outsource migrant workers, allowing agents to bring workers into the country and collect their salaries from the employer. The MTUC is of the opinion that this arrangement may trap workers in trafficking situations.
73. **Viet Nam** mentions that it is facing challenges in amending the Labour Code and incorporating the 68 comments submitted by the ILO with a view to ensuring compliance between national law and the fundamental principles and rights at work.

### **Requests for technical assistance**

74. Governments or employers' and workers' organizations in **Afghanistan, Brunei Darussalam, Japan, Republic of Korea, Lao People's Democratic Republic, Republic of Maldives, Marshall Islands, Malaysia, Myanmar, Singapore, Solomon Islands and Tuvalu** have requested ILO technical assistance for the elimination of all forms of forced or compulsory labour. The requests cover many areas, including assessment of difficulties, awareness raising and advocacy, capacity building of labour inspections and administrations, data collection and research, training, and legislative reform.

### **C. The effective abolition of child labour**

75. Despite extensive international action, including the International Programme on the Elimination of Child Labour (IPEC), 215 million children are still involved in child labour,

including 115 million in hazardous work. According to the 2010 Global Report,<sup>7</sup> although child labour continues to fall globally, the rate of decline has slowed.

## Ratifications

76. In 2011, four new ratifications of Convention No. 138 were registered for **Brunei Darussalam, Cape Verde, Ghana and Sierra Leone**, as was one ratification of Convention No. 182 by **Sierra Leone**.
77. While the target date of 2016 for universal ratification of Convention No. 182 is approaching, nine countries (**Cuba, Eritrea, India, Republic of Maldives, Marshall Islands, Myanmar, Solomon Islands, Somalia and Tuvalu**) have yet to ratify it.
78. A majority of reporting States (**Bahrain, Bangladesh, Cuba, Eritrea, Islamic Republic of Iran, Liberia, Republic of Maldives, Marshall Islands, Saint Lucia, Saudi Arabia, Solomon Islands, Somalia, Timor-Leste, Turkmenistan, Tuvalu and Vanuatu**) have indicated progress towards the ratification of Convention No. 138 and/or Convention No. 182.
79. In **Bahrain**, the social partners have approved the ratification of Convention No. 138 and the process is currently with the National Assembly Committee, which is studying the compatibility of national legislation with this Convention. In **Eritrea** the Parliament is working on the ratification of Convention No. 182, which is expected for 2012. While political instability made the ratification process difficult in 2010, the Government of the **Republic of Maldives** states that ratification of Conventions Nos 138 and 182 has been submitted to the Parliament and was due by September 2011. The Government of **Saudi Arabia** indicates that it is finalizing the ratification process of Convention No. 138 in consultation with the social partners. The Government of the **Solomon Islands** indicates that ratification of all non-ratified ILO fundamental Conventions was approved by the Cabinet in 2007, and that final processing for registration is being prepared. The Government and the social partners of **Suriname** report jointly that all non-ratified core Conventions will be ratified within a year, with ILO technical support.
80. The Government of **Turkmenistan** indicates that it sent the instrument of ratification for Convention No. 138 on 24 May 1997. However, the minimum age for admission to employment or work needs to be specified in a declaration appended to this instrument to allow final registration by the Office. This declaration is expected to be sent as soon as possible. Following consultations with the Tuvalu National Private Sector Organization (TNPSO) and the Tuvalu Overseas Seafarers' Union (TOSU), the Government of **Tuvalu** expressed its intention to ratify Conventions Nos 138 and 182 under the DWCP 2010–12. This was confirmed during the High-level Tripartite Meeting on Decent Work for Sustainable Development in the Pacific held in Vanuatu in February 2010, and during the First National Tripartite Workshop, where a tripartite call was made for prompt ratification of Conventions Nos 138 and 182 by Tuvalu. Similarly, the Government of **Vanuatu** has reviewed and approved a draft amendment to the Employment Bill and now needs to make submissions to the Council of Ministers for the ratification of Convention No. 138.
81. The Government of **Australia** agreed in 2011 to consider formally the ratification of Convention No. 138, and is working closely with state and territory governments to determine their compliance with the requirements of the Convention. A decision on

<sup>7</sup> ILO: *Accelerating action against child labour*, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), International Labour Conference, 99th Session, Geneva, 2010.

ratification will be made once this assessment has been finalized. In **Canada**, the federal, provincial and territorial governments are currently reviewing Convention No. 138 to determine the extent of Canada's conformity and possible ratification. **Saint Lucia** anticipates the ratification of Convention No. 138 when the new Labour Code takes effect. The Government of the Marshall Islands indicates its willingness to make necessary legal reform, in consultation with national stakeholders and with ILO technical support. The **Marshall Islands** Chamber of Commerce (MICC) emphasized the importance of ratifying Conventions Nos 138 and 182. It requested ILO support to help combat poverty and promote education for all. The Marshall Islands Teachers' Union (MITU) expressed its support for the ratification of these instruments, which it regarded as being a matter of human rights and of the right to education, as guaranteed by the Bill of Rights in the Constitution. A number of the countries that are now considering ratification of one or both instruments had previously stated their inability to ratify.

