



FOURTH ITEM ON THE AGENDA

Choice of Conventions and Recommendations on which reports should be requested under article 19 of the Constitution – Proposal for an article 19 questionnaire concerning fundamental principles and rights at work instruments

Introduction

1. In November 2008, the Committee discussed the General Surveys and the related report forms under article 19 of the ILO Constitution in the context of the implications of the ILO Declaration on Social Justice for a Fair Globalization, 2008 (the Social Justice Declaration), for the standards strategy and in relation to the choice of instruments on which reports should be requested under article 19 of the Constitution.¹ Following these discussions, it was agreed that a linkage should be established between the recurrent items placed on the agenda of the International Labour Conference under the follow-up to the Social Justice Declaration, and the General Surveys.²
2. The first recurrent discussion under the follow-up to the Social Justice Declaration will take place in 2010 on the strategic objective of employment and the second in 2011 on the strategic objective of social protection (social security). Subject to any decision that the Governing Body may take in this regard, the Office understands that the subject of the third recurrent discussion to be placed on the agenda of the 101st Session of the International Labour Conference (2012) would deal with the strategic objective of fundamental principles and rights at work.³ As it did with social protection, the Governing

¹ GB.303/LILS/4/1, Part 1, and GB.303/LILS/6.

² For a more detailed description of the implications of the linkages between the recurrent report and the General Survey, see also GB.304/LILS/4. For decisions on the linkages between the recurrent item discussion on employment in 2010, and on social protection in 2011, see GB.303/PV, para. 252.

³ See GB.307/2.

Body may choose to address different categories of fundamental principles and rights at different times over the seven-year cycle, possibly in 2012 and 2016. In the informal discussions that took place on the follow-up to the Social Justice Declaration, three possibilities were raised regarding the categories of fundamental principles and rights that should be covered in the recurrent discussions on this topic:⁴

- (a) to have all four categories of fundamental principles and rights covered in the recurrent discussion report;
 - (b) to have freedom of association and collective bargaining covered in the report to the 2012 session of the Conference and then the three remaining categories, i.e. forced labour, child labour and non-discrimination, covered in the next report on fundamental principles and rights at work, which might be for the 2016 Conference; and
 - (c) to have the report in 2012 cover two of the categories (freedom of association and collective bargaining, and non-discrimination) with the remaining two categories (forced labour and child labour) being dealt with in 2016.
- 3.** In the first option above, the handling of the four fundamental principles and rights twice in each cycle may permit the Organization to ensure their closer integration with the other three strategic objectives. The other two options would permit more in-depth discussion of specific topics.
- 4.** With respect to the General Survey relating to fundamental principles and rights at work, two draft report forms have been prepared. The first covers all the fundamental Conventions, namely the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182). While the Conventions have important links, which the proposed report forms seek to highlight, their specificity also requires that a number of separate questions be posed for each Convention. This report form could be adapted to cover only freedom of association and collective bargaining, and non-discrimination.
- 5.** The second proposed report form addresses freedom of association and collective bargaining. It covers the following instruments: the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Workers' Representatives Convention, 1971 (No. 135), and the Workers' Representatives Recommendation, 1971 (No. 143); the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Labour Relations (Public Service) Recommendation, 1978 (No. 159); the Collective Bargaining Convention, 1981 (No. 154), and the Collective Bargaining Recommendation, 1981 (No. 163). It is recalled that a report form on Conventions Nos 151 and 154 and Recommendations Nos 159 and 163 was adopted by the Governing Body in March 2008.⁵ In November 2008, having decided to place on the agenda of the 2010 session of the Conference the recurrent item on the strategic objective of employment, the Governing Body decided to postpone the request for the article 19 reports on the application of these instruments, and

⁴ See GB.306/2/2, Appendix I. See also GB.307/2, Appendix II.

⁵ See GB.301/LILS/8 and GB.301/PV, para. 229.

to consider it later in the context of a relevant recurrent item.⁶ The second proposed report form thus takes, as a basis, the fundamental Conventions on freedom of association and collective bargaining, and adapts, as appropriate, relevant questions from the previously approved report form. The second option would allow a more detailed examination of the fundamental Conventions on freedom of association and collective bargaining, which would be supplemented by information regarding the other related Conventions, with a view to having a fuller picture of the effect of the relevant Conventions and Recommendations.

