



# CHINA RELATIONS WITH THE ILO

Briefing notes for U.S. Congressional - Executive China Commission Roundtable on Labor Rights,  
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## I. General Information Related to International Labor Standards

*China has been a Member of the ILO since 1919. Although the ILO recognized the People's Republic of China as the legitimate government of the Chinese people in 1971, the PRC did not participate in the ILO until 1983. In 1984, the Chinese government declared null and void the ratification of 23 conventions (including C.105) which had been ratified by the Taiwanese government between 1949 and 1971. China has declared itself to be bound by 14 conventions ratified before 1949 (of which 3 are no longer in force) and 8 ratified since it resumed membership in 1983, including two fundamental conventions (100 and 138).*

## II. List of ratifications in force:

C. 11- Right of Association (Agriculture) Convention, 1921	(Ratified 1934)
C. 14- Weekly Rest (Industry) Convention, 1921 1936)	(Ratified
C. 16- Medical Examination of Young Persons (Sea) Convention, 1921	(Ratified 1936)
C. 19- Equality of Treatment (Accident Compensation) Convention, 1925	(Ratified 1934)
C. 22- Seamen's Articles of Agreement Convention, 1926	(Ratified 1936)
C. 23- Repatriation of Seamen Convention, 1926 1936)	(Ratified
C. 26- Minimum Wage-Fixing Machinery Convention, 1928	(Ratified 1930)
C. 27- Marking of Weight (Packages Transported by Vessels) Convention, 1929	(Ratified 1931)
C. 32- Protection against Accidents (Dockers) Convention, 1932 1935)	(Ratified
C. 45- Underground Work (Women) Convention, 1935 1936)	(Ratified
C. 80- Final Articles Revision Convention, 1946	(Ratified 1947)
C. 100-Equal Remuneration Convention, 1951 1990)	(Ratified
C. 122-Employment Policy Convention, 1964 1997)	(Ratified
C. 138-Minimum Age Convention, 1973 [Minimum age specified: 16 years]	(Ratified

- 1999)  
 C. 144-Tripartite Consultation (International Labor Standards) Convention, 1976 (Ratified 1990)  
 C. 150-Labor Administration Convention, 1978 (Ratified 2002)  
 C. 159-Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (Ratified 1988)  
 C. 167-Safety and Health in Construction Convention, 1978 (Ratified 2002)  
 C. 170-Chemical Convention, 1990 (Ratified 1995)

*In June 1997, the Government of China informed the ILO that when, in July 1997, it resumed sovereignty over Hong Kong as a Special Administrative Region of the People's Republic of China, 46 conventions would continue to be applied in Hong Kong. At last report, 40 conventions were listed as being currently applicable to Hong Kong, including Conventions 29, 87, 98, 105, 138, and 144. Similarly, the Government of China informed the ILO that it would resume the exercise of sovereignty over Macau as a Special Administrative Region of the People's Republic of China, effective December 1999. At last report, 30 conventions were listed as being currently applicable to Macau, including Conventions 29, 87, 98, 100, 105, 111, 138 and 144.*

### **III. Further Ratification prospects and General comments**

China has expressed its intention to ratify another fundamental convention, the Discrimination (Employment and Occupation) Convention, 1958 (C. 111) before the end of 2003 and it has under consideration the ratification of the Worst Forms of Child Labor Convention, 1999 (C. 182). The ILO is supporting China's accession to these and other international labor standards with seminars at the national and the provincial level, and with technical advice.

China ratified the (UN) International Covenant on Economic, Social and Cultural Rights on March 27, 2001, and submitted the following declaration:

“1. The application of Article 8.1 (a) of the Covenant [*Note: relating to freedom of association*] to the People's Republic of China shall be consistent with the relevant provisions of the *Constitution of the People's Republic of China, Trade Union Law of the People's Republic of China and the Labor Law of the People's Republic of China*;

2. In accordance with the official notes addressed to the Secretary-General of the United Nations by the Permanent Representative of the People's Republic of China to the United Nations on 20 June 1997 and 2 December 1999 respectively, the *International Covenant on Economic, Social and Cultural Rights* shall be applicable to the Hong Kong Special Administrative Region of the People's Republic of China and shall, pursuant to the provisions of the *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and the Basic Law of the Macao Special Administrative Region of the People's Republic of China*, be implemented

through the respective laws of the two special administrative regions.”