82. The Government of **India** indicates that ratification of Convention No. 138 would be considered once national laws were in conformity with its provisions. The **Mexican** Confederation of Chambers of Industry (CONCAMIN) states that a constitutional amendment would be needed for ratification of Convention No. 138. The **New Zealand** Government indicates its decision to defer possible ratification of Convention No. 138 pending an evaluation of policy material and an assessment of youth employment. The Government of the **United States** reiterates that there are no current plans to pursue ratification of Convention No. 138.

### **Promotional activities**

83. Various promotional activities concerning this principle and right have been carried out by reporting States. **Australia, Bahrain, Bangladesh, Eritrea, Liberia, Republic of Maldives, Marshall Islands, Mexico, Myanmar, Solomon Islands, Suriname, Timor-Leste, Tuvalu** and **Vanuatu** have all reported the involvement of the social partners in consultation processes related to child labour.
84. The Government of **India** reported that a special meal programme in schools is operating in the country. Further actions were reported by both employers' and workers' organizations. According to the Council of Indian Employers (CIE), any child who is found working in the private sector will automatically be pulled out of work and sent to school. The trade union centre Bharatiya Mazdoor Sangh (BMS) reported that four educational programmes had been conducted in different regions of India, specifically targeting children who were employed in fireworks production. The Centre of Indian Trade Unions (CITU), in cooperation with IPEC, has conducted several campaigns, workshops and other programmes to eliminate child labour.
85. Research work in **New Zealand** was aimed at gathering and sharing information related to children and young people at work. The final report, *School children in paid employment*, outlined the extent of youth employment in the country, the associated conditions and outcomes, and gaps in information. In **Saint Lucia**, the Department of Human Services is engaged in public education and advocacy on the rights of children, with emphasis on the sexual abuse of children.
86. In **Australia**, the Young Worker Toolkit, a web-based resource, has been optimized for smartphone use to help young people in the workplace by providing them with information about employment-related issues. **New Zealand's** *My first job* is an online resource, and the **United States** Department of Labor Wage and Hour Division (WHD) website *YouthRules!* provides a gateway to child labour compliance information for children, parents, employers and educators. The Government of the United States also indicated that every WHD region conducts outreach activities, including presentations in schools and

colleges, distribution of informational literature, and public service announcements in local media, in both Spanish and in English.

### ***Policy and legal developments***

87. Safe Work Australia has developed the Work Health and Safety Act, and draft regulations and codes of practice to create a set of uniform laws across **Australia**. These have been developed through a tripartite process involving the Commonwealth Government, state and territory governments, and employers' and workers' representatives. Each state and territory was expected to enact legislation that mirrors the draft national regulation by 1 January 2012.
88. The **Islamic Republic of Iran** states that a series of comparative studies has been carried out to adjust existing regulations or introduce new ones with the aim of strengthening the integral national policy on minimum age in conformity with the provisions of Convention No. 138.
89. The Government of **Liberia** indicates that the first public assembly was held in May 2011 on the tripartite drafting of the Decent Work Bill, which contains provisions on fundamental principles and rights at work. In addition, the Firestone Agricultural Workers' Union of Liberia (FAWUL) and the United Workers' Union of Liberia (UWUL) indicate they have advocated for the Child Bill Agreement (CBA) that forbids workers from taking their children to work.
90. The Government of **Mexico** presented a new bill to Congress in March 2011 to reform the Federal Labour Law, proposing an amendment of article 22 in order to specify and determine legislation related to compulsory education.
91. The Government of **Myanmar** indicates that it is in the process of implementing a National Plan of Action for Children 2006–15, which consists of plans based on the UN Millennium Development Goals and Convention No. 182, and is taking measures towards implementation in four focus areas: health and nutrition; water and sanitation, education, and child development and protection.
92. In **Timor-Leste**, a national Commission on the Rights of the Child was established in 2010 to advise the Government on policies and programmes for the protection and promotion of the rights of the child, including the right not to be subjected to child labour.
93. During the reporting period, the **United States** Department of Labor continued the multi-year review of its child labour regulations. In September 2011, the Department of Labor issued a notice of proposed rulemaking and request for comments, to revise the Agricultural Child Labor Hazardous Occupations Orders. The proposal would adopt the remaining specific recommendations of the National Institute for Occupational Safety and Health on existing orders and help to achieve parity between agricultural and non-agricultural child labour prohibitions by proposing to prohibit certain types of work in agriculture for children under 16 years of age.