6. In deciding which report form is most appropriate in the context of the General Survey, linkages are to be established between the recurrent items placed on the agenda of the International Labour Conference under the follow-up to the Social Justice Declaration and the General Surveys.⁷ In this regard, the focus on fundamental principles and rights has been maintained in both report forms proposed. The Committee, while maintaining such linkages and in particular focusing on all or some of the fundamental principles and rights at work, but at the same time taking into account the different nature of the recurrent discussion report and the General Survey, may wish to choose an option which does not necessarily coincide with the option chosen for the recurrent item on fundamental principles and rights at work.

7. *Subject to the decision of the Governing Body to place on the agenda of the 101st Session (2012) of the Conference a recurrent discussion on the strategic objective of fundamental principles and rights at work, the Committee may wish to recommend that the Governing Body:*

- (a) request governments to submit for 2011 reports under article 19 of the Constitution; and*
- (b) approve the report form on fundamental Conventions in Appendix I; or*
- (c) approve the report form on freedom of association and collective bargaining instruments in Appendix II; or*
- (d) instruct the Office to prepare a report form on freedom of association and collective bargaining, and non-discrimination, on the basis of the report form in Appendix I.*

Geneva, 18 February 2010.

Point for decision: Paragraph 7.

⁶ See GB.303/PV, para. 252.

⁷ GB.304/LILS/4.

Appendix I

INTERNATIONAL LABOUR OFFICE

REPORTS ON
UNRATIFIED CONVENTIONS AND RECOMMENDATIONS

*(article 19 of the Constitution of the
International Labour Organization)*

REPORT FORM CONCERNING FUNDAMENTAL CONVENTIONS
(ARTICLE 19 QUESTIONNAIRE)

Geneva

2010

INTERNATIONAL LABOUR OFFICE

Article 19 of the Constitution of the International Labour Organization relates to the adoption of Conventions and Recommendations by the Conference, as well as to the obligations resulting therefrom for the Members of the Organization. The relevant provisions of paragraphs 5, 6 and 7 of this article read as follows:

5. In the case of a Convention:

...

- (e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

...

6. In the case of a Recommendation:

...

- (d) apart from bringing the Recommendation before the said competent authority or authorities, no further obligation shall rest upon the Members, except that they shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.

7. In the case of a federal State, the following provisions shall apply:

- (a) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;
- (b) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces or cantons rather than for federal action, the federal Government shall:

...

- (iv) in respect of each such Convention which it has not ratified, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise;

- (v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

...

In accordance with the above provisions, the Governing Body of the International Labour Office examined and approved the present report form. This has been drawn up in such a manner as to facilitate the supply of the required information on uniform lines.

REPORT

to be made no later than 28 February 2011, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of, on the position of national law and practice in regard to matters dealt with in the instruments referred to in the following questionnaire.

Article 19 questionnaire on fundamental Conventions

Conventions

Forced Labour Convention, 1930 (No. 29)

Abolition of Forced Labour Convention, 1957 (No. 105)

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Equal Remuneration Convention, 1951 (No. 100)

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Minimum Age Convention, 1973 (No. 138)

Worst Forms of Child Labour Convention, 1999 (No. 182)

NB: Under each of the following questions you will find a self-expanding box where you can enter your reply. Please make sure that, wherever possible, your statements are accompanied in brackets by an appropriate reference to the corresponding provision of the national legislation.

The following questions relate to the issues covered by Conventions Nos 29, 105, 100, 111, 138, 182, 87 and 98.	Please indicate whether and, if so, to what extent the Conventions are given effect in your country. As appropriate, please provide a <i>detailed reply</i> to specific questions raised under individual articles.	As appropriate, please give a precise reference (web links) to provisions of the <i>relevant legislation</i> .
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Part I. Strengthening the legal framework in the field of fundamental principles and rights at work

Constitutional and legal guarantees		
1. Are ILO fundamental Conventions automatically incorporated into domestic law upon ratification?		C29, C105, C87, C98, C100, C111, C138 and C182