Since the signing of the MOU between the International Labor Office and the Minister of Labor and Social Security in 2001 [see below], there has been further progress in the following technical international labor standards areas:

- (*occupational safety and health*): Discussion of ratification of the Occupational Safety and Health Convention, 1981 (C.155), the Occupational Health Services Convention, 1985 (C. 161), the Asbestos Convention, 1986 (C. 162), the Safety and Health in Construction Convention, 1988 (C. 167), and the Safety and Health in Mines Convention, 1995 (C. 176). [C. 167 has just been recently ratified].
- (*labor administration*): Support for the Labor Administration Convention, 1978 (C. 150). [C. 150 has just been recently ratified].
- (*seafarers*): Further advice and assistance with respect to the Merchant Shipping (Minimum Standards), 1976 (C. 147), the Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (C. 180), and the Seafarers’ Identity Documents Convention, 1958 (C. 108).

#### **IV. Actions of the ILO’s supervisory machinery:**

##### **A. Committee of Experts on the Application of Conventions and Recommendations:**

There are comments in various years on the application of all Conventions with the exception, so far, of C. 138 and C. 170. For more details, see:

<http://webfusion.ilo.org/public/db/standards/normes/appl/Art22byCtry.cfm?hdroff=1&CTYCHOICE=2650&Lang=EN>

##### **B. Conference Committee on the Application of Conventions and Recommendations:**

There was discussion on the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) at the International Labor Conference in 1994.

##### **C. Cases Examined by the Committee on Freedom of Association (CFA):**

[China is not party to either of the ILO’s two fundamental conventions on freedom of association, Convention No. 87 or Convention No. 98. However, the Committee on Freedom of Association regularly examines complaints whether a member state has ratified these conventions or not, without the consent of the government concerned being required. Like all ILO member states, in accordance with the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up of 1998*, China also has the obligation arising from the very fact of membership in the ILO, “*to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions,*” including: “*(a) freedom of association and the effective recognition of the right*

*to collective bargaining.”]*

*1. CFA cases still pending*

Case No. 2031: (Committee has asked to be kept informed of developments since June 2000). Complaint filed by the ICFTU in June 1999. Allegations relate to physical assaults and detentions of labor activists; imprisonment for attempts to establish independent trade union organizations or to carry out activities for the defense of workers’ interests. The Government reply was that the allegations were unjustified and distorted and that certain individuals had been detained for violation of criminal law rather than for freedom of association. The Committee called for the amendment of sections 4, 5, 8, 9, 11 and 13 of the 1992 Trade Union Act for being contrary to the principles of freedom of association; called for the immediate release of certain named prisoners; requested an independent inquiry into allegations of torture and ill-treatment inflicted on one of these while in detention; urged the Government to respect the right of workers to peaceful demonstration to defend their interests; and suggested that the Government consider an ILO direct contacts mission. See 321<sup>st</sup> CFA Report, June 2000, paragraphs 140-176. The CFA in its 324<sup>th</sup> Report, March 2001, paragraphs 43-47, reported a communication received from the Government reiterating its view that sections 4, 5, 8, 9, 11 and 13 of the Trade Union Act do not contravene freedom of association principles, but indicating that sections 5, 8 and 9 were being revised so that they could be more consistent with the expressions used in international conventions. The Government also reiterated that six named individuals had been sentenced to imprisonment because of their breach of criminal law, some of them being repeat offenders, and that an investigation had found no maltreatment of one of the prisoners as alleged. The CFA reiterated its call for amending sections 4, 5, 8, 9, 11 and 13 in line with freedom of association principles and regretted that the Government merely repeated the information it had previously provided regarding the six individuals. The CFA last asked to be kept informed of any developments relating to this case in its 326<sup>th</sup> Report, November 2001, paragraph 180.