### ***New initiatives and progress made in advancing this principle and right***

94. The Government of **Bangladesh** reported major efforts and progress towards the elimination of child labour, to a large extent as a result of the implementation of the national ILO–IPEC programme in the ready-made garment sector. Through the National Child Labour Elimination Policy adopted in 2010, the National Plan of Action for

Education for All, a Monitoring Information System and the Empowerment and Protection of Children Project implemented by the Ministry of Women and Children Affairs, the Government of Bangladesh has further strengthened the fight against child labour. Child labour issues have been addressed and incorporated into all major national development projects, with particular emphasis on the ready-made garment sector, and on the shrimp and fish processing sector. In addition, through the Basic Education for Hard-to-Reach Urban Working Children projects, 200,000 working children aged between 10 and 14 will receive basic education of 40 months each through the establishment of 8,000 learning centres, and 20,000 children aged 13 and over will receive livelihood education.

95. In **Liberia**, over the last five years, a special initiative undertaken by the employers' organization Firestone Liberia has targeted child street vendors, banning such activities during school hours. Firestone Liberia has set up transport services to carry workers' children to junior high schools to ensure that none of them will be present in the fields. The United Workers' Union of Liberia (UWUL) has a special fundraising programme, providing families with additional income to keep their children out of the workplace.
96. During 2011, the Marshall Islands Teachers' Union (MITU) participated in the collection of information related to child protection, which included information on child abuse, neglect and exploitation in the **Marshall Islands**. This project was carried out in collaboration with the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the National Training Council, Pacific Resources for Education and Learning, and the United Nations Children's Fund (UNICEF). The results of this survey will allow the establishment of a national strategy to better ensure child protection in the country.
97. The Government of **Myanmar** has implemented formal and non-formal education in rural areas. The country has enforced its Education for All National Action Plan, and launched a school enrolment week, seeking to increase student enrolment. In addition, the Committee for the Prevention of Military Recruitment of Under-Aged Children and the Trafficking in Person Prevention Committee have been established.
98. In the **Solomon Islands** a law adopted in 2009 on compulsory education has been in force since 2010, with a government subsidy making primary and secondary education almost free. School attendance has risen considerably as poor parents can now afford to send their children to school.
99. A special initiative has been undertaken in **Timor-Leste** through the Government's *Bolsa da Mae* Programme, providing social incentives to low-income families, on the condition that they send their children to school. As a result the drop-out rate from primary school has decreased.
100. In an effort to reduce grain entrapment incidents and fatalities in the **United States**, some of which may involve children under the age of 18, the Department of Labor's Occupational Health and Safety Administration (OSHA) has embarked on an initiative focusing on protecting workers in grain-handling operations by increasing enforcement and inspection activities in the industry. OSHA initiated regional and local emphasis programmes that focus on areas of the country where grain handling, grain milling, rice milling, animal feed preparation, farm-product warehousing and production of grain are concentrated. In 2010, OSHA conducted over 298 inspections of such operations. This is a roughly 60 per cent increase from the 2008 inspection level. Approximately 72 per cent of these inspections identified violations of OSHA standards. OSHA also initiated the Campaign to Prevent Heat Illness in Outdoor Workers for the summer of 2011, to address heat-related fatalities in agriculture. The campaign stresses the critical importance of water, rest and shade to prevent heat-related illnesses and fatalities, and covers agriculture and construction workers. There is a special focus on outreach to new workers, which would

include many workers under the age of 18 who have not been acclimatized to excessive heat and often suffer more serious heat-related illnesses.

101. In **Vanuatu**, the Tripartite Labour Advisory Council was formally launched by the Deputy Prime Minister with the minister responsible for labour on 1 May 2011. This new Council is responsible, among other things, for driving the labour law reform process to better apply fundamental principles and rights at work.
102. At the international level, the IOE reports that it has continued to follow the outcomes of the Global Child Labour Conference 2010 held in the Hague and to take measures to ensure consistency in work arising from the roadmap it adopted and from the IPEC work programme. In this regard, the IOE is working with IPEC on a special project concerning the application of due diligence tools to child labour, consequent to the adoption of the UN Guiding Principles on Business and Human Rights.

