

The Worker members thanked the Government representative for a detailed report which was very helpful in improving understanding of the situation with regard to the difficulties in the application of the Convention in the United Republic of Tanzania. However, they noted that the observation by the Committee of Experts was of a very general nature and would not help anyone who was not familiar with the case to understand the issues involved. They emphasized that, although the ILO supervisory system might have many weaknesses, there was nothing superior to it throughout the United Nations system in the field of human rights instruments, as acknowledged by human rights specialists. The supervisory system enjoyed great legitimacy and had proven to be effective, based on dialogue and cooperation and moral sanctions. However, it was also a fragile and vulnerable system and it was remarkable that it had worked so well for 80 years. The system was dependent on so many aspects which, although enshrined in the Constitution, were of a voluntary nature. The Conference Committee had developed many devices to induce governments to improve their implementation of ratified Conventions, including encouragement, criticism, technical assistance and direct contacts. Serious cases of non-compliance over a long period of time were placed in a special paragraph of the Committee's report to the Conference. Rather than a sanction, this was the most visible method available of communicating the special concerns of the Committee to the Conference. Such special paragraphs were often effective in achieving progress, since most governments did not appreciate being mentioned in this way. Nevertheless, if the governments concerned did not react in any way, then the system did not work as it should. This was the case with regard to the application of the Convention in the United Republic of Tanzania. The Committee had been examining the case for decades and had mentioned it in special paragraphs repeatedly. However, out of a fear that the very frequency of such mentions might blunt this instrument, the case had not been included in a special paragraph for the past decade. The Worker members emphasized that this had not been due to any improvement in national law and practice.

The basic problem consisted of the fact that the legislation was of such a general nature that it gave wide discretionary powers to the authorities in mainland Tanzania and in Zanzibar. Some examples included the power of the Government to prohibit activities in the area of freedom of association and freedom of assembly when it considered such a prohibition to be in the public interest or in the interests of peace and order, or of public health. People engaged in such activities could be imprisoned and obliged to perform labour. Another example consisted of persons who were not performing their job properly, who could also be imprisoned and forced to perform labour. Workers who were employed by specified authorities and who caused financial loss or damage to their employer through negligence or misconduct could be subjected to similar sanctions. Forced labour could also be imposed for breaches of discipline by seafarers. Compulsory arbitration could also be imposed in the event of labour disputes, making it possible to declare all strikes illegal and to imprison the strikers and force them to perform work. In this respect, as in previous years, the Government representative had endeavoured to explain that restrictions were not placed on political activities and that the provisions were only used to curb public unrest and disorder. The Government had also been stating for many years that new legislation bringing the situation into line with the Convention was forthcoming and that there had been few convictions. However, despite the repeated requests by the Committee of Experts, no information had been made available on the implementation of the law in practice.

The Worker members welcomed the appearance of goodwill demonstrated by the Government representative and the fact that no attempt had been made to disagree with the findings of the Committee of Experts. The Government representative had also said that a new approach was being adopted. In this respect the Worker members appreciated the difficulties arising out of the country's low level of development and the need to coordinate the issues raised with other authorities, such as the Ministry of Justice and the Interior Ministry. Nevertheless, major questions remained. The good faith of the Government remained to be proven; the obstacles which had, and which continued to prevent the Government from reacting appropriately to the recommendations of the Committee of Experts and the Conference Committee required clarification; and the Government's want and need of ILO assistance to improve the situation was also to be demonstrated. In view of the great difficulty in achieving any progress in the case, the Worker members proposed that the Government representative should be invited to propose the appropriate means of addressing the very serious issues under review.

The Employer members noted that the observation by the Committee of Experts on the case did not contain much information concerning the actual facts of the case or the specific violations of the Convention. However, they observed that in her statement the

Government representative had admitted the existence of violations of the Convention and had recognized that the process of legislative reform was too slow in meeting the requirements of the Convention. They also noted the existence of draft legislation which would repeal all the provisions which were incompatible with the Convention. However, the Committee of Experts' observation referred to the various laws without explaining their content and did not indicate precisely the provisions which would be repealed by the draft legislation. The Employer members emphasized that, while the facts of the case had not been presented clearly by the Committee of Experts, it was clear that numerous laws needed to be reviewed and amended. Finally, they endorsed the suggestion by the Worker members that the Government representative should be invited to indicate precisely the concrete measures envisaged by the Government to meet the requirements of the Convention. They also expressed the view that the case should be reviewed by the Committee on a more regular basis.

In response, the Government representative emphasized that account needed to be taken of the great difference between the situation before 1990, when the country had had a socialist economy and a single-party system, and its development since 1990 to a multiparty State with a market economy. While the political will might not have existed before 1990 to remedy the problems with regard to the application of the Convention, the situation was now very different. Some 40 legislative texts had been identified as breaching human rights, including the rights set out in the Convention. The reform process, although extremely slow, had recently produced the Trade Union Act, 1998, and the Employment Act, 1999, which repealed legislation that had been criticized by the Committee of Experts. Moreover, the labour law reform project, for which funding had been secured, was designed to review both labour legislation and other laws which impinged upon labour issues. This represented a fundamental ideological shift, which had resulted in the recognition that many legal texts needed to be amended. She indicated that ILO support and assistance for the project on the harmonization of labour law in the east African subregion would be welcome.