Case No. 1942 (Hong Kong): (Committee has asked to be kept informed of developments since November 1998). Complaint filed in November 1997 by the Hong Kong Confederation of Trade Unions (HKCTKU) concerning the enactment by the Government of the Hong Kong Special Administrative Region (HKSAR) of the Employment and Labor Relations (Miscellaneous Amendments) Ordinance, 1997 (ELRO), several provisions of which are not in conformity with Conventions 87 and 98, which the Government of China has indicated to the ILO apply in Hong Kong. ELRO repealed and/or amended three labor-related Ordinances that had been adopted by the previous Legislative Council of Hong Kong. The Chinese government responded that the three Ordinances in question had been rushed through during the final sitting of the previous Legislative Council of Hong Kong without due public consultation and full and proper scrutiny. The HKSAR contends that ELRO complies fully with Conventions 87 and 96. The Committee requested the Government to repeal section 5 of the ELRO which restricts union office to persons actually employed in the trade, industry occupation of the trade union concerned; repeal section 8 which subjects the use of union funds to the approval of the Chief Executive of Hong Kong and section 9 which institutes a blanket prohibition on the use of union funds for any political purpose;

requested the Government to review the Employment (Amendment)(No. 3) Ordinance, 1997, with a view to ensuring provision is made for protection against all acts of anti-union discrimination and for the right to reinstatement; and requested the Government to consider adoption of legislative provisions laying down objective procedures for determining the representative status of trade unions for collective bargaining purposes which respect freedom of association principles. See 311<sup>th</sup> CFA Report, November 1998, paragraphs 235-271. Extensive updates from the Government were reviewed by the CFA in November 1999, March 2000, March 2001, and November 2001. See 318<sup>th</sup> CFA Report, paragraphs 26-35; 320<sup>th</sup> CFA Report, paragraphs 44-53; 324<sup>th</sup> CFA Report, paragraphs 30-42; and 326<sup>th</sup> CFA Report, paragraphs 34-46, respectively. The last CFA Report noted efforts by the HKSAR Government to foster an environment conducive to collective bargaining at the enterprise and industry levels, to set up tripartite industrial committees, to debate the limits of the ban on the use of union funds for political purposes, and to amend the reinstatement provisions under the Employment Ordinance so that the Labor Tribunal may make an order of reinstatement, but the Committee reiterated its call for repeal of sections 5, 8 and 9 of the ELRO and requested the Government to give serious consideration to the adoption of appropriate provisions which respect freedom of association principles.

## *2. Other recent cases*

Case No. 1930: (Interim conclusions adopted in June 1998; 310<sup>th</sup> Report, paragraphs 271-367). Complaint filed by the ICFTU in June 1997. Allegations relate to violations of freedom of association in national legislation, the persistent recourse to arbitrary, and sometimes secret, detention of trade unionists, the repeated use of “re-education through labor” sentences against workers for carrying out legitimate trade union activities, the torture of and denial of necessary medical treatment to detained unionists, the harassment and, in some cases detention, of unionists’ family members and the dismissal of workers for legitimate trade union activity. Some of the detentions go back to 1989 and relate to leaders and activists of the Workers’ Autonomous Federation (WAF), the Free Labor Union of China (FLUC), the Beijing Workers’ Autonomous Federation, and the Workers’ Forum in Shenzhen. The Government’s reply to the allegations was limited to certain elements of the national legislation and the status of certain detained individuals. The Committee asked the government to take the necessary steps to amend sections 4, 5, 8, 9, 11 and 13 of the Trade Union Act (establishing a trade union monopoly and other restrictions on freedom of association) and sections 79 to 83 of the Labor Law (which preclude the right to strike); to spell out the grounds permitted under section 34 of the Labor Law whereby the labor administration department was empowered to raise objections to the implementation of collective contracts); to effect the immediate release of certain named individuals and re-examine other detentions; to investigate allegations of torture and ill-treatment received by others; and to investigate whether others were dismissed from their jobs because of trade union activity. See 316<sup>th</sup> CFA Report, June 1999, paragraphs 341-378. CFA last requested to be kept informed of developments in its 321<sup>st</sup> Report, June 2000.

