

APPENDIX A: STATE DEPARTMENT GUIDELINES FOR REPORTING ON WORKER RIGHTS

U.S. law defines “internationally recognized worker rights” as including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. This appendix reproduces text from the Department of State’s annual report on human rights practices.¹

Right of Association

“ ‘The right of association’ has been defined by the International Labor Organization (ILO) to include the right of workers and employers to establish and join organizations of their own choosing without previous authorization; to draw up their own constitutions and rules, elect their representatives, and formulate their programs; to join in confederations and affiliate with international organizations; and to be protected against dissolution or suspension by administrative authority.”²

“The right of association includes the right of workers to strike. While strikes may be restricted in essential services (i.e., those services the interruption of which would endanger the life, personal safety, or health of a significant portion of the population) and in the public sector, these restrictions must be offset by adequate guarantees to safeguard the interests of the workers concerned (e.g., machinery for mediation and arbitration; due process; and the right to judicial review of all legal actions). Reporting on restrictions affecting the ability of workers to strike generally includes information on any procedures that may exist for safeguarding workers’ interests.”

Right to Organize and Bargain Collectively

“ ‘The right to organize and bargain collectively’ includes the right of workers to be represented in negotiating the prevention and settlement of disputes with employers; the right to protection against interference; and the right to protection against acts of antiunion discrimination. Governments should promote machinery for voluntary negotiations between employers and workers and their organizations. Reporting on

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1. Department of State, *Country Reports on Human Rights Practices for 1996* (January 30, 1997), Appendix B (available at http://www.state.gov/www/issues/human_rights/1996_hrp_report/appendb.html).
 2. Rights of association, organization, and collective bargaining are commonly regarded as basic human rights. They are addressed in major ILO conventions as well as in provisions of the Universal Declaration of Human Rights; the International Covenant on Economic, Social, and Cultural Rights; and the International Covenant on Civil and Political Rights.

the right to organize and bargain collectively includes descriptions of the extent to which collective bargaining takes place and the extent to which unions, both in law and practice, are effectively protected against antiunion discrimination.”

Prohibition of Forced or Compulsory Labor

“ ‘Forced or compulsory labor’ is defined as work or service exacted from any person under the menace of penalty and for which the person has not volunteered. ‘Work or service’ does not apply in instances in which obligations are imposed to undergo education or training. ‘Menace of penalty’ includes loss of rights or privileges as well as penal sanctions. The ILO has exempted the following from its definition of forced labor: compulsory military service, normal civic obligations, certain forms of prison labor, emergencies, and minor communal services. Forced labor should not be used as a means of (1) mobilizing and using labor for purposes of economic development; (2) racial, social, national, or religious discrimination; (3) political coercion or education, or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social, or economic system; (4) labor discipline; or (5) as a punishment for having participated in strikes. Constitutional provisions concerning the obligation of citizens to work do not violate this right so long as they do not take the form of legal obligations enforced by sanctions and are consistent with the principle of ‘freely chosen employment.’ ”³

Minimum Age for Employment of Children

“ ‘Minimum age for employment of children’ concerns the effective abolition of child labor by raising the minimum age for employment to a level consistent with the fullest physical and mental development of young people. In addition, young people should not be employed in hazardous conditions or at night.”

Acceptable Conditions of Work

“ ‘Acceptable conditions of work’ refers to the establishment and maintenance of machinery, adapted to national conditions, that provides for minimum working standards, i.e., wages that provide a decent living for workers and their families; working hours that do not exceed 48 hours per week, with a full 24-hour rest day; a

3. The International Labor Organization provides two major conventions on forced or compulsory labor: convention 105 and convention 29. In addition, the U.N. Covenant on Civil and Political Rights prohibits forced or compulsory labor, and the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights prohibit slavery and servitude without exception.

specified annual paid holiday; and minimum conditions for the protection of the safety and health of workers. Differences in levels of economic development are taken into account in the formulation of internationally recognized labor standards. For example, many ILO standards concerning working conditions permit flexibility in their scope and coverage. They may also permit countries a wide choice in their implementation, including progressive implementation, by enabling countries to accept a standard in part or subject to specified exceptions. Countries are expected to take steps over time to achieve the higher levels specified in such standards. It should be understood, however, that this flexibility applies only to internationally recognized standards concerning working conditions. No flexibility is permitted concerning the acceptance of the basic principles contained in human rights standards, i.e., freedom of association, the right to organize and bargain collectively, the prohibition of forced labor, and the absence of discrimination.”

APPENDIX B: INTERNATIONAL ORGANIZATIONS AND AGREEMENTS ON WORKER RIGHTS

Concerns about worker rights span two centuries of economic and political change. According to one analyst, “concerns about basic rights and specific practices surfaced in the nineteenth century, with the spread of industrialization and international commerce.”¹ Some early advocates of international standards for labor believed that conflicts between domestic policy and international competition would undermine both.² They, like many contemporary policymakers, voiced economic, humanitarian, and political concerns. Such advocates provided the groundwork for the International Labor Organization (ILO) and other agencies that deal with worker rights.