The Worker members expressed gratitude for the further information provided by the Government representative. However, they regretted that she had not given any idea of what action the ILO could take to help bring about change. They observed that the process of reforming the legislation had been going on for many years. Moreover, they questioned whether a subregional exercise to harmonize labour laws would have any beneficial effect on the application of the Convention if the national law had not been brought into compliance with the Convention.

The Committee noted the explanations provided by the Government representative, as well as the discussion that took place in the Committee. The Committee had already urged the Government in 1992 to eliminate the discrepancies between national legislation and the Convention, as had the Committee of Experts for a number of years. The Committee noted the assurances that a political will existed to apply the Convention, and urged the Government to adopt in the very near future the necessary measures to ensure that this fundamental Convention, ratified almost 40 years ago, was applied in both law and practice. It noted that new steps were being taken to accelerate the necessary amendment of the relevant legislation. It called upon the Government to supply detailed information on the progress made in bringing the legislation into conformity with the requirements of the Convention, to supply other information sought by the Committee of Experts, including copies of the various legislative texts which had been requested. The Committee reminded the Government that it could, if it so desired, request the technical assistance of the Office.

The Government representative added, in conclusion, that the labour law reform project would include legislation other than labour laws which impinged upon the application of the Convention. This reform project had already been commenced in her country. The project to harmonize labour legislation in the east African subregion would follow.

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

*Brazil* (ratification: 1965). A Government representative thanked the Committee for the opportunity to apprise it of the efforts her Government had made in the battle against all forms of discrimination in employment and occupation. In 1995, she recalled, the Government acknowledged the existence of discrimination and requested technical assistance from the ILO to apply more fully the various provisions of the Convention through legislation and in practice. The national tripartite seminar it organized at the time was a landmark in the struggle against discrimination in Brazil. Significant steps were taken, successfully, to involve employers' and

workers' organizations in a study of the issues with remedial action in view. By way of follow-up in 1997 a national campaign entitled "Brazil, gender and race" was launched with ILO assistance. From the outset, the campaign gave widespread publicity with tripartite support to the principles embodied in the Convention. To show how widely information on the Convention had been disseminated the Government representative pointed out that at a recent mass demonstration by peasants under the banner "The land of Brazil cries out" one of the peasants' demands was the application of Convention No. 111. News of the Convention had been spreading widely and was already reaching rural areas. The Government representative acknowledged that there was still an untold number of problems associated with discrimination and that the problem, which was among the worst violations of human rights, could not easily be resolved. One problem was that many cases turned on individual allegations involving a single worker and employer, and these proved difficult to substantiate. The solution might lie in heightened awareness-raising activities. The Government representative referred to practical action undertaken as a consequence of efforts to promote the Convention. This included the establishment since 1998 of specialized anti-discrimination centres in various state labour delegations, which represent the federal Ministry of Labour in each of the 27 States in the Federation. To date, such centres had been set up in 15 of the 27 state delegations, and each State was soon to have a centre of its own. Each of the centres was competent to receive complaints alleging discrimination on grounds of race, sex, physical deficiencies, sexual preference and health. When a complaint came in, officials of the centre conducted an investigation into the facts, studied the case and tried to work out a solution; when no solution was possible the case was sent on to the Attorney-General for appropriate judicial action. From January to March 2000 the centres received 80 complaints alleging discrimination, most of which ended in a settlement. The complaints concerned discrimination on grounds of gender (42 per cent), service-incurred injury or illness (29 per cent), health (12 per cent), age (5 per cent), disability (4 per cent), race or colour (1 per cent), and other factors (3 per cent). It was important to note that black women as a group were more exposed to discrimination than any other. There had also been 522 complaints against discrimination in the workplace affecting HIV-infected workers and AIDS victims, of which 513 had been resolved.

The Government representative also referred to the establishment of a database registering cases of discrimination and potential solutions, but the project had encountered certain obstacles, for which efforts were under way to overcome. He provided further information on practical steps and information activities undertaken, among them the training of 6,000 teacher-trainers on matters of discrimination and the holding of various seminars including several attended by ILO experts. The Government of Brazil had every intention of continuing to provide information for the supervisory bodies and of benefiting from ILO technical cooperation until such time as the last remaining vestige of discrimination in Brazil could be eliminated.

The Worker members stated that the problem of discrimination in Brazil had been the subject of discussion in this Committee in 1993, 1994 and 1995. Various points had been debated: discrimination in employment, including wage discrimination relating to sex or race; the obligation for women to produce a certificate of sterilization prior to employment; and the lack of national policy concerning equality of treatment. In its most recent observation, the Committee of Experts noted with interest the numerous initiatives undertaken by the Government, both in terms of legislation and practice. Moreover, the Government representative had provided additional information on this subject. The Committee of Experts, however, noted in its most recent observation that the information provided in the report concerning the situation of employment was not sufficiently detailed and did not enable it to evaluate the progress made in the implementation of the Convention. Concerning discrimination on the basis of race, colour or ethnic origin, the Committee of Experts had noted reports concerning the persistence of profound structural inequalities endured by the indigenous population, the black and mixed-race communities despite the measures taken by the Government. Concerning discrimination based on sex, the reports of the United Nations Human Rights Commission indicated that women continued to face *de jure* and *de facto* discrimination, particularly concerning access to the labour market. The Committee noted with interest Law No. 97/99 which prohibited the publication of discriminatory employment advertisements as well as the termination or refusal to hire, promote or train people based on sex, age, race or family status. Information on the implementation of this law, including the measures envisaged to set up policies on equality of opportunity and treatment are necessary. Likewise, further information was requested concerning the effective implementation of laws prohibiting employers requiring certificates of sterilization or any other legislation adopted to fight