Case No. 1819: Complaint filed in January 1995 by the ICFTU. The case concerns violations

of human and trade union rights - through the oppression by the Government as well as by various manning agents and shipping companies – of Chinese seafarers serving on foreign flag ships. The Government responded that the allegations were a distortion of a labor dispute between a Chinese company and its employees and that the matter would be resolved in a court of law. The Committee urged the Government to refrain in the future from arresting and detaining Chinese seafarers who pursue their legitimate grievances through organizations of their choice; to guarantee and respect the rights of Chinese seafarers to form the unions of their choice and to affiliate with organizations freely chosen by them, including with an international organization if they so wish; and requested the Government to ensure that three seafarers in question be compensated for economic losses incurred during their nearly 2-1/2 years' detention (for having disclosed "state secrets") and that the money, seamen's documentation and qualifications confiscated from them at the time of their initial arrested be restored to them. See 304<sup>th</sup> CFA Report, June 1996, paragraphs 116-158. The CFA reported in its 308<sup>th</sup> Report, November 1997, paragraphs 29-31, that there were further communications from the Government, but no progress noted. CFA last requested to be kept informed of any developments relating to this case in its 310<sup>th</sup> Report, March 1998.

Case No. 1652: Complaint filed by the ICFTU in June 1992. (Interim conclusions adopted in March 1993; 286<sup>th</sup> CFA Report, paragraphs 674-728). Case concerns the Trade Union Act of April 3, 1992 and acts of pressure (including physical beatings) against independent trade union activists, the sentencing, detention and dismissal of workers and obstacles to the function of independent trade unions, in particular the Free Trade Union of China which announced its establishment in May 1992. As regards legislation and practice concerning labor dispute settlement, the Government stated that Chinese policy and legislation had been drawn up in accordance with the reform process and current opening up of the country and in light of experiments successfully carried out in other countries and advice provided by ILO experts. As regards the penalties contained in the Provisional Regulations of 1987, the Government responded that these apply to offenses and crimes which are not a matter of freedom of association, further pointing out that these regulations as they relate to labor dispute settlement in state enterprises were repealed on 1 August 1993 and replaced by the Regulations on labor dispute settlement in enterprises in the People's Republic of China, which no longer provide for penal sanctions for disruption of work production during a labor dispute on public safety grounds. The Government also provided information on certain individuals sentenced on charges of subversion and with regard to allegations that another was subjected to acts of pressure, including physical beatings. Regarding an allegation that the Communist Party has requested an in-depth inquiry to track down the Free Trade Union of China, the Government denied the existence of either the organization or of a directive ordering an inquiry into it. The Committee requested that the Government take the necessary steps to amend the Trade Union Act adopted in April 1992 so that it fully accords with the ILO's freedom of association principles. Noting that the 1993 regulations (article 37) continue to exclude recourse to strike as a means of defense of occupational interests and list a number of acts which are prohibited during the settlement of a labor dispute, the Committee asked the Government to take the necessary measures to enable

workers and their organizations to exercise the right to strike when they believe it necessary to support their claims. The Committee also requested cancellation of the expulsion order issued against Mr. Han Dongfang; and, while welcoming the release of three detainees, asked the Government to take the necessary measures to ensure that all the cases mentioned by the complainant be re-examined and that the persons concerned released. See 292<sup>nd</sup> CFA Report, March 1994, paragraphs 368-401. The Committee reported in its 295<sup>th</sup> Report, November 1994, paragraph 19, that the Government had informed it of the release of one trade unionist imprisoned for theft. The Committee reported in its 297<sup>th</sup> Report, March 1995, paragraph 25, that the Government had informed it of further releases and a reduction in the sentence of one of the prisoners.

