**Terms of References**

Situation and Gap Analysis Report on Forced Labour Protocol – Nepal

**Duration:** September–November 2018

**Background**

ILO Conventions on forced labour, the Forced Labour Convention, 1930 (No.29), and the Abolition of Forced Labour Convention, 1957 (No. 105), have played a key role in establishing an overarching framework to combat the practice of forced and compulsory labour. These Conventions remain among the most widely ratified ILO instruments. Nonetheless, gaps in their implementation and challenges posed by modern and emerging forms of forced labour prompted the international community to come together to formulate additional measures to effectively suppress forced labour in all its contemporary manifestations. At the International Labour Conference in 2014, the ILO adopted the Protocol of 2014 to the Forced Labour Convention, 1930. Recommendation No. 203 on Forced Labour (Supplementary Measures) was also adopted at this time to provide additional guidance. These instruments, together, provide the overarching international framework to guide national effects to end forced labour.

Nepal ratified Conventions Nos. 29 and 105 in 2002 and 2007. Over the past few decades, the Nepali Government has adopted a series of measures with a view to abolishing forced and bonded labour and to tackle trafficking of persons for labour. Significant efforts have been made to abolish traditional forms of forced labour and to release and rehabilitate those workers. The Nepali Government has also adopted a series of measures to tackle modern systems of forced labour and trafficking with a view to abolishing forced and compulsory labour in all its forms. However, in spite of considerable efforts, forced labour persists in Nepal and among Nepali migrant workers abroad. Research examining law and practice in Nepal vis a vis the new ILO instrument on forced labour, Protocol No.29, aims to assess the country’s existing regulatory framework and well as its practical implementation against the requirements of the Protocol.

The key requirement of the Protocol is set out in its Article 1, which establishes that: in giving effect to their obligations under Convention No. 29 to suppress forced labour, member States shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced labour. The provisions in the Protocol and the guidance provided in the Recommendation elaborate further on more specific requirements regarding prevention, protection, access to remedies and enforcement, and provide clarification on what measures are considered effective. Therefore, although each Member State may implement this Article by taking into account its unique national circumstances, the measures adopted must be effective.[[1]](#footnote-1)

Bearing in mind these requirements, the research will involve a legal analysis, an analysis of economic, social, employment and migration policies, and their application and will review implementation of the law, including the roles and effectiveness of those involved in the enforcement of the law, including police, the judiciary and access to justice for victims. This will involve a combination of desk and field work. The researcher will identify mechanisms that would need to be adjusted or complemented in order to meet the requirements of the Protocol and assess the readiness of Nepal to ratify the Protocol.

A validation meeting with key stakeholders will be held to review and verify the results and recommendations presented in the gap analysis. The recommendations will be formulated to suggest ways in which current law and practice may need to be adjusted or complemented in order to meet the requirements of the Protocol.

**Objectives**

1. Identify extent to which Convention No. 29 and the Forced Labour Protocol have been incorporated into laws, regulations and policies in Nepal;
2. Identify gaps in application of Convention No. 29 and areas where current mechanisms and actions to address forced labour in Nepal would need to be strengthened to meet requirements of the Protocol; and
3. Formulate a set of recommendations to support greater compliance with Convention No. 29 and move towards ratification of the Protocol.

**Research Methodology**

The study will comprise of the following: (1) A situation analysis; (2) comprehensive gap analysis of the Forced Labour Protocol and existing law and practice; (3) set of recommendations and roadmap towards ratification of P. 29.

The situation analysis will provide an overview of forced labour and trafficking in persons in Nepal. It will highlight and examine sectors and groups of workers particularly vulnerable to forced labour and trafficking in persons. The situation analysis will draw largely from desk-based research, focusing on existing reports, studies, and comments by international supervisory bodies, including the ILO Committee of Experts, as well as available statistical data.

The gap analysis will involve a review of legislation, policies and programmes vis a vis the provisions of Convention No. 29 and the Forced Labour Protocol. The researcher will be required to undertake field work in order to seek out and verify information on practices vis a vis application of national laws, policies and mechanisms and to identify challenges in the prevention and suppression of forced labour and in ensuring appropriate remediation and judicial action. The gap analysis should be structured so as to examine existing law and practice vis a vis each of the requirements of the Protocol. It is envisaged that a series of interviews with key informants and, possibly, focus group discussions will take place for this purpose. Inputs and feedback provided during a national validation workshop shall also be taken into consideration.