<p>2. Does the Constitution of your country contain provisions:</p> <ul style="list-style-type: none"> ■ prohibiting the exaction of forced or compulsory labour; ■ prohibiting child labour or its worst forms; ■ prohibiting direct and indirect discrimination in employment and occupation; ■ providing for equal remuneration for men and women for work of equal value; ■ ensuring respect for the rights of workers and employers to form and join the organizations of their own choosing; ■ ensuring recognition of collective bargaining rights of employers or their organizations and workers' organizations. 	<p>(Including the definition of forced or compulsory labour and exceptions from this definition.)</p> <p>(Including the definition of direct and indirect discrimination.)</p> <p>(Including the definition of "remuneration" and "work of equal value".)</p>	<p>C29, Arts 1(1), 2(1) and (2)</p> <p>C138, Art. 1 and C182 Art. 1</p> <p>C111, Art. 1</p> <p>C100, Art. 1</p> <p>C87, Art. 2</p> <p>C98, Art. 4</p>
<p>3. Please indicate the provisions of any national legislation:</p> <ul style="list-style-type: none"> ■ prohibiting the exaction of forced or compulsory labour; ■ prohibiting trafficking in human beings and defining this crime; ■ prohibiting the worst forms of child labour, namely: (a) all forms of slavery or practices similar to slavery (such as: the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, forced or compulsory recruitment of children for use in armed conflict); (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; and (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs; ■ prohibiting hazardous work (i.e. work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize/harm the health, safety or morals) of children under 18; ■ providing for a minimum age for admission to employment or work; 	<p>(Including the definition of forced or compulsory labour and exceptions from this definition.)</p> <p>(Indicating, in particular, whether the hazardous types of work have been determined by national legislation or regulations.)</p> <p>(Indicating, in particular, whether this age coincides with the age of completion of compulsory education.)</p>	<p>C29, Arts 1(1), 2(1) and (2)</p> <p>C29, Arts 1(1), 2(1) and 25</p> <p>C182, Art. 3, clauses (a) to (c)</p> <p>C182, Art. 3, clause (d)</p> <p>C138, Arts 2(1), 2(3) and 2(4)</p>

<ul style="list-style-type: none"> ■ providing for a minimum age for admission to light work which is not harmful to the health of children and which does not prejudice their school attendance or their participation in vocational training programmes; ■ prohibiting direct and indirect discrimination in employment and occupation; ■ providing for equal remuneration for men and women for work of equal value; ■ preventing and prohibiting sexual harassment at work; ■ ensuring the rights of workers' and employers' organizations to: <ul style="list-style-type: none"> – draw up their constitutions and rules; – elect their representatives; – organize their administration and activities; – formulate their programmes without interference; – establish and join federations and confederations; – affiliate with international organizations; ■ ensuring that workers' and employers' organizations may not be dissolved by administrative authority; ■ prohibiting anti-union discrimination, including relevant sanctions; ■ protecting workers' and employers' organizations from acts of interference by each other or each others' agents, including provisions prohibiting such acts and providing relevant sanctions; 	<p>(Indicating, in particular, the minimum age for such employment and the types of light work that have been determined by the Government.)</p> <p>(Including the definition of direct and indirect discrimination and indicating whether the following grounds of discrimination are specifically prohibited: race, sex, colour, religion, political opinion, national extraction, and social origin, as well as any other grounds.)</p> <p>(Including the definition of "remuneration" and "work of equal value".)</p> <p>(Including the definition of sexual harassment and indicating how protection is ensured against both quid pro quo harassment and hostile work environment.)</p>	<p>C138, Art. 7(1) and (3)</p> <p>C111, Art. 1</p> <p>C100, Art. 1</p> <p>C111, Arts 1, 2 and 3</p> <p>C87, Arts 3 and 5</p> <p>C87, Art. 4; C98, Arts 1 and 3; C98, Arts 2 and 3</p>
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<ul style="list-style-type: none"> ■ promoting the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements; ■ providing for disputes settlement mechanisms. 		<p style="text-align: right;">C98, Art. 4</p> <p style="text-align: right;">C87, Art. 3; C98, Art. 4</p>
<p>4. Please indicate any measures of a general character which may apply to the exercise of freedom of association and collective bargaining by workers' and employers' organizations, as, for example, general legislation concerning associations and meetings, laws concerning the safety of the State or a state of siege, penal codes, etc.</p>		<p style="text-align: right;">C87, Arts 1–11; C98, Arts 1–6</p>
<p>5. Please indicate:</p> <ul style="list-style-type: none"> ■ what categories of workers are excluded from the coverage of the non-discrimination or equal remuneration provisions, the reasons for such exclusion and whether and, if so, how non-discrimination and equal remuneration for such groups of workers is ensured in practice; ■ any laws or regulations that limit the type of work women can do or exclude them from certain occupations, or otherwise limit their access to or continuation in employment and occupation; ■ whether there are exclusions from the coverage of the minimum age legislation; ■ what categories of workers are excluded from the coverage of any of the provisions relating to the freedom of association and collective bargaining rights or are covered by specific statutory schemes; ■ whether compulsory military service, normal civic obligations, labour of convicted persons, compulsory work in cases of emergency, and minor communal services are excluded from the definition of forced or compulsory labour. 	<p>(Such as, e.g. <i>agricultural workers, casual workers, migrant workers, workers in the informal economy, domestic workers and workers in export processing zones.</i>)</p> <p>(Such as, e.g. <i>family enterprises, family farms, domestic work, agricultural work, the migrant workforce and self-employed workers.</i>)</p> <p>(Such as, e.g. <i>the public service, agricultural workers, domestic workers, migrant workers, workers in export processing zones and workers in the informal economy.</i>)</p>	<p style="text-align: right;">C100 and C111</p> <p style="text-align: right;">C111, Arts 1, 2 and 3</p> <p style="text-align: right;">C138, Arts 4(1) and 5(1)</p> <p style="text-align: right;">C87, Arts 1–11; C98, Arts 1–6</p> <p style="text-align: right;">C29, Art. 2(2)(a), (b), (c), (d) and (e)</p>