## Challenges

103. Many reporting States have given special attention to particular situations or problems through various forms of targeted action. For instance, the **Islamic Republic of Iran** reported that it is giving special attention to children who have no family head. In **New Zealand**, particular attention is paid to young people working on farms. In 2010 a quad bike farm safety campaign was launched and has subsequently been broadened to include both information and enforcement.
104. The Government of **Saudi Arabia** indicates that it is taking special action against child beggars, in particular through their rehabilitation and social reintegration, but also through the imposition of sanctions against adults organizing such activities. A Royal Decree has recently been adopted to protect the rights of the child.
105. The Government of **Turkmenistan** says that it is paying particular attention to the textile industry and has implemented a national programme to combat child labour in the textile industry. As a result of this action, child labour has been substantially reduced in this sector of activity.
106. The **Islamic Republic of Iran's** Confederation of Employers' Associations (ICEA) and the Government of **Suriname** refer to the challenges posed by child labour in the informal economy, while a number of other governments point to the particular dangers of migrant children ending up in child labour.
107. Many reports refer to legal obstacles and the lack of capacity of responsible public institutions, as well as to the capacity of employers' and workers' organizations in the elimination of child labour. Another challenge raised is the lack of awareness, in particular in respect to the definition of child labour.
108. According to the Marshall Islands Teachers' Union (MITU), the four major obstacles concerning the effective abolition of child labour in the **Marshall Islands** are: (i) poverty; (ii) the absence of legal provisions; (iii) the lack of tripartite capacity; and (iv) the lack of public awareness raising. The Marshall Islands Chamber of Commerce (MICC) added that traditional and cultural barriers with respect to child labour would also need to be overcome.
109. The Federation of Somali Trade Unions (FESTU) reported that the challenges in Somalia to realizing the principle and right are related to the political situation and the lack of peace and security. According to the FESTU, the problem of the worst forms of child labour in

Somalia mainly concerns child soldiers, which is a very sensitive issue that needs to be dealt with carefully as in the national context it may affect trade union security.

110. The United States referred to a number of persisting issues, including the situation of children whose parents are not authorized to work, children accompanying their parents to the fields due to the lack of day-care services, and language barriers between children and their parents and the employer. The United States Department of Labor is continuously engaged in strategies to address these challenges.

### **Requests for technical assistance**

111. A majority of reporting governments and employers' and workers' organizations have made requests for ILO technical assistance at country level in order to overcome persisting challenges and facilitate the ratification of Conventions Nos 138 and/or 182 (**Bahrain, Bangladesh, Eritrea, India, Islamic Republic of Iran, Liberia, Republic of Maldives, Marshall Islands, Mexico, Myanmar, New Zealand, Saint Lucia, Saudi Arabia, Solomon Islands, Somalia, Suriname, Timor-Leste, Tuvalu and Vanuatu**). In addition to the types of technical assistance referred to in previous sections of this report, specific requests were also made concerning the establishment or strengthening of specialized institutional machinery, employment creation, skills training, income generation and poverty alleviation.

### **D. The elimination of discrimination in respect of employment and occupation**

112. Reports received have focused particularly on discrimination faced by women and by migrant workers, with other grounds for discrimination, such as religion, race and ethnicity, caste, or HIV/AIDS, being referred to less or not at all. Most of the reports reflect increasing difficulty in the realization and implementation of this principle and right.

### **Ratifications**

113. No ratifications of Conventions Nos 100 or 111 were registered in 2011.
114. However, many governments have indicated their interest in ratifying Conventions Nos 100 and/or 111. The Government of **Bahrain** states that it has been trying to create a more enabling environment for ratification of Convention No. 100. **Brunei Darussalam** says that it is still reviewing the possibility of ratifying both Conventions. **Kuwait** and **Liberia** report that the ratification process for Convention No. 100 is still awaiting approval from executive and legislative institutions. The **Republic of Maldives, Marshall Islands, Myanmar** and **Suriname** indicate that a strong consensus has been reached for the ratification of Conventions Nos 100 and/or 111. The Government of **Malaysia** states that it will organize consultations with the Malaysian Employers' Federation (MEF) and the Malaysian Trades Union Congress (MTUC) to consider the ratification of Convention No. 111. The Governments of **Oman** and **Tuvalu** mention that the implementation of their DWCPs will facilitate the ratification of Conventions Nos 100 and 111 and encourage the adoption of related legislation. The Government of **Qatar** indicates that though national legislation is in line with the provisions of Convention No. 100, it is still unable to ratify it at this time. **Singapore** states that the ratification of Convention No. 111 is under consideration. The Government of the **Solomon Islands** indicates that the ratification of all the fundamental principles and rights at work has been approved by the Cabinet and will soon be registered with the ILO. **Somalia** states its willingness to realize fully the principle

and right in the country when peace comes. **Thailand** says that following recent political change in the country, the new Government's intentions concerning international labour standards will soon be communicated. The **United States** reports work towards the successful completion of the ratification process of Convention No. 111.