The recommendations and roadmap will be formulated as a summary of the findings, along with recommendations to respond to shortcomings in law or practice. A set of short, medium and longer-term action points will be drafted to guide pathways toward ratification.

The situation and gap analysis report shall be structured as follows:

1. **Introduction**
   1. **Methodology**
2. **Situation analysis**

This section will provide an overview of the situation in Nepal and the root causes of forced labour. It will include political, governance, economic and social trends and perspectives in so far as relevant to forced labour issues. This section should seek to present data and information on specific sectors and groups of workers who are most vulnerable to entering situations of forced labour as well as present information to contextualise and situate the problem in the country. To the extent possible, this section should present detailed information and data disaggregated by relevant characteristics such as sex, age, caste, ethnicity. To what extent has the government monitored the nature and extent of forced or compulsory labour to enable an assessment of trends to be made? Are there any national action plans designed to combat forced and compulsory labour? Which bodies are involved? Comments by UN human rights supervisory bodies on application of Convention No. 29 as well as the UPR should be included here in the situational analysis.

1. **Gap analysis** 
   1. **Overview of relevant legislation, policies and action plans relied on in the gap analysis**
   2. **Definitions**

The research should outline the relevant definition in the ILO instruments (C. 29 and P. 29) and compare and contrast with national definitions – those used in national and local legislation, by the judiciary and in international agreements for migrant workers

*Sections 3.1 and 3.2 should cover Article 1 of the Protocol*

* 1. **Prevention measures**

*Article 2 of the Protocol*

A summary of the requirements under the Protocol related to prevention measures should be presented, followed by an analysis of Nepali laws, policies, agreements and programmes designed to reduce vulnerability to forced labour. This should then be supplemented by an examination of how national laws, policies, programmes and/or other mechanisms and measures, in practice, do (or do not) effectively prevent people from entering situations of forced labour. Where possible, sector specific information should be provided, and comparisons between Nepali workers working abroad and in-country should be made.

Some questions that should also be addressed in this section include

* To what extent have policies and plans of action specifically designed to address forced and bonded labour included effective preventative measures?
* Extent to which policies and plans of action in areas such as economic development, social development, social welfare and protection, social justice, migration, employment, taxation or otherwise impacted (positively and negatively) on reducing workers vulnerability to entering forced labour?
* How has the government and national bodies or other institutional mechanisms collaborated to prevent forced labour? To what extent have these actions been monitored and effective?
* To what extent have and do the labour inspectorate contribute to the reduction of forced labour? How have they worked with other law enforcement agencies and mechanisms, including the police and judiciary?
* To what extent have the numbers of persons engaged in forced labour increased or decreased over the years, in specific sectors, geographical locations, among migrant workers? What factors contributed to this? To what extent is the government taking cognisance of these issues?
* To what extent have working conditions, including respect for fundamental principles and rights at work improved/deteriorated in the country? What measure have the government taken to promote and realise these rights?
* To what extent have workers been able to organise to promote and protect their rights and reduce vulnerability to forced labour? What are unionisation trends in the country? What has the government does to promote organisation and collective voice among marginalised groups of workers, within high risk sectors and among workers migrating for employment?
* To what extent have policies and programmes responding to child labour been effective? What are the gaps and problems? How have they safeguarded children from becoming victims of forced labour?
* To what extent have targeted campaigns been formulated and implemented? What have been their impact? This should look at awareness campaigns aimed at workers, employers and specific groups of the population, skills training programmes, specific legislation for particular groups/types of work.
* The extent to which national labour laws provide universal and responsive protections to **all** types of workers. How effectively are these enforced? What mechanisms have the government put in place to improve enforcement?
* To what extent have preventive measure been put in place for migrant workers traveling abroad or inter-state for employment? How has the government ensured (or not) pathways for safe migration and responded to risks faced by specific groups? How effective are these measures? Is there adequate coordination and collaboration between sending and receiving states and countries? To what extent are labour recruiters regulated and their practices monitored?
  1. **Protection**

*Article 3 of the Protocol*

A summary of the requirements under the Protocol related to identification and protection measures should be presented, followed by an analysis of Nepali laws, policies, agreements and programmes designed to protect workers. This should then be supplemented by an examination of how national laws, policies, programmes and/or other legal mechanisms and measures, in practice, do (or do not) effectively provide adequate protection to workers. Where possible, sector specific information should be provided, and comparisons between Nepali workers working abroad and in-country should be made.