Case No. 1500: Complaint filed by the ICFTU in June 1989 alleging extensive violations of freedom of association in connection with the Government's suppression of the Tiananmen Square pro-democracy demonstrations in May/June 1989. While reiterating that this case has nothing to do with freedom of association, but rather concerns violations of the country's criminal laws, the Government supplied extensive information on all the people mentioned in the complainant's various communications. Noting steps taken by the authorities to release certain people, the Committee urged the Government to put an end to the detention of workers still in custody; to refrain from taking measures of administrative detention and forced labor, such as the so-called system of "education through labor", against workers who have engaged in trade union activities; and to take the necessary steps to ensure that the right of workers to establish organizations of their own choosing and the right of these organizations to function freely are recognized in the country's legislation and guaranteed in practice. See 281<sup>st</sup> CFA Report, February 1992, paragraphs 68-83. For earlier interim conclusions, see also 268<sup>th</sup> Report (November 1989), paragraphs 668-701; 270<sup>th</sup> Report (February 1990), paragraphs 287-334; 275<sup>th</sup> Report (November 1990), paragraphs 323-363; and 279<sup>th</sup> Report (November 1991), paragraphs 586-641.

## V. The Forced Labor Issue

China is not now party to either of the ILO's two fundamental conventions on forced labor (C. 29 or C. 105). However, China voted in favor of the *ILO Declaration on Fundamental Principles and Rights at Work* in 1998 which, as previously stated, declares that "*all Members, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions*", including:

***“(b) the elimination of all forms of forced or compulsory labor.”***

The Government of China has provided the ILO with a description of its rehabilitation programs for what it terms minor offences. The Government asserts that the principle of the elimination of all forms of forced and compulsory labor is recognized in China, and that no forced or

compulsory labor exists except for persons interned through labor.

The “follow-up” to the ILO Declaration, as it is known, is not a substitute for the ILO’s regular standards system or its supervisory mechanism, but rather a promotional political strategy aimed at encouraging ILO member state cooperation to comply with the requirements of the Declaration, including through the provision of ILO assistance if appropriate. In numerous exchanges with Government authorities, including at the time of the adoption of the ILO/China MOU (see below), the ILO has made clear that the use of “education through labor” is a form of using forced labor which the ILO considers unacceptable.

For example, following is an excerpt from the 310<sup>th</sup> Report of the Committee on Freedom of Association, doc. No. GB 272/7, June 1998:

**358.** *Firstly, the Committee must recall that it has already considered that the “system of education through labor” with regard to persons who have already been released, constitutes a form of forced labor and administrative detention of people who have not been convicted by the courts and who, in some cases, are not even liable to sanctions imposed by the judicial authorities. This form of detention and forced labor constitutes without any doubt a violation of basic ILO standards which guarantee compliance with human rights and, when applied to people who have engaged in trade union activities, a blatant violation of the principles of freedom of association. [See **Digest**, op. Cit., para 67]*

The following excerpt is from this year’s introduction by the ILO Expert-Advisers to the compilation of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work (GB, 283<sup>rd</sup> Session, doc. No. 383/3/1):

**36.** *The Expert-Advisers express their disappointment with the forced labor report prepared by the Government of **China**, the China Enterprise Confederation and the All-China Federation of Trade Unions, which states that there has been no change since the last report. In 2001 we expressed our concern with the persistence of forced labor for persons “who are interned for rehabilitation through labor” in that country. We would appreciate seeing, in future reports, detailed information and clarification from the Government of China with regard to efforts it has made since 2000 to respect, promote and realize the principle of the elimination of all forms of forced labor.*

As per the procedures of the Declaration “follow-up”, a lengthy and detailed statement from the ICFTU challenging the Government’s official position on forced labor was published this year alongside the Government’s annual report.

## **VI. Statements by the Government of China on Technical Cooperation Needs related to the ILO’s Core Labor Principles**

In its annual reports under the *Follow-up* to the *ILO Declaration on Fundamental Principles*

***and Rights at Work*** for the years 2000, 2001 and 2002, the Government of China has made the following statements regarding ILO technical cooperation needed to assist it “to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions”:

**A. With regard to freedom of association and the effective recognition of the right to collective bargaining:**

*In its (self) assessment of the factual situation, the Government stated:*

According to the latest information provided by the All-China Federation of Trade Unions, at present, there are 103 million trade union members in China. By the end of 2000, 67,195 foreign-funded enterprises and 432,704 private enterprises had set up trade unions at the workplace, with a total membership of 5,921,202 and 7,889,900 respectively (*for the 2002 report*).