<p>6. Please indicate:</p> <ul style="list-style-type: none"> ■ any restrictions placed on the freedom of workers to leave their employment, subject to a reasonable period of notice, in particular in the <i>public service</i> and <i>essential services</i>; ■ the provisions of the national legislation governing labour discipline, including specific provisions concerning <i>public servants</i>, <i>essential services</i> and <i>seafarers</i>; ■ the provisions of the national legislation governing the right to participate in a strike action without the threat of forced labour as a penalty for so doing; please indicate whether participation in a strike, or in certain strikes (such as, e.g. strikes declared unlawful), may be punished by penal sanctions involving compulsory labour; ■ the provisions of the national legislation governing the rights and freedoms of expression, assembly and association, including any provisions of law limiting these rights and freedoms that are enforceable with penal sanctions involving penal labour, deprivation of liberty, and re-education through labour. 		<p style="text-align: right;">C29, Arts 1(1) and 2(1)</p> <p style="text-align: right;">C105, Art. 1(c)</p> <p style="text-align: right;">C105, Art. 1(d)</p> <p style="text-align: right;">C105, Art. 1(a)</p>
<p>7. Please indicate whether and to what extent national or sectoral collective agreements give effect to fundamental Conventions.</p>		<p style="text-align: right;">C29, C105, C87, C98, C100, C111, C138 and C182</p>
<p>Enforcement</p>		
<p>8. Please indicate the provisions of the national legislation punishing the illegal exaction of forced or compulsory labour as a penal offence. Please also state whether there are penal provisions punishing trafficking in human beings.</p>	<p>(Including information on any legal proceedings which have been instituted as a consequence of the application of such provisions and on any penalties imposed.)</p>	<p style="text-align: right;">C29, Art. 25</p>

9. Please indicate the provisions of any national legislation which ensure sufficiently effective and deterrent penalties for the breach of the laws and regulations prohibiting the worst forms of child labour, hazardous work and providing for a minimum age for admission to employment or work.		C138, Art. 9(1); C182 Art. 7(1)
10. Please indicate whether and, if so, how it is ensured that the laws and policies addressing discrimination and promoting equality and equal remuneration for men and women for work of equal value, are effectively monitored and enforced.	(Including through labour inspection, national equality or other specialized bodies, courts, and any other dispute prevention and resolution machinery or processes.)	C111, Arts 2 and 3; C100, Art. 2
11. Please indicate the manner in which national legislation and regulations concerning freedom of association and collective bargaining are effectively monitored and enforced.		C87; C98
12. Please indicate whether the courts have had recourse to the principles and rights of the fundamental Conventions in interpreting national law.	(Including whether specific reference has been made to ILO Conventions.)	C29, C105, C87, C98, C100, C111, C138 and C182
13. Please indicate whether there are any specialized bodies or mechanisms for the enforcement of fundamental principles and rights at work, and provide information on their mandate and functioning.	(Including special constitutional procedures, specialized labour inspectorate bodies, etc.)	C29, C105, C87, C98, C100, C111, C138 and C182