Some questions that should also be addressed in this section include

* Extent to which mechanisms have been established and put into practice to identify and release victims in Nepal and abroad from forced or compulsory labour. How effective have they been? Are they rights-based measures that protect the victim?
* To what extent are victims (both within Nepal and Nepali migrant workers abroad) protected once identified? How are they encouraged or involved in the identification and prosecution of perpetrators? To what extent to they retain agency in determining their release and rehabilitation?
* How have workers’ organisations been involved in supporting workers? What steps have the government taken to promote workers’ organisations and their assistance to victims?
* Have basic principles of victim protection in the criminal justice system been upheld? What are the gaps or shortcomings?
* To what extent have labour recruitment agencies and individuals involved in recruitment chains been regulated? Do these regulations reflect principles of fair and ethical recruitment, and ILO safeguards in Convention No. 181? Are fees charged to workers for recruitment abolished? Are there adequate penalties for abuse? Are there transparency requirements? How are they monitored? Are the systems/structures within government overseeing these agencies well-governed?
* Are the rehabilitation services adequate and rights-based? Are they adequately gender-responsive? Are they empowering for the victims?
* In the case of children, do responses in law and practice adequately take into account the best interested of the child? How are they guaranteed access to education upon release? Reunification with families and/or guardianship? Are legal officers trained and responsive to needs of child victims?
* How are Nepali migrant workers supported through rehabilitation and the judicial system when identified in situations of forced labour overseas? Are there agreements in place and labour attaches in destination countries to support them?
* Are there any legal or practical gaps in support for non-Nepali nationals who are victims of forced labour in Nepal? How are these workers dealt with when identified?
  1. **Rehabilitation and remedies**

*Articles 3 and 4 of the Protocol*

A summary of the requirements under the Protocol related to rehabilitation, protection of victims, access to justice, compensation and remedies as well as prosecution of perpetrators should be presented, followed by an analysis of Nepali laws, policies, and systems established to support victims. This should then be supplemented by an examination of how the legal system in practice, manages to provide effective recourse to victims and follow through on prosecution of perpetrators. Where possible, sector specific information should be provided, and comparisons between Nepali workers working abroad and in-country should be made.

Some questions that should also be addressed in this section include

* Extent to which victims are guaranteed or supported to have access to justice? Other remedies? How effective is the judicial system and other mechanisms in providing timely responses? What barriers exist to accessing justice for victims? Are their statistics on received compensation and other remedies?
* To what extent are victims guaranteed compensation and damages, including unpaid wages? How are these rights accessed in practice?
* Are victims (both Nepali and non-Nepali nationals) able to pursue justice?
* Has the culture of impunity around use of forced labour, particularly around traditional forms of exploitative employment, ended? Are there statistics on numbers of prosecutions and convictions? Are prosecutions and imposition of penalties being carried out in accordance with law?
* Are law enforcers adequately trained and resourced to implement the law and programmes? Are the appropriate law enforcers workings on forced labour? Has the government developed sufficient tools and systems to support identification of victims, indicators of forced labour, etc for all relevant stakeholders, including, law enforcers, social workers, immigration officers, labour attaches, prosecutors, employers, workers’ organisations, employers’ organisations, NGOs etc?
  1. **Partnerships and cooperation**

*Article 5 of the Protocol*

A summary of the cooperation agreements and partnerships that have been established to address forced labour and trafficking in persons, along with a review of their application in practice. This should identify possible gaps in the agreements and areas where cooperation need to be strengthened.