According to data provided by the Department of Labor Relations and Wages, in the Ministry of Labor and Social Security, by the end of 2000, the number of collective contracts signed and registered with the Ministry of Labor and Social Security exceeded 240,000. They covered more than 60 million workers (*for the 2002 report*).

*Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights:*

The ILO carried out a series of technical cooperation projects with the Chinese tripartite members: in 1996, the ILO and Chinese Entrepreneurs' Association jointly organized in Dalian a seminar on skills for conducting collective bargaining; in September 1998, the ILO and Chinese Entrepreneurs' Association jointly organized in Beijing a training course on industrial relations; in July 1999, the ILO and China Enterprises' Federation jointly organized in Beijing and Zhejiang, respectively, seminars on labor legislation and practice in China; in 1999, the ILO and China Enterprises' Federation jointly organized in Xian and Shenzhen a training course on collective bargaining and consultation; in August 1997, the ILO and All-China Federation of Trade Unions jointly organized in Qingdao a seminar on collective bargaining and collective contracts; in December 1997, the ILO and All-China Federation of Trade Unions jointly organized a tour to Asian countries to study the issue of industrial relations; in April 1998, the ILO and All-China Federation of Trade Unions jointly organized a tour to European countries to study the issue of industrial relations; in December 1998, the ILO and All-China Federation of Trade Unions jointly organized a trainers' course on collective bargaining and collective contracts; in August 1999, the ILO and All-China Federation of Trade Unions jointly organized in Hefei a training course on training materials for collective bargaining; in August 1999, the ILO and All-China Federation of Trade Unions jointly organized in Harbin a trainers' course on wage negotiation. (*For the 2000 report*).

The conditions needed are an increase in the cooperation and exchanges with the ILO, accelerating the process of adopting the law on collective contracts and updating the relevant laws and regulations; in addition, it is necessary to improve the negotiation skills of government staff, managing personnel of enterprises and trade union representatives. (*For the 2000 report*).

With the cooperation of the ILO, the All-China Federation of Trade Unions organized a workshop on training for wage negotiators in March 2001, and held a high-level symposium on International Globalization, Labor Standards and Social Dialogue, in May 2001. (*For the 2002 report*)

With the cooperation of the ILO, the China Enterprise Confederation undertook a national survey on the role of employers' associations in tripartism, from January to June 2001. Based on the results of the survey, assessment seminars were held in Beijing and Shenzhen, covering a wide range of issues, such as ways in which to further build employers' associations in China, and to raise their status and improve their roles (*For the 2002 report*).

**B. With regard to the elimination of all forms of forced or compulsory labor**, after a lengthy description of Chinese law and the statement that "There exists no forced or compulsory labor in China except for the abovementioned persons interned for reform through labor", the Government of China reported for 2000 under "*Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights*" :

The ILO has held in China many seminars on international labor standards in which it promotes the principle of eliminating forced or compulsory labor...The Government will promote the relevant laws and regulations and raise people's awareness of these laws and regulations, so that they can know, observe and use the laws. At the same time, it will strengthen the enforcement of the laws, increase cooperation with the ILO and widely disseminate international labor standards.

**C. With regard to the effective abolition of child labor**, after a lengthy description of Chinese law which opens with the statement that "The principle of the effective abolition of child labor is recognized in the Constitution, legislation, judicial decisions, and collective agreements," the Government of China reported for 2002 under "*Efforts made or envisaged to realize the effective abolition of child labor*":

With regard to international cooperation, an ILO sponsored high-level tripartite seminar on Convention No. 182 was held in Beijing on 12-13 April 2001. Tripartite delegations from China participated in the Asia and Pacific Regional Meetings on child labor held over the last two years in Bangkok, Phuket, Dakar, Kathmandu...The Government does not work with any multilateral agencies other than the ILO, bilateral donors and/or other organizations to combat child labor.