Early Support for Worker Rights

Some of the first international treaties on worker rights sought to end slavery and the slave trade. Fay Lyle of the Department of Labor provides a historical overview:

Initial international treaties relating to worker rights [Peace Treaties of Paris of 1814 and 1815, the Declaration of the Congress of Vienna of 1815, and the Declaration of Verona of 1822] incorporated the general idea that the slave trade was abhorrent to justice and humanity, admonished nations worldwide to prohibit it, and enjoined the signatory countries to take action against it. Later treaties [Treaties of 1831 and 1833 between France and Great Britain, the Treaty of London of 1841 and the Treaty of Washington of 1862] covered joint action at sea to suppress the slave trade and afforded mutual rights to visit, search, and capture ships suspected of participating in slave trade enterprises. Finally, in the late nineteenth century, the General Act of the Berlin Conference of 1885 and the General Act of the Brussels Conference of 1890 attempted to suppress the institution of slavery itself as well as slave trading. These were the first attempts to regulate international trade on moral grounds.³

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1. Göte Hansson, *Social Clauses and International Trade* (New York: St. Martin's Press, 1983), p. xx.
 2. Some studies refer to “international legislation” rather than “international standards.” As used in this appendix, “international standards” refers to standards for worker rights that bind two or more countries, including those established under the auspices of international agencies. Ernest Mahaim, “The Historical and Social Importance of International Labor Legislation,” in James T. Shotwell, ed., *The Origins of the International Labor Organization*, vol. 1, *History* (New York: Columbia University Press, 1934), p. 12, states: “The term ‘international labor legislation’ is currently used today to describe the body of conventions accepted by a greater or smaller number of states and laying down legal rules for labor questions.”
 3. Fay Lyle, *Worker Rights in U.S. Policy* (Department of Labor, Bureau of International Labor Affairs, May 1991), p. 1.

Some analysts describe Robert Owen, a British industrialist, as the first advocate of international labor standards because he sought protective measures and a social commission during the Congress of the Holy Alliance in 1818.⁴ Other analysts give more credit to Charles Hindley, a British politician; Daniel Legrand, a French industrialist; and Jerome Blanqui, a French economist. Those men saw potential conflicts between international competition and domestic labor standards.⁵ An overview of the origins of the ILO presents three historical arguments for international labor standards. The first is humanitarian, the second is political, and the third is economic:

- o to improve “the harsh lot of the working masses,”
- o to “consolidate social peace in industrializing countries,” and
- o to equalize “conditions for international competition.”⁶

Regarding international competition, some of the early proponents of international labor standards “sought to make it clear that an international regulation of labor would prevent countries which had protective national legislation in labor matters from paying doubly for their social policies in the form of economic disadvantage in international trade.”⁷

The Berne conferences on labor—held in Berne, Switzerland, in 1905 and 1906—marked a transition in the history of international policy.⁸ The conferees produced two international conventions: one to prohibit women from working at night, and another to prohibit the use of white phosphorous in the production of matches. The first convention addressed hours of work and the second occupational health and safety. Several European countries eventually ratified both conventions.

4. For more on the early history of worker rights, see Asad Alam, “Labor Standards and Comparative Advantage” (Ph.D. dissertation, Columbia University, 1992), pp. 10-14; Victor-Yves Ghebali, “From Philanthropy to Foundation: The Roots of the ILO,” *World of Work*, no. 8 (June 1994), pp. 8-9; Hansson, *Social Clauses and International Trade*, pp. 11-13; and Mahaim, “The Historical and Social Importance of International Labor Legislation.”

5. “The point which should be noted is that, from the outset, the idea of international labor legislation is bound up with the idea that competition between manufacturers in different countries is an obstacle in the way of establishment and development of national legislation.” Mahaim, “The Historical and Social Importance of International Labor Legislation,” p. 4.

6. Ghebali, “From Philanthropy to Foundation,” p. 9.

7. Ibid.

8. For a brief history of the Berne conferences, see Ghebali, “From Philanthropy to Foundation,” pp. 10-11; Hansson, *Social Clauses and International Trade*, pp. 17-18; and Mahaim, “The Historical and Social Importance of International Labor Legislation,” pp. 9-12. Ghebali identifies Berne as the source of the first conventions on international labor regulation.

The United States did not participate in the Berne conferences, but it adopted an independent ban on imports and exports of white phosphorous matches and a tax on their domestic production in 1912.