against discrimination. Evaluation of the implementation of Conventions concerning discrimination was only possible if the information provided by the Government was reliable and sufficiently detailed.

The Worker members remain very concerned by the persistence of discrimination of which indigenous people, blacks and persons of mixed race are victims; the position of women in the labour market; discrimination in the fields of education, guidance and professional training; and access to the labour market of underprivileged young people, as well as children known as "street children". In conclusion, the Government must continue to deploy all efforts to assure the effective implementation of the Convention, in terms of legislation and practice, and to formalize anti-discriminatory policies. In addition, the Government must provide reports which are sufficiently detailed and of such quality as to enable efficient examination of the implementation of the Convention.

The Employer members indicated that the Committee discussed this case three years in succession in the 1990s — 1993, 1994 and 1995. This case had previously had three serious elements: employment discrimination based on race and sex including salary discrimination; the absence of any national policy on equal opportunity; and the fact that the employer was allowed to require female applicants to obtain sterilization certificates. In 1995, there was a breakthrough in that the Government agreed to the establishment of a Technical Advisory Committee and enacted Act No. 9029 that prohibited employers from requiring a medical sterilization certificate from women. In 1996, the Government launched a national programme for human rights that broadly provided for equality for women, blacks, the disabled and indigenous people. In 1997, the Committee of Experts noted the progress being made in both law and practice. In 1999, Brazil adopted Law No. 97/99 which amended the Consolidated Labour Act to include prohibitions of discrimination on the basis of sex, age, colour and family status. This year the Committee of Experts had noted other positive actions taken by the Government including public awareness programmes. But on an overall basis, the Employer members considered that this Committee did not have a clear picture of the effects of all of these measures. Moreover, the Committee of Experts had noted that certain indigenous communities continue to suffer from deep structural inequalities. The Employer members were also surprised by the fact that only 80 complaints had been filed within a three-month period, alleging discriminatory practices. In light of the size of the labour force, the Employer members considered this number of cases to be extremely low. This Committee therefore needed information that non-discriminatory practices were taking hold. Hence the Government needed to provide promptly a report as requested by the Committee of Experts, assessing whether there had been concrete progress and the statistical data requested by the Committee of Experts under point 9 of its report.

The Worker member of Brazil indicated that the application of Convention No. 111 had been the subject of comments since 1991 by the Committee of Experts and was taken up by the Conference Committee in 1993, 1994 and 1995. The case had come up for discussion once again because of continuing breaches of the Convention. Discrimination in employment and occupation in Brazil left no room for doubt. In 1993 the Government representative himself acknowledged the existence of discriminatory practices going all the way back to the colonial period. Since then, a number of laws designed to combat discrimination had been enacted. Despite progress in legislation, however, discriminatory practices against women, blacks, Indians and sexual minorities had, sadly, remained commonplace. Women, for example, were still being asked to submit evidence of sterilization before recruitment and were even subjected to medical examinations.

Statistical data from official bodies were worth mentioning. In six of Brazil's richest metropolitan areas women's average earnings amounted to only 67 per cent of men's. The wages of blacks were 60 per cent of what non-black men and women received. Women were more exposed to social exclusion than men; 32.2 per cent of economically active workers without the benefit of a contract of employment were women whereas the proportion of working men without contracts was 24.9 per cent. Similarly the unemployment rate in major urban centres was 8 per cent for women as opposed to 6.9 per cent for men. The black population was much harder hit by unemployment: although it represented 41.7 per cent of the economically active population according to one study carried out in five urban areas, 50 per cent of unemployed workers were black. The perverse affects of discrimination based on sex and race were evident in respect of unskilled employment: 19 per cent of working women (some 5 million women) laboured in domestic employment for a paltry wage. In domestic employment there was evidence of double discrimination since 56 per cent of domestic women workers were black. They had scant education, one to three years' schooling, and their monthly pay came to a mere US\$41. Blacks in the active population held positions requiring the lowest skills levels

and seldom rose to management positions in either the private or public sectors.

The Committee of Experts regularly requested the Government to supply information on the practical effects of newly adopted legislation in keeping with the obligation laid down in Article 3(f) of the Convention on the reporting of “results secured”. The reason why the results secured by official policies and legislative measures were so meagre was that despite the magnitude of the problem the Government’s policy measures were purely “cosmetic”. The holding of national seminars attended by 100 participants or the distribution of explanatory leaflets seemed derisory for a population of some 160 million. However necessary, such action could only be inadequate. The effective application of the Convention called for active policies targeting the integration of blacks, women, Indians and sexual minorities by such means, for example, as establishing quotas in the public service or subordinating public aid for private enterprises to compliance with anti-discrimination rules. Whereas state-controlled enterprises should be setting an example, the first case of discrimination on which the Supreme Labour Court had ruled concerned a publicly owned enterprise. Employers should also be encouraged by the Government to follow an active non-discrimination policy, notably through the system of vocational training which they ran. The system should finance vocational training designed to integrate those who had been excluded on grounds of race or sex.