Some questions that should also be addressed in this section include

* How has Nepal pursued international cooperation – through donors and bilateral agreements to achieve affective and sustained suppression of forced and compulsory labour of Nepali workers at home and abroad?
* What international cooperation exists between labour law enforcement institutions, criminal justice systems, diplomatic personnel, mutual technical assistance, including sharing of good practices and information?
  1. **Summary of findings,**

Highlight main gaps and challenges and include a matrix summarising gap analysis findings.

1. **Recommendations and proposed roadmap towards ratification**

Are there any barriers to ratification? If so what are they and how can they been addressed?

What can the government do to strengthen to more effectively suppress forced and compulsory labour? Where are there gaps that need to be filled?

What steps would need to be taken to move towards ratification?

**Deliverables**

1. Outline of research plan and report including proposed sources of data **2nd October 2018**
2. Draft report for internal comments by **1st November** **2018**
3. Situation and Gap Analysis Report on Convention 29 and the Protocol **30 November 2018**
4. Present the Gap Analysis report at the validation meeting for ILO constituents, project partners, and other key stakeholders at national level **January 2019**

**Contract Supervision**

The external collaborator will conduct the gap analysis under the supervision of the country director and technical supervision/guidance as required will be provided by relevant ILO specialists as indicated below:

* Standard Specialists – DWT New Delhi

**Period of the Contract**

The research work should be conducted over XX **working days**

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# Annex I - Template matrix for a gap analysis of the ILO 2014 Protocol to the Forced Labour Convention, 1930

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Protocol provision (and related guidance provided in Recommendation No. 203)** | **Issues addressed** | **Existing or envisaged national laws, regulations or other measures concerning this issue. *(Where applicable, information should be provided as to whether such measures apply to all groups of workers. Exceptions and exclusions in coverage should be noted.*)** | **Ministry/authority/institution responsible for implementation. *(Where applicable, information should be provided on existing capacity in terms of human and financial resources and what additional resources would be needed.)*** | **Detailed description of measures taken or envisaged for the implementation and enforcement of such measures.  (*Where applicable, statistical data and information on specific population groups or sectors benefitting from these measures should be included.)*** | **Main gaps identified** | **Suggested solutions** |
| **Art. 1 (Recommendation No. 203, paras. 1 and 2)** | **National policy and plan of action for the effective and sustained suppression of all forms of forced labour through prevention, victim protection and access to remedies.** |  |  |  |  |  |
| **Specific measures to combat trafficking in persons for the purpose of forced labour.** |  |  |  |  |  |
| **PREVENTION** | | | | | | |
| **Art. 2(a)-(f) (Recommendation No. 203, paras. 3, 8 and 13(a)** | **Prevention measures that include: information, education and awareness raising;** |  |  |  |  |  |
| **Strengthening and broadening coverage of relevant legislation, particularly labour law;** |  |  |  |  |  |
| **Capacity building for competent authorities, including labour inspection services;** |  |  |  |  |  |
| **Regulation and supervision of labour recruitment and placement process;** |  |  |  |  |  |
| **Promoting safe and regular migration;** |  |  |  |  |  |
| **Supporting due diligence by public and private sectors;** |  |  |  |  |  |
| **Addressing root causes and risk factors that perpetuate forced labour;** |  |  |  |  |  |
| **Other prevention measures.** |  |  |  |  |  |
| **VICTIM PROTECTION** | | | | | | |
| **Art. 3 (Recommendation No. 203, paras. 5-11 and 13(a))** | **Measures for the identification, release, protection, recovery and rehabilitation of all victims of forced labour.** |  |  |  |  |  |
| **Protection measures might include: training of relevant actors on the identification of forced labour practices;** |  |  |  |  |  |
| **Development of forced labour indicators to help in the identification of cases and victims;** |  |  |  |  |  |
| **Ensuring legal protection for victims;** |  |  |  |  |  |
| **Material assistance for victims;** |  |  |  |  |  |
| **Medical and psychological assistance for victims;** |  |  |  |  |  |
| **Specific protection measures for children victims of forced labour;** |  |  |  |  |  |
| **Specific protection measures for migrant victims of forced labour;** |  |  |  |  |  |
| **Other protection measures.** |  |  |  |  |  |
| **ACCESS TO REMEDIES** | | | | | | |
| **Art. 4 (Recommendation No. 203, paras. 12 and 13(b) and (c))** | **Measures to ensure that all victims have access to remedies, such as compensation.** |  |  |  |  |  |
| **Measures might include: information and counselling for victims on their rights and services available;** |  |  |  |  |  |
| **Legal assistance for victims (preferably free of charge);** |  |  |  |  |  |
| **Provision of a reflection and recovery period;** |  |  |  |  |  |
| **Access to civil, administrative and criminal remedies in the country where the violations occurred;** |  |  |  |  |  |
| **Access to compensation schemes;** |  |  |  |  |  |
| **Stricter penalties (in additional to penal sanctions) imposed on perpetrators, such as confiscation of assets and criminal liability of legal persons;** |  |  |  |  |  |
| **Possibility for authorities not to prosecute victims for acts they have been compelled to commit as a result of being a victim of forced labour.** |  |  |  |  |  |
| **INTERNATIONAL COOPERATION** | | | | | | |
| **Art. 5**  **(Recommendation No. 203, para. 14)** | **Cooperation between and among member States to achieve the effective prevention and suppression of forced labour.** |  |  |  |  |  |
| **Cooperation between member States and international and regional organisations, or non-governmental organisations to achieve the effective prevention and suppression of forced labour.** |  |  |  |  |  |