The International Labor Organization

The International Labor Organization was founded in Part XIII of the Treaty of Versailles in 1919. The ILO, which is now a specialized agency of the United Nations, sets international standards for working conditions, promotes compliance with those standards, and supports technical assistance in developing countries. As such, it covers a wide range of sectoral and global issues.

History and Structure. In 1919, the conferees of the Paris Peace Conference appointed the Commission on International Labor Legislation to establish a charter for the first permanent international labor organization. The commission was directed to “inquire into the conditions of employment from the international aspect, and to consider the international means necessary to secure common action on matters affecting conditions of employment, and to recommend the form of a permanent agency to continue such inquiry and consideration in co-operation with and under the direction of the League of Nations.”⁹

The Treaty of Versailles founded the ILO as a permanent organization associated with the League of Nations.¹⁰ Part I of the treaty, known as the Covenant of the League of Nations, called for an international organization “to secure and maintain fair and humane conditions of labor for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend.”¹¹ Part XIII of the treaty, which formed the constitution of the ILO, established the structure and composition of the organization. It created a General Conference of Representatives of the Members and an International Labor Office controlled by a Governing Body. (The conference is the legislative and policy-making branch of the ILO, the Governing Body is the executive council, and the International Labor Office is the administrative branch.) Part XIII also set up a tripartite governing structure based on representation by governments, employers,

9. International Labor Office, *Official Bulletin*, vol. 1 (1923), p. v.

10. For more on the origins, history, and structure of the ILO, see Lois McHugh, *Trade Agreements and the International Labor Standards of the ILO*, CRS Report for Congress 94-535 F (Congressional Research Service, June 30, 1994); and Diana Vincent-Daviss, “Human Rights Law: A Research Guide to the Literature—Part III: The International Labor Organization and Human Rights,” *Journal of International Law and Politics*, vol. 15 (Fall 1982).

11. See Part I of the Treaty of Versailles, Article 23, reprinted in International Labor Office, *Permanent Labour Organization Constitution and Rules* (Geneva: ILO, 1923).

and workers; it identified the original members of the League of Nations as the original members of the ILO; and it provided ILO membership for all future members of the league.¹² Other members, such as the United States, were admitted in later years. (The United States first joined in 1934, withdrew in 1977, and rejoined in 1980.) The ILO has grown since 1919, with a current total of 174 members, but its basic structure has not changed.

The founders of the ILO were motivated, in the words of Part XIII of the treaty, “by sentiments of justice and humanity as well as the desire to secure the permanent peace of the world.” (See Box B-1 on page 44 for the text of Part XIII.) The constitution of the ILO asserted the necessity of social justice (“such a peace can be established only if it is based on social justice”), drawing a link between economic, humanitarian, and political concerns (“conditions of labor exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled”). The founders created the ILO to improve those conditions and to further “the well-being, physical, moral and intellectual, of industrial wage-earners.”¹³

The ILO focused initially on setting international standards for conditions of employment, labor protection, social security, and occupational health and safety.¹⁴ The first session of the International Labor Conference convened in Washington, D.C., on October 29, 1919, with 123 delegates representing 40 countries. It adopted standards for hours of work, unemployment, reciprocity of treatment for foreign workers, maternity protection, restrictions on night work for women and children, various health concerns, and the minimum age for industrial employment. In 1944, the ILO adopted the Declaration of Philadelphia as an annex to its constitution (see Box B-2 on page 46). The declaration embraced the doctrine of social justice while establishing new and broader economic and social objectives.¹⁵ In 1946, the International Labor Organization became a specialized agency of the United Nations.

Contemporary Activities. Drawing from the founding principles of the Treaty of Versailles and the broader objectives of the Declaration of Philadelphia, the ILO sets international standards for working conditions, some of which it identifies as

12. For more on membership, see Article 387, Constitution of the International Labor Organization, Part XIII of the Treaty of Versailles, reprinted in International Labor Office, *Official Bulletin*, vol. 1.

13. Treaty of Versailles, Part XIII, Article 427.

14. See Vincent-Daviss, “Human Rights Law,” pp. 215-216.

15. *Ibid.*, pp. 216-217. As Vincent-Daviss notes, the ILO extended its reach from industrial workers to workers in all occupations and, in some cases, to the entire population.

standards for “basic human rights.”¹⁶ The organization uses formal “conventions” and less formal “recommendations” to promote standards.¹⁷ Conventions, which are like international treaties, are binding for the members that ratify them, although compliance is voluntary, as discussed below. (The principle of freedom of association is an exception; it applies to all members regardless of ratification.) Recommendations, which are not binding, provide guidance for domestic policy. The ILO also furnishes countries with technical assistance, supporting development programs, educational activities, advisory missions, and research.