### ***Changes in legislation and judicial decisions***

115. Most reporting States indicate the recognition of this principle and right in their respective constitutions and/or relevant national policies. **Myanmar** is amending its national laws to bring them into conformity with this principle and right. **Oman** plans to adopt new legislation against discrimination. The Government of the **Solomon Islands** set up a tripartite National Labour Advisory Board in 2010, which is expected to be operational by 2012. National laws are currently being reviewed, in consultation with the employers' and workers' organizations, with ILO technical support, so as to bring them into compliance with fundamental principles and rights at work. **Timor-Leste** reports that the draft Labour Code approved by the Government in 2010 is currently before Parliament for final approval, with promulgation expected in 2012.

### ***Promotional activities***

116. Several governments and employers' and workers' organizations report that they have undertaken promotional activities concerning discrimination and equality. In **Kuwait**, tripartite workshops on fundamental principles and rights at work have been organized. The Government of **Liberia** reports promotional activities to encourage gender equality in job advertisements in local and national newspapers. The **Marshall Islands** and **Tuvalu** participated in the Tripartite High-Level Meeting: Decent Work for Sustainable Development in the Pacific in February 2010.

117. In **Singapore**, the Tripartite Alliance for Fair Employment Practices (TAFEP) has promoted tripartite guidelines and organized various activities including training sessions, seminars, conferences, on-site visits and advisory services. In addition, training on fair hiring has been organized, highlighting the importance of objective job descriptions and evaluations. In April 2010, the TAFEP coordinated a conference on fair employment, where international and local speakers discussed ways to better harness the economic potential of women. The TAFEP also collaborates closely with partners such as the Singapore Corporation of Rehabilitative Enterprise (SCORE), the Enabling Employers Network (EEN) and the Society for the Physically Disabled (SPD) on several projects to reach out to more employers to champion and advance employment opportunities for persons with either a past criminal record or disabilities. **Suriname** organized a national tripartite seminar on sexual harassment, equality of treatment and decent work in 2011.

118. At the international level, the IOE states in particular that while its long-standing work on HIV/AIDS continues, it will also work closely with the Office on the follow-up to the related Recommendation adopted in 2010. The IOE further indicates that it is working with the Office on an initiative to establish two disability networks in the United States and Africa to help with the exchange of good practice among employers' organizations and companies.

### ***New initiatives and progress made in advancing this principle and right***

119. The Government of **Bahrain** indicates that it has taken several measures to provide equal rights to migrant workers through the mechanisms of a minimum wage.



120. Firestone Liberia observed that companies in **Liberia** have two reporting obligations concerning their employees: (i) a quarterly reporting obligation to the Ministry of Finance that covers, among other things, starting salary, present salary, taxes paid, overtime done and overtime paid; and (ii) a monthly reporting obligation to the Ministry of Labour on information concerning contract type, job title and related issues.
121. The Government of **Malaysia** says it has cooperated with the ILO on ensuring equal treatment of migrant and national workers through the extension of the coverage of the social security scheme to migrant workers. The **Singapore** National Employers' Federation (SNEF) reported that the total number of employers that are pledge signers to fair employment practices has reached 1,770. The Singapore National Trades Union Congress (SNTUC) indicated that the TAFEP handled 115 workplace discrimination cases.
122. **Thailand** has created a Subcommittee for the Elimination of Discrimination against Persons with Disabilities, focusing in particular on the following fields: (i) employment and vocation; (ii) education products and services; (iii) buildings facilities and transportation; (iv) social services; (v) membership of associations, clubs, groups and access to policies, plans and programmes; (vi) access to information and technology; and (vii) violation of rights or inaccessibility of rights in general. In addition, the Merit Protection Commission has been established to deal with matters concerning the preservation of the merit system and to submit proposals to the Civil Service Commission regarding appeals, complaints and the appointment of qualified persons. The Government of **Timor-Leste** notes the implementation of a special scholarship programme to support women's higher education.
123. The **United States**, through the Equal Employment Opportunity Commission (EEOC), hired nearly 200 new investigators, trial attorneys, and support staff to enhance its ability to enforce federal anti-discrimination laws. This initiative built upon previous efforts begun in 2009, including the hiring of additional front-line staff, a significant agency-wide training initiative, and a renewed emphasis on pre-charge counselling and on identifying, sharing and implementing best practices in charge handling. As a consequence of these efforts, the EEOC's private sector national mediation programme secured 9,370 resolutions, the highest number in the history of the programme. In addition, in May 2011 the Office of Personnel Management issued *Guidance regarding the employment of transgender individuals in the federal workplace*. The document provides guidance to federal agencies to help ensure that they afford a non-discriminatory working environment to employees irrespective of their gender identity or perceived gender non-conformity. Furthermore, the **United States** Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) issued an Advance Notice of Proposed Rulemaking seeking public comments on the development of a new data tool to collect information on salaries, wages and other benefits paid to employees of federal contractors and subcontractors. The tool would improve the OFCCP's ability to gather data that could be analysed for indicators of discrimination, such as disparities concerning female and minority workers.
124. The Government of the **United States** also provided data in its report, especially in relation to the EEOC. According to the Government, field legal units filed 250 merits lawsuits in federal courts challenging a wide variety of discriminatory practices, as well as 21 subpoena enforcements and other actions. Of the new merit filings, 154 were individual suits, 96 were multiple victim suits and 20 were systemic cases expected to directly impact large numbers of individuals. The EEOC legal staff resolved 285 merits lawsuits for a total monetary recovery of over \$85 million, achieving a favourable outcome in 92 per cent of all lawsuit resolutions. At the end of the fiscal year 2010, 465 systemic investigations, involving more than 2,000 charges, were being undertaken, and the EEOC field offices completed work on 165 systemic investigations resulting in 29 settlements or conciliation