Part II. Practical application of fundamental principles and rights at work

National programmes/policies/plans of action on fundamental principles and rights at work		
14. Has a national programme/policy/plan of action been designed to eliminate child labour or its worst forms?		C138, Art. 1; C182, Arts 1, 6(1), 7(2)
15. Please indicate whether there is a national policy to promote equality of opportunity and treatment in employment and occupation ("national equality policy").	(Including whether the policy: – applies to the <i>public and private sectors</i> ; – addresses the following grounds: race, sex, colour, religion, political opinion, national extraction and social origin, or any additional grounds.)	C111, Art. 2
16. Please indicate: ■ the elements of the national equality policy, what measures are taken to ensure the effective implementation of the policy, and what results have been achieved;	(Including legislative or administrative measures, public policies, collective agreements, affirmative action policies or programmes, studies, practical guides, awareness raising and training, establishment of specialized bodies, workplace policies, specialized enforcement mechanisms, etc. Including also how results are monitored.)	C111, Arts 2 and 3
■ the steps taken to promote the use of job evaluation methods based on objective and non-discriminatory criteria.	(Including in the public and the private sectors.)	C100, Art. 3
17. Please indicate any laws or policies that have been adopted to provide for special temporary measures (affirmative action) to address past discrimination or disadvantaged position of certain groups.	(Including for groups such as <i>ethnic minorities, indigenous and tribal peoples, workers with family responsibilities, etc.</i>)	C111, Art. 5

18. Please indicate whether there is a national policy/programme/plan of action on the elimination of forced labour, including human trafficking for labour and sexual exploitation.	(Including prevention and protection measures, in particular, in relation to the most vulnerable groups, such as, e.g. <i>women, young persons, migrants, domestic workers, etc.</i>)	C29, Arts 1(1), 2(1) and 25
Statistics and other information on practical application		
19. Has statistical information or other factual material been collected, such as: <ul style="list-style-type: none"> ■ child labour surveys and studies, and their findings; ■ number of contraventions of child labour rules reported, prosecuted/handled, sanctioned (including penal sanctions); ■ information/data, if any, on children's illness or injury arising from work; ■ school enrolment rate and attendance rate; ■ labour inspection records and its findings on child labour; ■ any documented results of the execution of the plan/programme of action, including the number of children rescued from child labour or its worst forms, and benefiting from the service provided? 	(Including sex disaggregated data.)	C138 and C182
20. Please indicate whether and, if so, how information is collected and analysed as a means of determining the remuneration gap between men and women, the nature and extent of discrimination and inequalities with respect to the grounds of race, colour, sex, religion, political opinion, national extraction and social origin, and to address the gaps identified.	(Including sex disaggregated statistics with respect to the distribution of men and women in the public and private sectors by earnings level, branch of economic activity and at each level within various occupational categories. Also surveys, studies, etc.)	C111, Arts 2 and 3; C100, Art. 2

21. Please indicate whether in your country practices have been identified that constitute or could constitute cases of forced labour within the meaning of the Conventions. Please indicate the measures taken or contemplated to eradicate such practices, particularly in relation to the most vulnerable groups, such as, e.g. <i>migrant workers, domestic workers, agricultural workers, members of indigenous communities</i> . Please also indicate whether such practices have been identified in <i>export processing zones (EPZ)</i> , and if so, any measures taken to eradicate such practices.		C29, Arts 1(1) and 2(1); C105, Art. 1(b), (e)
22. Please provide any available statistical information, disaggregated by sex, regarding the number of convictions of persons found guilty in the illegal exaction of forced labour and/or trafficking in human beings, the number of persons rescued from forced labour/trafficking situations, as well as any other statistical information relating to the execution of the national plans/programmes of action aiming at the elimination of forced labour and trafficking.		C29 and C105
23. Please provide any available statistics concerning the percentage of organized workers and employers, the number of workers' and employers' organizations in the country, the number of valid collective agreements, the coverage of collective agreements, confirmed violations of freedom of association or collective bargaining and the imposition of relevant sanctions.		C87, Arts 1–11; C98, Arts 1–6

Part III. Fundamental Conventions and social dialogue

24. Please describe the role of workers' and employers' organizations, social dialogue and tripartism in the elaboration and implementation of various measures aiming at the eradication of all forms of forced or compulsory labour and trafficking in human beings.		