As of January 1997, the ILO had adopted 180 conventions and recorded 6,392 ratifications. Its major conventions are among those most ratified; they include the conventions covering freedom of association, the right to organize and to collective bargaining, forced labor, nondiscrimination, and child labor.¹⁸ Other conventions address wages, hours of work, occupational safety and health, social security, migrant labor, and other issues. Some conventions address the more narrow concerns of a particular sector, such as the protection of dock workers employed in loading and unloading operations (convention 152). The United States has ratified 12 conventions, including one major one—convention 105 on the abolition of forced labor (see Table B-1 on page 48).

The ILO cannot force compliance, but by focusing attention on the issue, it plays an important part in international efforts to promote worker rights.¹⁹ The ILO examines reports from governments and communications from workers’ and employers’ organizations to determine whether a member country has met the terms of the conventions it has ratified. If the ILO finds that a member has persistently failed to meet those terms, it may publish a “special paragraph” in its report to the International Labor Conference, which highlights cases where previous discussions have had little effect. Such paragraphs are considered a serious condemnation. The ILO may also recommend that the country in question request an ILO advisory

16. Specifically, the ILO identifies its standards for freedom of association, forced labor, and equality of opportunity and employment as standards for “basic human rights.” See International Labor Organization, *Summaries of International Labor Standards*, 2nd ed. (Geneva: International Labor Office, 1991), p. 123.

17. The discussion of conventions and recommendations is based on Article 19 of the Constitution of the International Labor Organization, as amended, reprinted in *Constitution of the International Labor Organization and Standing Orders of the International Labor Conference* (Geneva: International Labor Office, December 1992), and on various other ILO publications.

18. For another list of major conventions, which includes freedom of association, the abolition of forced labor, nondiscrimination, equal remuneration, employment policy, social security, migrant workers, labor inspection, and tripartite consultation, see Nicolas Valticos, “The Golden Age of Standards,” *World of Work*, no. 8 (June 1994), p. 13.

19. This discussion is based on McHugh, *Trade Agreements and the International Labor Standards of the ILO*, pp. 6-8. For more information, McHugh cites an unpublished paper written by the Department of Labor’s Bureau of International Labor Affairs in July 1993.

BOX B-1.
THE CONSTITUTION OF THE ILO
(PART XIII OF THE TREATY OF VERSAILLES)

Part XIII of the 1919 Treaty of Versailles formed the constitution of the International Labor Organization (ILO) and established its founding principles and procedures. Section I, titled "Organization of Labor," asserted the importance of social justice as a foundation for universal peace, the need to improve specific conditions of labor that produce unrest and threaten peace, and the difficulty of improving the conditions of labor in one country when inhumane conditions persist in others. It states:

Whereas the League of Nations has for its object the establishment of universal peace, and such a peace can be established only if it is based on social justice;

And whereas conditions of labor exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required: as for example, by the regulation of hours of work, including the establishment of a maximum working day, the regulation of the labor supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision of old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of freedom of association, the organization of vocational and technical education and other measures;

Whereas also the failure of any nation to adopt humane conditions of labor is an obstacle in the way of other nations which desire to improve the conditions in their own countries.

The High Contracting Parties, moved by sentiments of justice and humanity as well as the desire to secure the permanent peace of the world, agree to the following

Section II, titled "General Principles," recognized that "differences of climate, habits and customs, of economic opportunity and industrial tradition, make strict uniformity in the conditions of labor difficult of immediate attainment" but held "that labor should not be regarded merely as an article of commerce." On that basis, the treaty established certain "methods and principles for regulating labor conditions which all industrial communities should endeavor to apply, so far as their special circumstances will permit." Among those methods and principles, the treaty featured nine of particular importance:

First. The guiding principle above enunciated that labor should not be regarded merely as a commodity or article of commerce.

Second. The right of association for all lawful purposes by the employed as well as by the employers.

BOX B-1.
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Third. The payment to the employed of a wage adequate to maintain a reasonable standard of life as this is understood in their time and country.

Fourth. The adoption of an eight-hour day or a forty-eight-hour week as the standard to be aimed at where it has not already been attained.

Fifth. The adoption of a weekly rest of at least twenty-four hours, which should include Sunday whenever practicable.

Sixth. The abolition of child labor and the imposition of such limitations on the labor of young persons as shall permit the continuation of their education and assure their proper physical development.

Seventh. The principle that men and women should receive equal remuneration for work of equal value.

Eighth. The standard set by law in each country with respect to the conditions of labor should have due regard to the equitable economic treatment of all workers lawfully resident therein.

Ninth. Each State should make provisions for a system of inspection in which women should take part, in order to ensure the enforcement of the laws and regulations for the protection of the employed.

SOURCES: Part XIII of the Treaty of Versailles reprinted in International Labor Office, *Official Bulletin*, vol. 1 (1923). The text has also been printed and discussed in a number of secondary sources, including Göte Hansson, *Social Clauses and International Trade* (New York: St. Martin's Press, 1983).

mission, which provides technical assistance to promote compliance with the standard. In addition, the ILO considers complaints under two special procedures. One procedure applies to the principle of freedom of association, and the other applies to all conventions.