# Annex II - ILO Forced Labour Convention, 1930 (No. 29)

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fourteenth Session on 10 June 1930, and

Having decided upon the adoption of certain proposals with regard to forced or compulsory labour, which is included in the first item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty‐eighth day of June of the year one thousand nine hundred and thirty the following Convention, which may be cited as the Forced Labour Convention, 1930, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

**Article 1**

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

*(Article 1(2) and (3) were transitional provisions and are no longer applicable)*

**Article 2**

1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include‐‐

a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;

b) any work or service which forms part of the normal civic obligations of the citizens of a fully self‐governing country;

c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;

d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well‐being of the whole or part of the population;

e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

*(Articles 3‐24 were transitional provisions and are no longer applicable)*

**Article 25**

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

**Article 26**

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to apply it to the territories placed under its sovereignty, jurisdiction, protection, suzerainty, tutelage or authority, so far as it has the right to accept obligations affecting matters of internal jurisdiction; provided that, if such Member may desire to take advantage of the provisions of article 35 of the Constitution of the International Labour Organisation, it shall append to its ratification a declaration stating‐‐

1) the territories to which it intends to apply the provisions of this Convention without modification;

2) the territories to which it intends to apply the provisions of this Convention with modifications, together with details of the said modifications;

3) the territories in respect of which it reserves its decision.

2. The aforesaid declaration shall be deemed to be an integral part of the ratification and shall have the force of ratification. It shall be open to any Member, by a subsequent declaration, to cancel in whole or in part the reservations made, in pursuance of the provisions of subparagraphs (2) and (3) of this Article, in the original declaration.

(Final provisions)

# Annex III – Protocol of 2014 to the Forced Labour Convention, 1930

**Preamble**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 103rd Session on 28 May 2014, and

Recognizing that the prohibition of forced or compulsory labour forms part of the body of fundamental rights, and that forced or compulsory labour violates the human rights and dignity of millions of women and men, girls and boys, contributes to the perpetuation of poverty and stands in the way of the achievement of decent work for all, and

Recognizing the vital role played by the Forced Labour Convention, 1930 (No. 29), hereinafter referred to as “the Convention”, and the Abolition of Forced Labour Convention, 1957 (No. 105), in combating all forms of forced or compulsory labour, but that gaps in their implementation call for additional measures, and

Recalling that the definition of forced or compulsory labour under Article 2 of the Convention covers forced or compulsory labour in all its forms and manifestations and is applicable to all human beings without distinction, and

Emphasizing the urgency of eliminating forced and compulsory labour in all its forms and manifestations, and

Recalling the obligation of Members that have ratified the Convention to make forced or compulsory labour punishable as a penal offence, and to ensure that the penalties imposed by law are really adequate and are strictly enforced, and

Noting that the transitional period provided for in the Convention has expired, and the provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 are no longer applicable, and