As to the question raised by the Committee of Experts concerning the paucity of complaints alleging discrimination despite an impressive anti-discriminatory legislative arsenal, the Worker member pointed out that Brazil’s labour legislation was one of the most flexible in the world and allowed employers to dismiss workers without giving any reasons. Dismissed workers were left to ask the courts for awards of moral and material damages, which proved difficult to substantiate.

In conclusion, Brazil, it was plain, had still failed to apply Convention No. 111, particularly Article 3(f). The Conference Committee should therefore request the Government to communicate detailed and specific information on the practical results of the action it had undertaken.

The Employer member of Brazil underlined the positive steps taken by the Government to ensure and promote the application of the principles embodied in the Convention. She said that the Government had done an excellent job of disseminating information and raising the public’s level of awareness with a view to eliminating discriminatory practices in employment and occupation. She dwelled on the Government’s achievements in terms of legislation enacted and the organization of various nationwide events. Her Confederation, she observed, had taken part in numerous events organized by the Government to promote and effectively apply the principles in the Convention.

The Worker member of the United States noted that Brazil and the United States were remarkably similar in that both nations were highly diverse and multicultural, both nations had emerged from systems of colonialism and slavery, and that both had been shaped by peoples of African, indigenous, Asian and European origins. Despite these similar origins, there were also significant differences. For example, Brazil in its post-slavery period had never maintained a regime of state-sponsored and state-enforced segregation and discrimination which had existed in some parts of the United States. Nevertheless, he recalled that both the report of the Committee of Experts and the admission by the Brazilian President Fernando Henrique Cardoso in 1994 that the notion of Brazilian racial democracy was really a myth, suggested that discrimination in employment remained a major problem in Brazil and called into question Brazil’s effective compliance with [Convention No. 111](#).

He noted that the report of the Committee of Experts referred to certain measures which the Brazilian Government had taken to address the discrimination crisis. However, the experts explicitly acknowledged the failure of the Brazilian Government to provide them with concrete information showing what substantial impact these measures had actually produced on employment discrimination, thus falling short of the requirements of Article 3(f) of the Convention.

Despite this lack of information, a more complete analysis of Brazilian employment discrimination could be constructed from other sources. He recalled a 1999 study prepared by Brazil’s Inter-Union Department of Social Economic Studies (DIEESE) and the Inter-American Trade Union Institute on Racial Equality (INSPIR) which was funded by the AFL-CIO and three Brazilian trade union centres. The study concluded that black workers, on average, earned only 60 per cent of the income of their non-black counterparts, that black workers were disproportionately over-represented in the unskilled job sector, and that black workers were disproportionately under-represented in managerial positions and over-represented in the unprotected informal sector. The DIEESE/INSPIR study concluded that “no other factor, other than direct use of dis-

crimatory criteria based on skin colour, can explain the systematically unfavourable employment situation for black workers ...”. He also recalled the study prepared by the Brazilian Institute of Geography and Statistics which concluded that Brazilian women, on average, earned only 67 per cent of the income earned by their male counterparts.

Given the above, he suggested that the Government promote a policy of encouraging anti-discrimination clauses in collective agreements by urging employers, trade unions, and the labour court system to incorporate such measures in the collective bargaining process and in the registration of collective agreements. Furthermore, the Brazilian Congress and courts, pursuant to the 1988 Constitution, should develop the necessary mechanisms in law and equity, including affirmative action, to begin to remedy systematic discrimination. Finally, the Brazilian Government should endeavour to harmonize its legislation to avoid contradictions. For example, he pointed out, Brazil’s 1998 law which established the fixed-term and temporary contract system undermined job stability for women who exercised their maternity leave rights, thus aggravating the disparate treatment between women and men in the labour market. Recalling Brazilian subterfuges which had been used to hide slavery from the English in the nineteenth century, he urged the Brazilian Government to root out discrimination, as opposed to merely covering and camouflaging it.

Another Employer member of Brazil spoke of various government-organized seminars, meetings and forums on the topic in which he had taken part. These events were characteristically tripartite and seldom gave rise to criticism. As to the system of ongoing training, which the employers managed, it was to be noted that workers’ representatives also sat on the governing bodies of the various training institutions. The Government’s productive and continuing efforts to combat discrimination were worth emphasizing.