BOX B-2.
THE PHILADELPHIA DECLARATION OF 1944

The General Conference of the International Labor Organization (ILO) adopted the Declaration of Philadelphia in 1944 as an annex to the organization's constitution and a statement of its aims, purposes, and principles. The declaration has been described as "the first universal charter of fundamental human rights to have been adopted by an international organization." The conference reaffirmed the fundamental principles on which the ILO was based—in particular, that:

- o "Labor is not a commodity,"
- o "Freedom of expression and of association are essential to sustained progress,"
- o "Poverty anywhere constitutes a danger to prosperity everywhere," and
- o "The war against want requires to be carried on with unrelenting vigor within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare."

The conference also reaffirmed the need for social justice as a foundation for lasting peace. On that basis, the declaration asserts specific principles of social justice, the aim of national and international policy, and the role of the ILO:

- o "All human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity."
- o "The attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy."
- o "All national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective."
- o "It is a responsibility of the International Labor Organization to examine and consider all international economic and financial policies and measures in light of this fundamental objective."
- o "In discharging the tasks entrusted to it the International Labor Organization, having considered all relevant economic and financial factors, may include in its decisions and recommendations any provisions which it considers appropriate."

In addition, the conference recognized the "solemn obligation" of the ILO to promote programs with certain economic and social objectives, such as:

BOX B-2.
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- o “Full employment and the raising of standards of living;”
- o “The employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;”
- o “The provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labor, including migration for employment and settlement;”
- o “Policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;”
- o “The effective recognition of the right of collective bargaining, the cooperation of management and labor in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;”
- o “The extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;”
- o “Adequate protection for the life and health of workers in all occupations;”
- o Provision for child welfare and maternity protection;”
- o “The provision of adequate nutrition, housing and facilities for recreation and culture;” and
- o “The assurance of equality of educational and vocational opportunity.”

The conference pledged the ILO’s full cooperation with such international organizations as might be entrusted with promoting “the fuller and broader utilization of the world’s productive resources” (including a variety of specific economic measures, such as those to promote production and consumption, economic stability and development, and international trade) and “the health, education, and well-being of all peoples.” The conference also affirmed the universality of the declaration’s principles, although it acknowledged that its members faced unique and varied circumstances: “the manner of [the principles’] application must be determined with due regard to the stage of social and economic development reached by each people.”

SOURCE: The Declaration of Philadelphia reprinted in *Constitution of the International Labor Organization and Standing Orders of the International Labor Conference* (Geneva: International Labor Office, 1992).

TABLE B-1. ILO CONVENTIONS THAT THE UNITED STATES HAS RATIFIED

Number	Title and Year of Convention
53	Officer's Competency Certificates Convention, 1936
54 ^a	Holidays with Pay (Sea) Convention, 1936
55	Shipowners Liability (Sick and Injured Seamen) Convention, 1936
57 ^b	Hours of Work and Manning (Sea) Convention, 1936
58	Minimum Age (Sea) Convention, 1936
74	Certificate of Able Seamen Convention, 1946
80	Final Articles Revision Convention, 1946
105 ^c	Abolition of Forced Labor Convention, 1957
144	Tripartite Consultation (International Labor Standards) Convention, 1976
147	Merchant Shipping (Minimum Standards) Convention, 1976
150	Labor Administration Convention, 1978
160	Labor Statistics Convention, 1985

SOURCE: International Labour Conference, 81st Session, *Report III (Part 5): List of Ratifications by Convention and by Country, as of December 31, 1993* (Geneva: International Labor Office, 1994), and other publications of the International Labor Organization.

NOTE: The United States was a member of the International Labor Organization from 1934 to 1977 and from 1980 to the present.

- a. Convention 54 is no longer open to ratification (a revising convention has entered into force).
 - b. Convention 57 was revised by a later convention.
 - c. Convention 105 has been identified as a "core" convention.
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The United Nations

The United Nations addresses worker rights in the principal documents of the International Bill of Human Rights.²⁰ In 1948, the United Nations adopted the Universal Declaration of Human Rights to serve as “the common standard of achievement for all peoples and nations.”²¹ The International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) followed in 1966. Those three documents, which collectively form the heart of the International Bill of Human Rights, reject slavery and discrimination and affirm freedom of association, the right to organize, the right to just and favorable working conditions, and other rights of employment. They treat worker rights as among “the equal and inalienable rights of all members of the human family.”