25. Please indicate, in particular, whether tripartite consultations at the national level concerning eradication of forced or compulsory labour and trafficking in human beings have been held or should be held in your country.		
26. Please indicate the manner in which proposals relating to the freedom of association and collective bargaining are subjected to tripartite consultation and whether any tripartite mechanisms are involved in the monitoring of respect of these principles.		
27. Please indicate how employers' and workers' organizations are involved in promoting understanding, acceptance and the realization of the principle of equality of opportunity and treatment in employment and occupation.		C111, Art. 3
28. Are any additional grounds of discrimination prohibited under the legislation, and, if so, how were employers' and workers' organizations, or other appropriate bodies, involved in determining such additional grounds?	(Any grounds other than race, colour, sex, religion, political opinion, national extraction and social origin.)	C111, Art. 1(1)(b)
29. Please indicate whether and, if so, how employers' and workers' organizations are involved in giving effect to the principle of equal remuneration for men and women for work of equal value.	(Including collective bargaining, participation in tripartite bodies, joint studies, development of practical tools and guides, equal pay reviews, etc.)	C100, Art. 4
30. Please indicate whether consultations have been held with the social partners in designing and implementing programmes of action to eliminate the worst forms of child labour and in determining hazardous types of work.		C138, Art. 3(2); C182, Arts 4(1) and 6(1)

Part IV. Impact of ILO instruments

31. What are the obstacles that impede or delay ratification and what are ratification prospects for Conventions Nos 29, 87, 98, 100, 105, 111, 138 and 182? Please indicate any measures taken or envisaged to overcome these obstacles.	(Indicating any difficulties presented by the Conventions, in legislation or national practice, or any other reasons which prevent or delay the ratification.)
32. To what extent has effect been given, or is proposed to be given, to the above Conventions, if not ratified?	
33. What suggestions would your country wish to make concerning possible standard-related action to be taken by the ILO?	(For example, new standards, revision, etc.)
34. Has there been any request for policy support or technical cooperation support provided by the ILO to give effect to the above Conventions? If this is the case, what has been the effect of this support?	
35. What are the future policy advisory support and technical cooperation needs of your country to give effect to the objectives of the above Conventions?	
36. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the ILO.	

<p>37. Please state whether you have received from the organizations of employers and workers concerned any observations concerning the effect given, or to be given, to the instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.</p>	

Appendix II

INTERNATIONAL LABOUR OFFICE

REPORTS ON
UNRATIFIED CONVENTIONS AND RECOMMENDATIONS

*(article 19 of the Constitution of the
International Labour Organization)*

REPORT FORM CONCERNING FREEDOM OF ASSOCIATION
AND COLLECTIVE BARGAINING INSTRUMENTS
(ARTICLE 19 QUESTIONNAIRE)

Geneva

2010

INTERNATIONAL LABOUR OFFICE

Article 19 of the Constitution of the International Labour Organization relates to the adoption of Conventions and Recommendations by the Conference, as well as to the obligations resulting therefrom for the Members of the Organization. The relevant provisions of paragraphs 5, 6 and 7 of this article read as follows:

5. In the case of a Convention:

...

- (e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

...

6. In the case of a Recommendation:

...

- (d) apart from bringing the Recommendation before the said competent authority or authorities, no further obligation shall rest upon the Members, except that they shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the

Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.

7. In the case of a federal State, the following provisions shall apply:

- (a) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;
- (b) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces or cantons rather than for federal action, the federal Government shall:

...

- (iv) in respect of each such Convention which it has not ratified, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise;

- (v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

...

In accordance with the above provisions, the Governing Body of the International Labour Office examined and approved the present report form. This has been drawn up in such a manner as to facilitate the supply of the required information on uniform lines.