The Worker member of Singapore expressed her grave concern that discrimination continued against women and persons of different races, colours and ethnic origin in Brazil. She noted that there appeared to be legislation prohibiting discrimination and that a human rights programme had been established to promote equality. She also noted the establishment of centres for the prevention of discrimination at the state level, which involved representatives of the Government, trade unions, and minority and women’s groups. However, she stated that there was insufficient information on these activities and the number of complaints and successful prosecutions that had been registered to know whether such legislation and programmes were effective. She further noted that the cause of discrimination against women and ethnic minorities was usually much deeper and embedded in the values and norms of a society. She therefore urged the Government to send a strong signal to the public through clear policies and effective programmes aimed at eliminating discrimination. She recalled that [Convention No. 111](#) was one of the core Conventions and that its objective was to protect the interests of vulnerable groups who, without strong intervention from the governments, would seriously suffer from discrimination in employment and training.

In conclusion, she urged the Government to provide further information on the treatment of complaints and cases regarding discrimination, on the number of successful prosecutions under current legislation, and what measures had been taken to inform workers, employers, women, and ethnic and racial minorities of government efforts to combat discrimination. She recalled that it had taken the Government seven years to introduce the measures discussed today, and she hoped that it would not take another seven years to be informed of further progress.

The Government representative underlined, in response to several comments of the Employer members in relation to the low number of complaints regarding discrimination, that the statistics she had provided referred exclusively to complaints presented to the 15 centres specialized in combating discrimination in the three-month period between January and March 2000. She indicated that she had at her disposition a detailed report with statistics but that she wished to add further information. She stated that the next report would include this information and that it would add statistics which would respond to the questions which had been raised during the discussion. She recognized that there was still much to be done and that the Government was still learning to make progress in the field of human rights.

The Worker members stated that the information before the Committee confirmed the persistence of significant levels of discrimination in practice. The absence of instruments of evaluation to permit the drafting of detailed reports of good quality was a big handicap when it came to measuring the impact and concrete effects of the Government’s various programmes and policies. If, as the Government indicated, such data existed then it should take the necessary steps to produce it in its next report for the Committee of Experts to evaluate progress made in applying the Convention.

The Committee thanked the Government for the detailed oral information it provided, and noted with interest the discussion which followed. It recalled the serious violations of the Convention that had previously been noted by the Committee of Experts and this Committee, and the progress in tackling these problems, with the assistance of the Office, that had been noted by the Committee of Experts. It also noted with interest the numerous programmes and activities that had been undertaken by the Government to promote human rights in the country, in particular equality on the grounds set out in the Convention, while noting that a number of problems still exist in practice. The Committee requested the Government to provide detailed information on the concrete and tangible results achieved through this action, including reports, studies and statistical data and other indicators, particularly with regard to any changes in the economic participation rates of women as well as different racial or ethnic minority groups and indigenous peoples. It encouraged the Government to assess the progress made, and to provide detailed information in its next report to the Committee of Experts in this regard.

*Islamic Republic of Iran* (ratification: 1964). A Government representative reaffirmed the commitment of her Government to the application of the Convention, the provisions of which were in conformity with the principles and objectives of her Government. The Government recognized its obligation to promote and realize the principle of non-discrimination and had endeavoured to provide complete and substantive reports to the Committee of Experts, containing all the available information requested.

She recalled that last year during the Committee her Government had stated that it would invite a mission from the ILO to come to the Islamic Republic of Iran to discuss with various parties any issue that it wished regarding the application of the Convention. Her Government had also responded positively to the views expressed by the Worker members and other members of the Committee and had agreed and accepted the terms of reference of the mission as indicated by the ILO in their entirety. The Government had cooperated fully and provided all the necessary assistance and facilities requested for the mission. In an extensive work programme, the mission had discussed various issues regarding the application of the Convention and matters raised in the supervisory bodies in their meetings with various government officials, the judiciary, several NGOs and minority groups. As a result of the knowledge and experience of the mission members, it had been possible to hold very useful in-depth dialogue on all the issues raised, as indicated in the report of the Committee of Experts. She added that a national tripartite seminar would be held in her country in the next few months with ILO cooperation on the further implementation of the ILO's fundamental standards.

With respect to the comments of the Committee of Experts, she noted the reference to the existing national dialogue in the Islamic Republic of Iran on the issues covered by the Convention and the commitment in the governmental structure towards removing all possible obstacles to the application of universally recognized human rights standards. It had also referred to the national institutions set up to examine and promote human rights. She emphasized in this respect that the national environment in which the Convention was applied was of great importance. The existence of a lively civil society and a wide range of governmental and non-governmental institutions to ensure respect for the rights of citizens, including non-discrimination, was the best mechanism for the materialization of these rights. Any comments on the application of the Convention therefore needed to take into account the degree of social and civil development of the national environment, as had been done by the Committee of Experts when it noted the expanded activities in her country in the area of human rights.

With regard to discrimination on the basis of sex, the Government had received support from Parliament in adapting the present Five-Year Development Plan, under which legislation was introduced to promote equal opportunities and encourage the higher participation of women in employment and education, as noted by the Committee of Experts. In this respect, the credit should be given to Iranian women who had made the effort to achieve the breakthrough in their levels of participation in social activities, and particularly in educational and occupational areas. The pertinent statistics and facts, which had also been reported by the ILO mission, were significant in any comparison with other developing countries. She reported in this regard that social and awareness-raising activities included the establishment of a large number of state and non-governmental committees and institutes throughout the country to facilitate and encourage the higher participation by women in all socio-economic fields in accordance with the importance given by government policy to the empowerment of women. She added that, in the sixth Iranian parliamentary election held at the end of 1999, more than ten women had been elected, one of whom had subsequently been elected to the Bureau of the Parlia-

ment. She recalled that current developments in education in her country had received international acknowledgement, including by UNESCO. The numbers of students at universities had risen from 170,000 some 20 years ago, of whom 24 per cent had been women, to 1,400,000 at the present time, of whom 50 per cent were women. It was significant that over the past two years, female entrants to universities had accounted for 52 and 57 per cent of all students, respectively. A new type of women's empowerment project addressing specific target groups in deprived areas had also been initiated and included research, training workshops, the strengthening of local NGOs and other activities.