The United Nations describes the Universal Declaration as having “primarily moral authority,” without binding force. The two covenants, by contrast, are international treaties; like the conventions of the ILO, they bind the countries that ratify them. As of June 30, 1994, 129 members of the United Nations had ratified the ICESCR, and 126 members had ratified the ICCPR. The United States signed both covenants in 1977. It ratified the ICCPR in 1992 but has not ratified the other.

The Universal Declaration of Human Rights. The Universal Declaration rejects discrimination and slavery and asserts the right to freedom of peaceful assembly and association:

Article 1 “All human beings are born free and equal in dignity and rights.”

Article 2 “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”²²

20. Other U.N. documents also address aspects of worker rights. For example, see Article 32 (on the employment of children) of the U.N. Convention on the Rights of the Child (1989).

21. See the preamble to the Universal Declaration of Human Rights in United Nations, *The International Bill of Human Rights* (New York: United Nations, 1993), p. 4. This discussion draws from the introductory material provided on pp. 1-3.

22. For other explicit prohibitions of discrimination based on race, color, sex, language, religion, or other factors, see the opening statement of the Universal Declaration of Human Rights, which asserts the “equal rights of men and women,” and Articles 7, 16(1), 23(2), and 25. Such provisions are consistent with provisions found in the charter of the United Nations and subsequent conventions. The charter asserts the “equal rights of men and women” and “the principle of equal rights,” seeking human rights and fundamental freedoms “for all without distinction as to race, sex, language or religion.” See Charter of the United Nations (1945), Preamble and Article 1.

Article 4 “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”

Article 20 (1) “Everyone has the right to freedom of peaceful assembly and association.”

(2) “No one may be compelled to belong to an association.”

The declaration also addresses labor practices and economic and social conditions:

Article 22 “Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.”

Article 23 (1) “Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.”

(2) “Everyone, without any discrimination, has the right to equal pay for equal work.”

(3) “Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.”

(4) “Everyone has the right to form and to join trade unions for the protection of his interests.”

Article 24 “Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.”

Article 25 (1) “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

Articles 25(2) and 26(1) address the rights of children—to the extent that they call for social protection for children and the right to education, including free and compulsory elementary education—but the declaration does not address child labor directly. However, a policy of compulsory elementary education, if adopted and enforced, would eliminate the possibility of children’s full-time employment.

The International Covenant on Economic, Social, and Cultural Rights. The ICESCR also rejects discrimination, but it does not deal with slavery as the International Covenant on Civil and Political Rights does.²³ Part III of the ICESCR addresses the right to work, the right to just and favorable conditions of work, the right to unionize and strike, the right to social security, the rights of children in employment, the right to an adequate standard of living, and the right to education (including free and compulsory primary education).

Article 6 (1) “The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard these rights.”²⁴

(2) “The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.”

Article 7 “The States Parties to the present Covenant recognize the right to work of everyone to the enjoyment of just and favorable conditions of work, which ensure, in particular:

(a) remuneration which provides all workers, as a minimum, with:
(i) fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those being enjoyed by men, with equal pay for equal work; (ii) a decent living for themselves and their families in accordance with the provisions of the present Covenant;

23. See Articles 2(2) and 3 for statements concerning “discrimination of any kind” and the “equal rights of men and women.” For other explicit prohibitions of discrimination based on race, color, sex, language, religion, or other factors, see Articles 7(a) and 10(3).

24. Unlike the Universal Declaration of Human Rights, the ICESCR does not explicitly assert the right to protection against unemployment.

(b) safe and healthy working conditions;

(c) equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”

Article 8 (1) “The States Parties to the present Covenant undertake to ensure:

(a) the right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) the right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) the right of the trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) the right to strike, provided that it is exercised in conformity with the laws of the particular country.”²⁵

Article 9 “The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.”

Article 10 (2) “Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period

25. Article 8(2) permits “the imposition of lawful restrictions” on the exercise of the rights defined in Article 8(1) by members of the armed forces, police, or administration of the state, and Article 8(3) establishes the primacy of the International Labor Organization’s convention of 1948 on freedom of association and protection of the right to organize.

working mothers should be accorded paid leave or leave with adequate social security benefits.”

(3) “Special measures of protection and assistance should be taken on behalf of children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which paid employment of child labor should be prohibited and punishable by law.”

Article 11 (1) “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

The ICESCR also establishes a consultative and informational relationship between the Secretary-General, the Economic and Social Council, and the specialized agencies of the United Nations and contains a clause requiring compatibility between the provisions of the covenant, the Charter of the United Nations, and the constitutions of the specialized agencies (see Part IV of the ICESCR, various articles).²⁶

The International Covenant on Civil and Political Rights. The ICCPR reasserts the principle of nondiscrimination and reaffirms the prohibition of slavery contained in the Universal Declaration of Human Rights.²⁷ It also prohibits forced or compulsory labor, except under certain conditions:

Article 8 (1) “No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited.”