For its 2002 submission, the Government made a general statement of its overall "*Priority needs for technical cooperation*" regarding child labor:

**The Government sees a need for new or continued technical cooperation with the ILO to assist in the realization of the principle of the effective abolition of child labor. The types of technical cooperation needed, ranked in order of priority (1 being the most important):**

1. Capacity building of responsible government institutions (e.g. labor inspection and administration).
2. Employment creation, skills training and income generation.
3. Social protection systems.
4. Special program for the elimination of the worst forms of child labor.
5. Strengthening capacity of employers' and workers' organizations.
6. Inter-institutional coordination.
7. Training of other officials (e.g. police, judiciary, social workers, teachers).
8. Awareness raising, legal literacy and advocacy.
9. Legal reform.
10. Policy advice.
11. Data collection and analysis.
12. Sharing of experience across countries/regions.

### 13. Cross-border cooperation mechanisms.

**D. With regard to the elimination of discrimination in respect of employment**, the Government for its 2000 submission, after stating that “The principle of the elimination of discrimination in respect of employment is recognized in China,” reported under “*Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights*”:

The ILO organized in April 1999 in Beijing a seminar on the Employment and Occupation Convention, No. 111, and, in September the same year in Urumqi and Chongqing, respectively, other seminars on the same theme..The objectives of the Government are to further promote the principle of the elimination of discrimination in respect of employment and occupation, advocate equality and ensure the all round implementation of the laws of the country...The conditions needed are : further disseminate the domestic laws and the corresponding international norms, increase cooperation with the ILO, and develop the statistics of employment disaggregated by sex.

For the 2002 report under “*Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights*”, the Government stated:

With the cooperation of the ILO, the Chinese Government held regional seminars on ILO Convention No. 111 in Yinchuan, capital of Ningxia Hui, Autonomous Region, and Guiyang, capital of Guizhou Province, in September 2000. In September 2001, seminars on Convention No. 111 were held in Shanghai and Beijing.

## **VII. Brief Sketch of ILO Technical Assistance and Technical Cooperation Activities in China Prior to the Signing of the 2001 MOU**

A. Until the Tiananmen events in 1989 there were substantial ILO technical cooperation activities in China, roughly half funded by UNDP and the other half from multi-bilateral sources. Areas of concentration included: social security, vocational training, rural development and cooperatives.

B. Following Tiananmen, the program shrunk to a virtual halt, except for China’s participation in a rural employment promotion project funded by Japan.

C. Beginning in 1996, the ILO renewed its technical cooperation activities in China, carrying out consultations, visits, studies and training under ILO Regular Budget programs. These have focused on:

- Labor market policies.
- Development of Small and Medium-sized enterprises (SMEs), especially micro-enterprises.
- Training and re-training of State-Owned Enterprises (SOE) laid-off workers.
- Poverty alleviation.
- Workshops, training and other activities related to safety and health.
- Workshops, surveys and technical advice related to social security system reform, focusing on unemployment insurance and displaced workers, social budgeting and statistics, and

- technical advice on the Pilot Program on Improving China's Urban Social Security System launched by the State Council and on the formulation of the Social Insurance Law.
- Workshops, study tours and technical consultations on labor dispute settlement, collective bargaining, labor inspection and tripartism, especially within the Economic Protection Zones (EPZs).

D. Technical cooperation projects initiated between 1996 and 2001 have included:

- CPR/96/504: Urban Employment Promotion Project, aimed at strengthening the Government- launched National Re-Employment Program, in which the ILO acted as the cooperating agency responsible for technical support and backstopping and advisory services.
- The ILO/Japan inter-country project on Strategic Approaches towards Employment Promotion aimed at exploring policy options and mechanisms for rural employment promotion and poverty alleviation through employment.
- CPR/96/513: Small Enterprise Reform and Development aimed at strengthening the capacity of the State Economic and Trade Commission (SETC) in formulating new policies and strategies on small, medium as well as large enterprise reform and development.
- While China is not a formal participant in the IPEC program, the ILO since the summer of 2000 has been engaged with the All China Women's Federation (ACWF) in the Yunnan component of the Greater Mekong Sub-regional Project to Combat Trafficking in Women and Children. This projects works with the Governments and various NGOs in Cambodia, China, Laos, Thailand, and Vietnam.