Turning to the subject of women in the judiciary, she stated that various high-ranking positions were occupied by competent women, as noted by the ILO mission. No distinctions or privileges were set out for women or men in the law respecting the recruitment of judges. Male and female applicants competed in the same examination, which was the only basis for admission as a candidate. All persons admitted had to complete one year of professional training to prepare for the final professional examination for qualification as a judge. At none of these stages was there any distinction between the sexes. Moreover, for a number of years, women had obtained the five highest marks in the examination. There were currently 146 women judges and 380 women attorneys-at-law. The Committee of Experts had noted the influential judicial capacity of women in her country. Moreover, the role of women in the judiciary was not confined to advisory positions. Women were now appointed as judges and made judicial decisions. With regard to the obligatory dress code for civil servants, she stated that the regulations applied equally to men and women working in the civil service. She announced the submission of a copy of the relevant document, as requested by the Committee of Experts, and stated that it did not include any element of discrimination between the sexes and had in practice served as a basis for a higher participation by women.

On the subject of section 1117 of the Civil Code, which had been adopted some 70 years ago, the Committee of Experts had called for either the husband's right to object to his wife's employment to be removed or for the equivalent right of objection to be granted to the wife. In this context, she stated that more recent legislation, namely the Protection of the Family Act, granted the wife the same right in section 18.

She informed the Committee of a major development, namely the adoption of the present Five-Year Development Plan, which incorporated a gender dimension with regard to employment. She emphasized that her Government was determined to develop and adopt the necessary measures to further enhance the employment of women and to take any additional administrative decisions that might be necessary.

In relation to discrimination on the basis of religion, she recalled that her country had been famous for religious tolerance and that religious minorities had found that it was a home in which they could live and enjoy the same citizenship rights, as those acquainted with the situation of Christians, Jews and Zoroastrians in her country could confirm. The ILO mission had confirmed that the members of the recognized religious minorities continued to have high levels of education and employment. Furthermore, in addition to access to all the legal and administrative channels available to all citizens, the members of minority groups also had other formal and informal channels through which they could raise any issue of interest to them. The protection of their interests was also ensured through their representation in the national decision-making process. Indeed, the number of representatives in Parliament from the religious minorities was proportionately higher than that of Muslims. These mechanisms and the tradition of coexistence, which had continued for many centuries, ensured the principle of non-discrimination.

With regard to the employment situation of persons not belonging to any recognized religious minority, she emphasized that the right to employment covered all the citizens in the country. The articles of the Constitution which set out the rights and liberties of the citizens used only general terms, such as "any individual" or "all Iranians". There were no grounds for discrimination in such rights, including in the right to employment. Christians, Jews and Zoroastrians were recognized in the Constitution as religious minorities with a view to ensuring their freedom in their religious rights and ceremonies and so that they could act according to their own canon in matters of personal affairs, such as marriage and divorce, as well as with a view to the recognition of their religious holidays and their own religious sites and organizations. She therefore explained that recognition as a religious minority was related to religious issues, while non-discrimination was a general principle which applied to all citizens. She added that there were no restrictions for religious minorities in access to universities and higher education.

She indicated that the Government had taken several measures, and would continue to do so, to ensure that the rights of individuals as citizens of the country were well protected. The national Consti-

tution explicitly guaranteed equal rights for the entire population of the country and specific mechanisms existed to ensure that any new legislation, including provisions on non-discrimination, were fully in line with the Constitution. One such mechanism was the Board of Follow-up and Supervision of the Implementation of the Constitution, established a few years previously, which was responsible for monitoring the full implementation of the Constitution and reporting any shortcomings to the President. Complaints against government officials and authorities could also be filed with the relevant courts, Parliament, the Administrative Justice Tribunal and the State General Inspection Organization. In addition to these judicial and administrative safeguards, non-governmental mechanisms were in full operation, including several NGOs active in various aspects of human rights.