(2) “No one shall be held in servitude.”

26. The Economic and Social Council was established in 1945 as a principal organ of the United Nations by the Charter of the United Nations (Article 7).

27. See Articles 2(1) and 3 for statements concerning nondiscrimination and gender equality. For other explicit prohibitions of discrimination based on race, color, sex, language, religion, or other factors, see Articles 4(1), 20(2), 24(1), 25, and 26. The following note accompanies the text of the covenant: “Contents of this booklet, other than the section on the applications of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights to Hong Kong, are extracted from the ‘International Bill of Human Rights’ Fact Sheet No. 2 published by the Centre for Human Rights, United Nations Office at Geneva.”

(3)(a) “No one shall be required to perform forced or compulsory labor;

(b) “Paragraph 3(a) shall not be held to preclude, in countries where imprisonment with hard labor may be imposed as a punishment for a crime, the performance of hard labor in pursuance of a sentence to such punishment by a competent court;

(c) “For the purpose of this paragraph the term ‘forced or compulsory labor’ shall not include: (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention; (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors; (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community; (iv) Any work or service which forms part of normal civic obligations.”

The ICCPR also addresses the right of peaceful assembly and the rights to freely associate and unionize:

Article 21 “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order . . . the protection of public health or morals or the protection of the rights and freedoms of others.”

Article 22 (1) “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.”

(2) “No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order . . . the protection of public health or morals or the protection of the rights and freedoms of others. This article shall

not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.”²⁸

The ICCPR establishes a Committee on Human Rights and an informational link between it and the Secretary-General, the Economic and Social Council, and the specialized agencies of the United Nations (see Articles 28 and 40). It too contains a compatibility clause covering the contents of the covenant and those of the Charter of the United Nations and the constitutions of the specialized agencies (see Article 46).

Provisions in Trade Agreements

Both the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization cite higher standards of living and full employment as goals of trade and economic relations, which some analysts have interpreted as references to worker rights.²⁹ More specifically, Article XX of the GATT permits restrictive measures relating to the products of prison labor.³⁰

Of historical interest, the countries that established the GATT undertook to observe some of the general principles of the Havana Charter—which would have set up an International Trade Organization—pending their acceptance of the charter.³¹ (The Havana Charter was ultimately not ratified.) Among those principles were the following:

The members [of the proposed International Trade Organization] recognize that . . . all countries have a common interest in the achievement and maintenance of fair labor standards related to productivity, and thus in the improvement of wages and working conditions as productivity may permit. The members recognize that unfair labor conditions, particularly in production for export, create

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28. Article 22(3) establishes the primacy of the International Labor Organization’s convention of 1948 on freedom of association and protection of the right to organize.
29. See John Cavanagh and others, *Trade’s Hidden Costs: Worker Rights in a Changing World Economy* (Washington, D.C.: International Labor Rights Education and Research Fund, 1988), pp. 44-45.
30. The WTO agreement incorporates this provision in Annex 1A. See the General Agreement on Tariffs and Trade (1947), Article XX, as amended through 1966; and the Agreement Establishing the World Trade Organization (1994), Article II and Annex 1A. In addition, Article XXIII of the Agreement on Government Procurement (also associated with the WTO agreement) permits restrictive measures relating to the products or services of prison labor.
31. See Hansson, *Social Clauses and International Trade*, pp. 22-23; Cavanagh and others, *Trade’s Hidden Costs*, pp. 44-45; the General Agreement on Tariffs and Trade, Article XXIX, as amended through 1966; and the Agreement Establishing the World Trade Organization, Article II and Annex 1A.

difficulties in international trade, and accordingly, each Member shall take whatever action may be appropriate and feasible to eliminate such conditions within its territory.³²

32. Reprinted in Hansson, *Social Clauses and International Trade*, p. 22, and Cavanagh and others, *Trade's Hidden Costs*, p. 45.

**APPENDIX C: WORKER-RIGHTS PETITIONS, ACTIONS, AND DECISIONS
UNDER THE U.S. GENERALIZED SYSTEM OF PREFERENCES**

The table below provides a summary of findings for beneficiary countries of the Generalized System of Preferences program through July 1996. Most of these countries were named in petitions filed under the annual review of the program, but some were investigated under the general review completed in 1987.