agreements, recovering \$6.7 million. In addition, by participating in 3,766 training and outreach events, the Commission educated approximately 250,000 persons in the fiscal year 2010.

### **Challenges**

125. **Brunei Darussalam, Marshall Islands and Tuvalu** have reported difficulties in the following areas: (i) lack of public awareness; (ii) lack of information and data; (iii) legal provisions; (iv) political and socio-economic circumstances; (v) lack of capacity of responsible public institutions; (vi) lack of capacity of employers' and workers' organizations; and (vii) lack of social dialogue.
126. The General Federation of Bahrain Trade Unions (GFBTU) said that the main challenge preventing the ratification of Convention No. 100 in **Bahrain** is the Executive's reluctance to adopt new laws.
127. The Government of **Kuwait** acknowledged that wage differentials exist in the country, particularly between national and migrant workers.
128. **Liberia** stated that the difficulties in realizing the principle and right were mainly due to: (i) high unemployment; (ii) lack of resources to encourage job creation; (iii) lack of capacity of responsible government institutions; and (iv) lack of education and training among workers' organizations. The employers' organization Firestone Liberia observed that the main challenge was the lack of capacity of responsible public institutions in particular in the labour inspectorate. In addition, the Firestone Agricultural Workers' Union of Liberia (FAWUL) and the United Workers' Union of Liberia (UWUL) have observed that unemployment, lack of adequate resources for families and socio-economic factors are among the main challenges to the elimination of discrimination.
129. The Malaysian Trades Union Congress (MTUC) notes that there is evident discrimination in **Malaysia** against foreign workers, who are not entitled to the same benefits as nationals. Furthermore, the MTUC specified that discrimination is also caused by the Affirmative Action Programme, which makes the realization of the principle and right in the country more difficult.
130. The Government of **Oman** reports that national laws, including those related to the employment of migrant workers, need to be amended prior to the ratification of Conventions Nos 100 and 111. **Suriname** highlights the lack of a minimum wage system. **Timor-Leste** refers to its fight against the inclusion of specific requirements in job advertisements which could entail indirect discrimination against women.

### **Requests for technical assistance**

131. With a view to overcoming these challenges, **Bahrain, Brunei Darussalam, Kuwait, Liberia, Malaysia, Marshall Islands, Oman, Solomon Islands, Somalia, Thailand, Timor-Leste** and **Tuvalu** requested ILO technical cooperation to assist them in realizing the principle and right. There were also specific requests by the social partners. The **Japanese** Trade Union Confederation (JTUC-RENGO) requested ILO technical assistance in order to ensure consistency between Convention No. 111 and national legislation. Furthermore, the JTUC-RENGO indicated the need for an awareness-raising campaign to illustrate the importance of ratification of this Convention to Diet members. The **Marshall Islands** Chamber of Commerce (MICC) requested a permanent ILO presence in the country. The Union of **Myanmar** Federation of Chambers of Commerce and Industry (UMFCCI) requested ILO support for the capacity building of employers, in particular for

the training of trainers on fundamental principles and rights at work. The General Federation of **Oman** Trade Unions (GFOTU) requested ILO technical assistance to: (i) strengthen social dialogue; and (ii) organize workshops to facilitate the ratification process.