She emphasized that new legislation of major importance and direct relevance to the Convention, namely the legislation on the rights of citizenship, had been approved by the Iranian Expediency Council in 1999. This legislation was based on the provisions of the Constitution and re-emphasized the equal rights for all the citizens of the country without any discrimination on the basis of religion, sex, race, ethnic origin and other grounds. It was applicable to all Iranians irrespective of their religion. She added that the Board of Follow-up and Supervision of the Implementation of the Constitution had held its second annual national seminar on citizens' rights and the Constitution which had been designed to raise public awareness and had focused on the rights of minorities. She also noted that her country would be the host of the Asian Preparatory Meeting for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

Finally, on the occasion of the ILO mission to her country, a commitment had been made to undertake a number of joint activities with the ILO to further promote the application of the Convention and of fundamental principles. She reiterated the invitation to the ILO to hold a national tripartite seminar in the autumn of 2000 which would cover in detail the provisions and requirements of the ILO's fundamental Conventions. She welcomed ILO cooperation and expressed readiness to collaborate with the Office in various activities to promote the application of fundamental Conventions, including [Convention No. 111](#), in her country. The Islamic Republic of Iran was therefore willing to continue its constructive dialogue and cooperation with the ILO on all subjects, including the implementation of the Convention.

The Employer members thanked the Government representative for the information provided and recalled that the application of the Convention raised very serious issues which had been examined by the Committee over a period of many years. At the Conference in 1999, the Government representative had agreed to receive an ILO technical advisory mission, the functions of which had been set out in the Committee's conclusions. The Employer members believed that the statement by the Government representative had demonstrated a certain superficial appeal, in that the right things had been said. Nevertheless, they expressed a certain concern at the Government representative's affirmation that the Convention complied with the legislation and principles in the Islamic Republic of Iran. They pointed out that the process should be reversed, and it was for national law and practice to be brought into accordance with the Convention. The Government representative had also expressed a commitment to the principles set out in the Convention. However, this differed from complying with its legal obligations. While the national policy objectives might be in the right direction, the necessary legal protection might still not exist. The Employer members expressed the belief that neither the report of the Committee of Experts nor the statement by the Government representative contained precise information on the manner in which the fundamental problems raised were being addressed. While they welcomed measures such as the tripartite seminar and grass-roots educational programmes, they emphasized that the problems were of a systemic nature. Their resolution would require a sense of urgency, which had not been evident in the statement by the Government representative. In practice, despite the existence of a human rights commission, in view of the country's long history of human rights violations, it was not surprising that many citizens might be reluctant to file complaints.

While the Employer members welcomed the improvements with regard to discrimination in employment on the basis of sex, they pointed out that the number of women employed was still relatively low, being under 10 per cent. Moreover, there remained a clear distinction between participation rates of women in high-skilled and low-skilled jobs. The situation was the same in the field of education, where much more needed to be done to facilitate the access of women to higher education. Despite the affirmation by the Government representative that the selection of candidates for the judiciary did not involve any discrimination on the basis of sex, the Employer members referred to the comments of the Committee which still raised concern and called upon the Government to

provide proof of the improvements which they claimed had been made. Such proof could consist, for example, of a statistical analysis of the number of judicial decisions taken by women in the judiciary in order to demonstrate that they did not merely fill an advisory role. The Employer members also observed that the issue of the obligatory dress code had not been mentioned by the Government representative. They called for further information to be provided on the exact situation in this respect. With reference to section 1117 of the Civil Code, under which a husband could bring a court action to object to his wife taking up a profession or job contrary to the interests of the family, they urged the Government to take action to remedy this discriminatory situation in both law and practice. Finally, with reference to the situation of the members of the Baha'i, which had not been mentioned by the Government representative, they expressed the conviction that discrimination continued to be exercised in practice.

While noting with interest the information provided by the Government representative, the Employer members feared that little progress had been made in practice over the past ten years with regard to the application of the Convention. They therefore urged the Government to continue taking the positive measures which had been mentioned, particularly in cooperation with the ILO. They also called on the Government to understand the need for a sense of urgency in addressing the problems of non-compliance with the Convention.

The Worker members, after thanking the Government representative for the information provided, recalled that the ILO mission to the Islamic Republic of Iran had constituted a welcome breakthrough in the manner in which this difficult and very serious case had been addressed. After a hostile and confrontational beginning in the early years, it had gradually been possible to progress to a climate of dialogue with the Government. In this respect, they recalled that some years ago the Government had claimed that it was completely different and could not be judged by ILO standards as they were supervised by international bodies. The Government had stated at that time that international standards would only be observed if they were compatible with Islamic precepts.

While welcoming the mission, the Worker members feared that the tone of the comments by the Committee of Experts was too positive, without wanting to degrade in any way the importance of the mission. They recalled that a mission was merely a tool and that the only thing which counted was the result. The result they wished to see was that Iranian law and practice would be brought into line with the Convention. They warned that there was still a long way to go before that point could be reached. While the mission had been expected to clarify the precise situation, it had not necessarily shortened the distance to the desired destination.

On the subject of the mission, the Worker members recalled the efforts which had been made in the Committee in 1999 to ensure that there could be no misunderstanding about the nature of the mission or its mandate. The Worker members had emphasized that its objectives should be clear and that all the problems which had arisen in the application of the Convention should be discussed. In view of the past controversy over the facts of the case, it had seemed evident that the mission would endeavour to contribute to greater clarity on the factual situation as to the application of the Convention. While this had not been stated as among its objectives, the mission appeared indeed to have tried to clarify the situation in this respect. However, what the Committee's report did not contain was a clear and complete list of the mission's contacts. The question therefore arose as to which government officials and representatives of employers and workers, and which other parts of Iranian society had been included and whether they were independent of the Government. They also raised the question of whether the national institutions set up to examine and promote human rights, including discrimination in employment, were independent of the Government. They asked for more information on the mission's contacts with representatives of the recognized religious minorities and whether these had included representatives of the Jewish community as, at the time of the mission, there were serious and politically sensitive problems regarding the latter. They also wondered whether the people engaged in such contacts could be considered to truly represent the views of their minority or of the Government. He questioned whether the mission had met representatives of the Baha'i, and other non-recognized religious minorities. All of these were important questions, the answers to which were indispensable in interpreting the report of the mission. An indication was also required of whether the mission had been able to meet all the persons it wanted to see and whether it had the impression that the people it had met feared reprisals by the Government.