REPORT

to be made no later than 28 February 2011, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of, on the position of national law and practice in regard to matters dealt with in the instruments referred to in the following questionnaire.

Article 19 questionnaire on freedom of association and collective bargaining instruments

Conventions

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
 Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
 Workers' Representatives Convention, 1971 (No. 135)
 Labour Relations (Public Service) Convention, 1978 (No. 151)
 Collective Bargaining Convention, 1981 (No. 154)

Recommendations

Workers' Representatives Recommendation, 1971 (No. 143)
 Labour Relations (Public Service) Recommendation, 1978 (No. 159)
 Collective Bargaining Recommendation, 1981 (No. 163)

NB: Under each of the following questions you will find a self-expanding box where you can enter your reply. Please make sure that, wherever possible, your statements are accompanied in brackets by an appropriate reference to the corresponding provision of the national legislation.

<p>The following questions relate to the issues covered by Conventions Nos 87, 98, 135, 151 and 154, and Recommendations Nos 143, 159 and 163.</p>	<p>Please indicate whether and, if so, to what extent the Conventions and Recommendations are given effect in your country. As appropriate, please provide a <i>detailed reply</i> to specific questions raised under individual articles.</p>	<p>As appropriate, please give a precise reference (web links) to provisions of the <i>relevant legislation</i>.</p>
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Part I. Strengthening the legal framework of freedom of association and collective bargaining

Constitutional and legal guarantees		
1. Are ILO Conventions relating to freedom of association and collective bargaining automatically incorporated into domestic law upon ratification?		
2. Does the Constitution of your country contain provisions: <ul style="list-style-type: none"> ■ ensuring respect for the rights of workers and employers to form and join the organizations of their own choosing and exercise their activities; ■ ensuring recognition of collective bargaining rights between employers or their organizations and workers' organizations. 		<p>C87, Art. 2; C151, Arts 4 and 5</p> <p>C98, Art. 4; C154, Art. 5</p>
3. Please indicate the provisions of any national legislation: <ul style="list-style-type: none"> ■ ensuring the rights of workers' and employers' organizations to: <ul style="list-style-type: none"> - draw up their constitutions and rules; - elect their representatives; - organize their administration and activities; - formulate their programmes without interference; - establish and join federations and confederations; - affiliate with international organizations; ■ ensuring that workers' and employers' organizations may not be dissolved by administrative authority; 	(Please specify the processes for dissolution and indicate whether these processes are supervised by the courts.)	<p>C87, Art. 3</p> <p>C87, Art. 5; C87, Art. 4</p>

<ul style="list-style-type: none"> ■ prohibiting anti-union discrimination, including relevant sanctions; ■ protecting workers' and employers' organizations from acts of interference by each other or each others' agents, including provisions prohibiting such acts and providing relevant sanctions; ■ promoting the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements; ■ providing for disputes settlement mechanisms. 	<p>(Please specify the nature of the machinery and indicate whether collective bargaining machinery is available to groupings of workers other than trade unions or elected representatives in the meaning of Art. 3(b) of C135 and, if so, under what conditions?)</p> <p>(If so, please describe the nature of the machinery, e.g. mediation, conciliation, arbitration, adjudication.)</p>	<p>C98, Arts 1 and 3</p> <p>C135, Art. 1; R143, paras 5–8</p> <p>C98, Arts 2 and 3</p> <p>C98, Art. 4</p> <p>C135, Arts 3 and 5</p> <p>C151, Art. 7; R159, paras 1 and 2</p> <p>C154, Arts 3, 5–8; R163, paras 2–7</p> <p>C151, Art. 8</p> <p>C154, Art. 5; R163, para. 8</p>
<p>4. Please describe any measures taken to further extend collective bargaining with respect to:</p> <ul style="list-style-type: none"> – all employers and all groups of workers (with the possible exception of the police and the armed forces); – the matters covered. 	<p>(Please also indicate any rules of procedure established and agreed between employers' and workers' organizations.)</p>	<p>C154, Arts 1 and 5</p>
<p>5. Please indicate the measures of a general character which may apply to the exercise of freedom of association and collective bargaining by workers' and employers' organizations, as, for example, general legislation concerning associations, demonstrations and meetings, laws concerning the safety of the State or a state of emergency, penal codes, etc.</p>		<p>C87, Arts 1–11; C98, Arts 1–6</p>