### III. Conclusions

- 132.** Reports received under the Annual Reviews for 2011 and 2012 have been rich in content, indicating the interest and commitment of governments and the social partners in many countries to promote and realize fundamental principles and rights at work and to move towards ratification of the fundamental Conventions. This year, an unprecedented 100 per cent government reporting rate was achieved. There has also been no single report of “no change”, indicating that each reporting State has had new activities or measures to report. Employers’ and workers’ organizations participated more significantly in this reporting exercise than ever before.
- 133.** The Office has provided technical assistance to a number of countries to achieve better awareness and implementation of these principles and rights and to facilitate the reporting process. It has also promoted dialogue between the Organization and its constituents on the realization of the fundamental principles and rights at work, and tripartite debate on the identification of challenges and solutions. The outcome indicates that the promotional approach continues to produce results and that the continuing annual review of reports by the Governing Body is of value.
- 134.** Nonetheless, challenges remain and efforts are needed to tackle them. Momentum needs to be sustained even – or especially – in times of economic crisis. The information provided by reporting States will be of particular use to the ILO as it discharges its responsibility to assist its constituents as effectively as possible in their efforts to respect, promote and realize fundamental principles and rights at work.

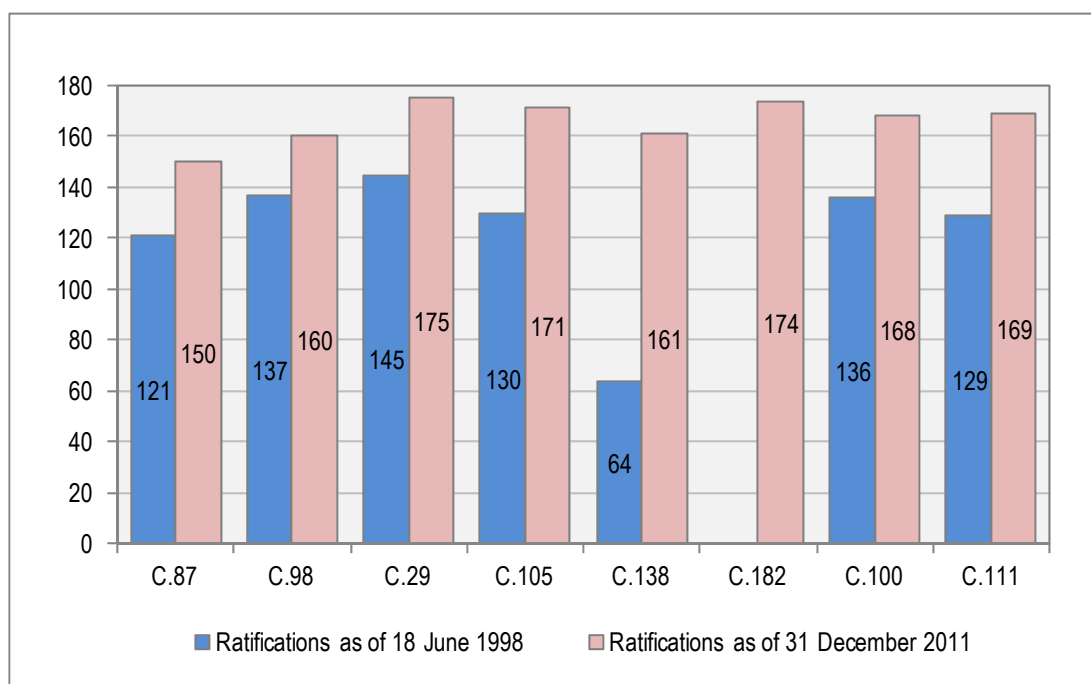
### IV. Proposed points for discussion

- 135.** The Governing Body is invited to:
- (a) comment on the information presented in this review; and
  - (b) provide guidance on key issues and priorities regarding assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work.