Country	Year of Petition	Action on Petition	Decision (Effective date)			Review Ongoing
			Benefits Retained	Benefits Removed or Suspended	Benefits Reinstated	
Africa						
Benin	1989	Accepted	X (1990)			
Central African Republic	1987	Accepted		X (1989)		
	1990	Accepted			X (1991)	
Liberia	1988	Accepted		X (1990)		
Malawi	1992	Accepted	X (1993)			
Mauritania	1991	Accepted		X (1993)		
Morocco	1993	Rejected				
Sudan	1990	Accepted		X (1991)		
Zaire	G.R.	n.a.	X (1987)			
Zambia	1987	Rejected				
Asia and the Pacific						
Bangladesh	1990	Accepted	X (1991)			
	1992	Rejected				
Burma (Myanmar)	1988	Accepted		X (1989)		
Fiji	1992	Accepted	X (1993)			
Indonesia	1987	Accepted	X (1987)			
	1988	Rejected				
	1989	Accepted	X (1989)			
	1991	Rejected				
	1992	Accepted ^a				
Malaysia	1988	Accepted	X (1988)			
	1990	Rejected				
	1993 ^b	n.a.				
Maldives	1993	Accepted		X (1995)		
Nepal	1989	Accepted	X (1990)			
Pakistan	1993	Accepted		X (1996) ^c		
Philippines	G.R.	n.a.	X (1987)			
	1988	Rejected				
	1989	Rejected				
	1995 ^d	n.a.				

(Continued)

Country	Year of Petition	Action on Petition	Decision (Effective date)			Review Ongoing
			Benefits Retained	Benefits Removed or Suspended	Benefits Reinstated	
Singapore	1987	Rejected				
South Korea	G.R. 1987	n.a. Accepted	X (1987) X (1987)			
Sri Lanka	1991 1993	Accepted Rejected	X (1991)			
Taiwan	G.R. 1987	n.a. Accepted	X (1987) X (1987)			
Thailand	1987 1988 1989 1991	Accepted Rejected Accepted Accepted	X (1987) X (1989)			X
Europe						
Romania	G.R. 1994	n.a. Accepted		X (1987)		
Turkey	1987 1988 1990	Accepted Rejected Rejected	X (1987)		X (1994)	
Middle East						
Bahrain	1992	Accepted	X (1993)			
Israel	1988 1989	Accepted Rejected ^e	X (1988)			
Oman	1992	Accepted	X (1993)			
Syria	1988	Accepted		X (1992)		
Yemen	1992	Rejected				
Western Hemisphere						
Chile	G.R. 1990	n.a. Accepted		X (1988)		
Colombia	1990 1993 1995 ^d	Rejected Rejected n.a.			X (1991)	
Costa Rica	1993	Accepted	X (1993)			
Dominican Republic	1989 1991 1993	Accepted Rejected Accepted	X (1990) X (1994)			
El Salvador	1987 1988 1989 1990	Rejected Rejected Rejected Accepted	X (1993)			

(Continued)

Country	Year of Petition	Action on Petition	Decision (Effective date)			
			Benefits Retained	Benefits Removed or Suspended	Benefits Reinstated	Review Ongoing
Guatemala	G.R.	n.a.	X (1987)			
	1987	Rejected				
	1989	Rejected				
	1990	Rejected				
	1991	Rejected				
Haiti	1992	Accepted				X
	G.R.	n.a.	X (1987)			
	1987	Rejected				
	1988	Accepted	X (1990)			
	1992 ^f	n.a.				
Honduras	1993	Accepted ^g				
	1991	Rejected				
Mexico	1995 ^d	n.a.				
	1991	Rejected				
Nicaragua	1993	Rejected				
	G.R.	n.a.		X (1987)		
Panama	1991	Accepted	X (1992)			
Paraguay	G.R.	n.a.		X (1987)		
	1990	Accepted			X (1991)	
	1993	Accepted	X (1993)			
Peru	1992	Rejected				
	1993	Accepted	X (1993)			
Surinam	G.R.	n.a.	X (1987)			
	1987	Rejected				

SOURCE: Congressional Budget Office based on informal data provided by the Office of the U.S. Trade Representative. The format was adapted from Fay Lyle, *Worker Rights in U.S. Policy* (Department of Labor, Bureau of International Labor Affairs, May 1991), p. 17.

NOTES: G.R. = general review; n.a. = not applicable.

There was no annual review in 1994. In 1995, interested parties submitted petitions for Colombia, Guatemala, Honduras, Indonesia, Pakistan, the Philippines, and Thailand. This table excludes the petitions for Guatemala, Indonesia, Pakistan, and Thailand because those countries were already subject to an ongoing or suspended review at that time. The petitions for Colombia, Honduras, and the Philippines are under evaluation.

- a. The review was suspended in 1994.
- b. A petition was filed in 1993, but the decision to accept it was deferred.
- c. The U.S. Trade Representative has recommended the partial suspension of Pakistan from the GSP program. The suspension was made retroactive to July 1, 1996. It would include Pakistani sports equipment, carpets, and surgical instruments.
- d. The petition submitted in 1995 is still under evaluation.
- e. Request for reconsideration of a prior decision.
- f. A petition was filed in 1992, but the decision to accept it was deferred.
- g. A petition was accepted in 1993, but no active review was conducted.