Recognizing that the context and forms of forced or compulsory labour have changed and trafficking in persons for the purposes of forced or compulsory labour, which may involve sexual exploitation, is the subject of growing international concern and requires urgent action for its effective elimination, and

Noting that there is an increased number of workers who are in forced or compulsory labour in the private economy, that certain sectors of the economy are particularly vulnerable, and that certain groups of workers have a higher risk of becoming victims of forced or compulsory labour, especially migrants, and

Noting that the effective and sustained suppression of forced or compulsory labour contributes to ensuring fair competition among employers as well as protection for workers, and

Recalling the relevant international labour standards, including, in particular, 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), the Worst Forms of Child Labour Convention, 1999 (No. 182), the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Domestic Workers Convention, 2011 (No. 189), the Private Employment Agencies Convention, 1997 (No. 181), the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), as well as the ILO Declaration on Fundamental Principles and Rights at Work (1998), and the ILO Declaration on Social Justice for a Fair Globalization (2008), and

Noting other relevant international instruments, in particular the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Slavery Convention (1926), the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), the United Nations Convention against Transnational Organized Crime (2000), the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), the Protocol against the Smuggling of Migrants by Land, Sea and Air (2000), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Convention on the Elimination of All Forms of Discrimination against Women (1979), and the Convention on the Rights of Persons with Disabilities (2006), and

Having decided upon the adoption of certain proposals to address gaps in implementation of the Convention, and reaffirmed that measures of prevention, protection, and remedies, such as compensation and rehabilitation, are necessary to achieve the effective and sustained suppression of forced or compulsory labour, pursuant to the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Protocol to the Convention;

adopts this eleventh day of June two thousand and fourteen the following Protocol, which may be cited as the Protocol of 2014 to the Forced Labour Convention, 1930.

**Article 1**

1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour.

2. Each Member shall develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers’ and workers’ organizations, which shall involve systematic action by the competent authorities and, as appropriate, in coordination with employers’ and workers’ organizations, as well as with other groups concerned.

3. The definition of forced or compulsory labour contained in the Convention is reaffirmed, and therefore the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour.

**Article 2**

The measures to be taken for the prevention of forced or compulsory labour shall include:

(a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;

(b) educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;

(c) undertaking efforts to ensure that:

(i) the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and

(ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened;

(d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;

(e) supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and

(f) addressing the root causes and factors that heighten the risks of forced or compulsory labour.

**Article 3**

Each Member shall take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support.

**Article 4**

1. Each Member shall ensure that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation.

2. Each Member shall, in accordance with the basic principles of its legal system, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.

**Article 5**

Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.

**Article 6**

The measures taken to apply the provisions of this Protocol and of the Convention shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned.

**Article 7**

The transitional provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 of the Convention shall be deleted.

**Article 8**

1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification to the Director-General of the International Labour Office for registration.

2. The Protocol shall come into force twelve months after the date on which ratifications of two Members have been registered by the Director- General. Thereafter, this Protocol shall come into force for a Member twelve months after the date on which its ratification is registered and the Convention shall be binding on the Member concerned with the addition of Articles 1 to 7 of this Protocol.

**Article 9**

1. A Member which has ratified this Protocol may denounce it whenever the Convention is open to denunciation in accordance with its Article 30, by an act communicated to the Director-General of the International Labour Office for registration.

2. Denunciation of the Convention in accordance with its Articles 30 or 32 shall ipso jure involve the denunciation of this Protocol.

3. Any denunciation in accordance with paragraphs 1 or 2 of this Article shall not take effect until one year after the date on which it is registered.

**Article 10**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Protocol shall come into force.

**Article 11**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications, declarations and denunciations registered by the Director-General.

**Article 12**

The English and French versions of the text of this Protocol are equally authoritative.

1. The Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), which supplements both the Protocol and Convention No. 29, provides non-binding practical guidance concerning measures to strengthen national law and policy on forced labour in the areas of prevention, protection of victims and ensuring their access to justice and remedies, enforcement and international cooperation. It builds on the provisions of the Protocol and should be read in conjunction with it and provides useful tools in developing national capacity in preparation to ratify the Protocol. [↑](#footnote-ref-1)