<p>6. Please indicate:</p> <ul style="list-style-type: none"> ■ what categories of workers are excluded from the coverage of any of the provisions relating to the freedom of association and collective bargaining or are covered by specific statutory schemes; ■ whether there are specific exclusions or statutory provisions in relation to the freedom of association and collective bargaining rights of public servants engaged in the administration of the State or of high-level public employees. 	<p>(Such as, e.g. <i>the public service, agricultural workers, domestic workers, migrant workers, workers in export processing zones and workers in the informal economy.</i>)</p> <p>(Please describe any special procedures for the determination of terms and conditions of employment of public employees; indicate any matters open to negotiation and any matters that are excluded therefrom; please also indicate any special modalities of application of collective bargaining legislation for the public service.)</p>	<p>C87, C98, C151 and C154</p> <p>C87, C154, C98, Art. 6; C151, Art. 1; C154, Article 1(3)</p>
<p>7. Please indicate whether and, if so, how complete independence from public authorities and adequate protection against acts of anti-union discrimination are ensured to public employees' organizations and their members.</p>		<p>C151, Arts 4 and 5</p>
<p>8. Please indicate any provisions relating to the granting of facilities to workers' representatives.</p> <p>Are there special provisions relating to the provision of facilities to representatives of recognized public employees' organizations? If so, please specify.</p>		<p>C135, Art. 2; R143, paras 9–17</p> <p>C151, Art. 6</p>
<p>9. Please indicate any provisions regarding the election of employee representatives at the workplace and the manner in which it is ensured that the existence of elected representatives is not used to undermine the position of the trade unions concerned or their workplace representatives.</p>		<p>C135, Arts 3 and 5; R143, paras 2–4</p>

10. Please indicate whether and to what extent national or sectoral collective agreements give effect to the provisions of the Conventions relating to freedom of association and collective bargaining.		C87, C98, C135, C151 and C154; R143, R159 and R163
Enforcement		
11. Please indicate the manner in which national legislation and regulations concerning freedom of association and collective bargaining are effectively monitored and enforced.		C87, C98, C135, C151 and C154
12. Please indicate whether the courts have had recourse to the principles of freedom of association and collective bargaining or their corresponding Conventions in interpreting national law.	(Including whether specific reference has been made to ILO Conventions.)	C87, C98, C135, C151 and C154
13. Please indicate whether there are any specialized bodies or mechanisms for the enforcement of freedom of association and collective bargaining, and provide information on their mandate and functioning.	(Including special constitutional procedures, specialized labour inspectorate bodies, etc.)	C87, C98, C135, C151 and C154

Part II. Practical application

Statistics and other information on practical application		
14. Please provide any available statistics concerning the percentage of organized workers and employers, the number of workers' and employers' organizations in the country, the number of valid collective agreements, the coverage of collective agreements, confirmed violations of freedom of association or collective bargaining and the imposition of relevant sanctions.	(Please provide separate sex disaggregated statistics for categories of workers under separate statutory schemes, e.g. public service.)	C87, C98, C135, C151 and C154

Part III. Social dialogue

15. Please indicate the manner in which proposals relating to freedom of association and collective bargaining are subjected to tripartite consultation and whether any tripartite mechanisms are involved in the monitoring of respect of these principles.	

Part IV. Impact of ILO instruments

16. What are the obstacles that impede or delay ratification and what are ratification prospects for Conventions Nos 87, 98, 135, 151 and 154? Please indicate any measures taken or envisaged to overcome these obstacles.	(Indicating any difficulties presented by the Conventions, in legislation or national practice, or any other reasons which prevent or delay the ratification.)

17. To what extent has effect been given, or is proposed to be given, to the above Conventions, if not ratified?	
18. What suggestions would your country wish to make concerning possible standard-related action to be taken by the ILO?	(For example, new standards, revision, etc.)
19. Has there been any request for policy support or technical cooperation support provided by the ILO to give effect to the above Conventions? If this is the case, what has been the effect of this support?	
20. What are the future policy advisory support and technical cooperation needs of your country to give effect to the objectives of the above Conventions?	
21. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the ILO.	
22. Please state whether you have received from the organizations of employers and workers concerned any observations concerning the effect given, or to be given, to the instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.	