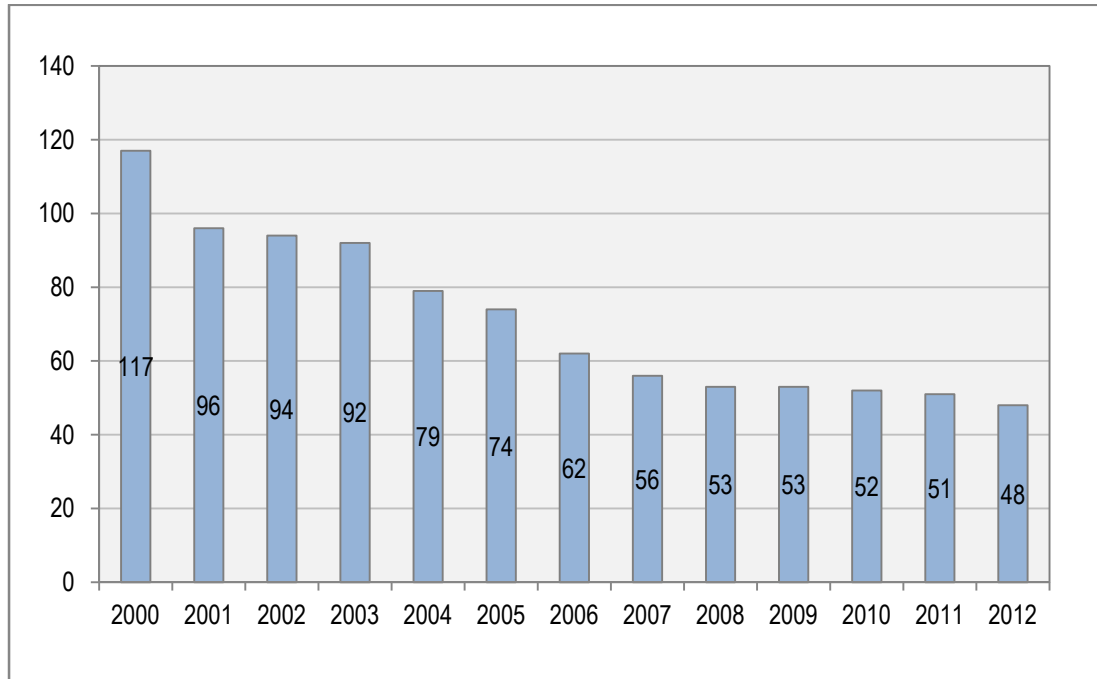
## Appendix I

### Number of ratifications of ILO fundamental Conventions at the time of the adoption of the ILO Declaration on Fundamental Principles and Rights at Work (18 June 1998) and as at 31 December 2011



## Appendix II

### Number of reporting States under the ILO Declaration on Fundamental Principles and Rights at Work (annual review 2000–12)



## Appendix III

### List of 48 States under the annual review of 2012 (and the Convention not yet ratified by each) <sup>1</sup>

Countries	Freedom of association/ collective bargaining	Forced labour	Child labour	Discrimination in employment and occupation
Afghanistan	C. 87 and 98	C. 29		
Australia			C. 138	
Bahrain	C. 87 and 98		C. 138	C. 100
Bangladesh			C. 138	
Brazil	C. 87			
Brunei Darussalam	C. 87 and 98	C. 29 and 105		C. 100 and 111
Canada	C. 98	C. 29	C. 138	
China	C. 87 and 98	C. 29 and 105		
Cuba			C. 182	
Eritrea			C. 182	
Guinea-Bissau	C. 87			
India	C. 87 and 98		C. 138 and 182	
Iran, Islamic Rep. of	C. 87 and 98		C. 138	
Iraq	C. 87			
Japan		C. 105		C. 111
Jordan	C. 87			
Kenya	C. 87			
Korea, Rep. of	C. 87 and 98	C. 29 and 105		
Kuwait				C. 100
Lao People's Dem. Rep.	C. 87 and 98	C. 105		
Lebanon	C. 87			
Liberia			C. 138	C. 100
Malaysia	C. 87	C. 105		C. 111
Maldives, Rep. of	C. 87 and 98	C. 29 and 105	C. 138 and 182	C. 100 and 111
Marshall Islands	C. 87 and 98	C. 29 and 105	C. 138 and 182	C. 100 and 111
Mexico	C. 98		C. 138	
Morocco	C. 87			
Myanmar	C. 98	C. 105	C. 138 and 182	C. 100 and 111
Nepal	C. 87			
New Zealand	C. 87		C. 138	
Oman	C. 87 and 98			C. 100 and 111
Qatar	C. 87 and 98			C. 100

<sup>1</sup> This table concerns the member States that have not ratified all eight ILO fundamental Conventions.

<b>Countries</b>	<b>Freedom of association/ collective bargaining</b>	<b>Forced labour</b>	<b>Child labour</b>	<b>Discrimination in employment and occupation</b>
Saint Lucia			C. 138	
Saudi Arabia	C. 87 and 98		C. 138	
Singapore	C. 87	C. 105		C. 111
Solomon Islands	C. 87 and 98	C. 105	C. 138 and 182	C. 100 and 111
Somalia	C. 87 and 98		C. 138 and 182	C. 100
Sudan	C. 87			
Suriname			C. 138	C. 100 and 111
Thailand	C. 87 and 98			C. 111
Timor-Leste		C. 105	C. 138	C. 100 and 111
Turkmenistan			C. 138	
Tuvalu	C. 87 and 98	C. 29 and 105	C. 138 and 182	C. 100 and 111
United Arab Emirates	C. 87 and 98			
United States	C. 87 and 98	C. 29	C. 138	C. 100 and 111
Uzbekistan	C. 87			
Vanuatu			C. 138	
Viet Nam	C. 87 and 98	C. 105		



## Appendix IV

### Reporting rates under the annual review 2000–12 (percentages)