### **VIII. The Memorandum of Understanding for cooperation between the ILO and the Ministry of Labor and Social Security of the People's Republic of China, May 17, 2001**

The MOU sets out agreed policy priorities for future cooperation between the International Labor Office (ILO) and the Ministry of Labor and Social Security of the People's Republic of China in each of the four strategic objective areas of the ILO's "*Decent Work*" agenda, recognizing: that the People's Republic has the sovereign right to select its development partners and to coordinate its own development activities; that since the ILO is not a funding agency it will work with the People's Republic to mobilize external resources for the implementation of the activities foreseen in the MOU; and that the ILO will continue to develop cooperative programs with Chinese workers' and employers' organizations.

The four strategic areas for cooperation include:

- 1) International Labor Standards and the ILO Declaration on Fundamental Principles and Rights at Work.
- 2) Employment.

- 3) Social Protection.
- 4) Social Dialogue.

Other areas of cooperation include:

- 1) Statistics.
2. Sectoral activities.
- 3) Cooperation with the International Training Center of the ILO in Turin.
- 4) Cooperation with the International Institute of Labor Studies of the ILO.

The agreement envisions the establishment of a Joint Committee to formulate project proposals; mobilize resources for the implementation of the project; review and assess implementation of the MOU; and consider such revisions to the MOU as deemed appropriate.

## **IX. New programs under consideration or being implemented in cooperation with the Ministry of Labor and Social Security:<sup>1</sup>**

- A multi-bi proposal on Promoting Workplace Democracy and Improved Industrial Relations in China. The Ministry of Labor and Social Security, China Employers' Confederation (CEC) and the All-China Federation of Trade Unions (ACFTU) have all endorsed this proposal and funding is now being sought.
- A project on urban employment promotion, funded by Japan and underway, which is successor to the rural employment project cited earlier.
- A project on Improved Human Resources Development and Management in Chinese Economic Development Zones, funded by the Swiss Government and agreed to the day following the signing of the MOU in May last year.
- The development by the ILO of a comprehensive social security project for China which covers all the major areas of social security (administration, financing, extension of coverage, health, pensions, unemployment, insurance, etc.). The ILO is at an advanced stage of negotiation with the EU for funding of major portions of this project.
- The China Employment Forum will take place in Beijing on October 21-23, 2002, jointly organized by the ILO and MOLSS, to bring international and national policy experts together to develop a blueprint for promoting the Global Employment Agenda in China.
- The above list covers only major projects which are in an advance stage of implementation, development and funding prospects. There are many other initiatives which are being implemented which should eventually lead to major projects as well. For example, an exploratory mission combined with a tripartite sensitization seminar

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<sup>1</sup>*During the international donors' meeting held in Beijing in February 2002, the Chinese Deputy Minister of Labor stated that the MOU with the ILO constituted "the program of the Government of China in the labor and social fields."*

concerning HIV/AIDS at the workplace will be conducted in China during the second week of April. In addition, ILO workshops, advisory services, workshops and seminars are continuing on other subjects, funded through the ILO regular budget and with technical input from the East Asia Multidisciplinary Advisory Team based in Bangkok.

## **X. Cooperation with the All-China Federation of Trade Unions**

As stated earlier, the ILO has been carrying out training activities with the ACFTU for a number of years, particularly in the area of wage negotiations. Parallel to the ILO's MOU with the MOLSS, the ILO's Workers Activities Branch (ACTRAV), signed a separate MOU with the ACFTU in May 2001 looking to strengthen the ACFTU's education and training capacity with regard to negotiations and collective bargaining. These programs, now underway, include training trainers on industrial relations practices and concepts in a free market system, with emphasis on the enterprise level at foreign-owned and joint venture companies in the EPZs. ACTRAV has also introduced information technology in union work, as well as arranging study tours for the ACFTU to observe and understand wage negotiations and industrial relations in other countries. ACTRAV has also been involved in a UNDP project to strengthen the ACFTU's capacity to cope with the new challenges posed by economic reform, WTO accession, etc., including the establishment of tripartite/social dialogue structures and helping the ACFTU support its members through employment-creation and micro-credit schemes in select provinces.