With regard to the findings of the mission, the Worker members drew attention to the many valuable elements in the report of the Committee of Experts. One of these, which was apparently in line with the views of the Government, had been the effort made to situate the shortcomings in the application of the Convention within a

broader human rights context. Interesting information had also been included on the issues discussed earlier in the Committee. However, one issue which the Committee of Experts had raised in the past, and which the Worker members had especially requested the mission to cover last year, was that concerning the Islamic Works Councils. No information had been included in the report on this matter and the reasons for its omission were unclear. The message in the observation by the Committee of Experts was that there were many positive elements concerning the promotion of human rights, including with regard to discrimination on the basis of sex and religion, and tripartite consultation. The Committee of Experts had requested the Government to continue to supply information on the cases pending before the Islamic Human Rights Commission and on the Commission's activities. It had also requested the Government to continue supplying information in its reports on the situation with regard to discrimination on the basis of sex and on the participation of women in the labour market and in certain professions. The Committee of Experts had expressed the hope that certain restrictions on equality of opportunity and treatment of men and women workers would be removed, that section 1117 of the Civil Code would be reviewed and that measures would be taken to promote non-discrimination and the non-recognized minorities.

While all the above was of importance, the Worker members believed that what was completely missing in the report was a reference to what a serious case this had been, to the continuing serious nature of the case, and to the precise situation at the present time in the country with regard to the application of the Convention. Although positive developments had been recognized, the observations contained hardly any criticism of current problems. In this respect, there was a marked contrast between the observation by the Committee of Experts and the report of the Special Rapporteur of the United Nations Human Rights Commission, and such discrepancies had either to be explained or avoided by closer cooperation. It was good that the mission had gone, but it had raised as many questions as it had provided answers.

In conclusion, the Worker members welcomed the Government's desire for dialogue, but emphasized that it was necessary to concentrate on the application of the Convention in both law and practice. It was to be hoped that the mission could be repeated when deemed necessary, some time in the future, and that other forms of cooperation would be developed between the ILO and the Government. They urged the Committee of Experts in particular to examine in its next report whether there had been any changes in the law to bring it into compliance with the Convention, as this aspect of the case appeared to have been neglected by the Committee of Experts.

The Worker member of the Islamic Republic of Iran, mentioning the reference in the Committee of Experts' comments to the first tripartite consultation on social and labour matters, welcomed the first National Labour Conference held last year. He urged the Government to fully implement the recommendations of the Conference, especially those regarding contract labour, small enterprises, and the ratification of [Conventions Nos. 87 and 98](#).

He further stated that during discussions with the ILO technical advisory mission, workers had raised the issue of recent legislation which exempted small enterprises with five or fewer employees from the ambit of the labour law. Unfortunately, this matter had not been examined in the report of the Committee of Experts. He stated that, in his opinion, the law was in open violation of the Convention because it discriminated against workers employed in small enterprises. He noted that parliaments usually enacted laws in favour of workers and that it was unprecedented in the history of his country for a law to be adopted to provide for the non-application of a law to one part of the working population. This new law was against the essence of the Islamic Constitution and principles of social justice and would usher in an era of exploitation. He noted that this law would endanger the rights of approximately 3 million workers, and he therefore urged the Committee to take note of the situation and take appropriate measures. Similarly, he requested the Committee of Experts to evaluate this situation and reflect it in their comments.

Finally, he announced that the workers of the Islamic Republic of Iran were determined, while maintaining peace, to follow up on their demands through proper legal channels, both at the national and international levels. He demanded that the Government repeal the above law as a matter of urgency.

The Worker member of Italy took note of the comments of the Committee of Experts on the basis of the mission invited by the Iranian Government last year. It was clear from those observations that no effective legal and political steps had been taken by the Government to overcome the serious and continuous breach of the content of the Convention. Serious violations of basic human rights and political freedoms had continued to be registered by several human rights organizations. It was quite clear that in this general climate of repression, very few cases on discrimination had been

reported to the Islamic Human Rights Commission or to the Supervisory Commission on the Implementation of the Constitution, since both institutions were composed of former high-level government members. In addition, she considered that the judicial system was not independent and was subject to government and religious influence. She recalled that women were not allowed to become magistrates empowered to deliver verdicts, which constituted a clear violation of the Convention. In this regard she requested the Government to abrogate the Conditions for Selection of Magistrates Act of 1982. She also pointed out that women could not freely enter certain sectors of the world of work.

With regard to education, she emphasized that higher education remained an opportunity for only a very small and privileged group of women and pointed out that 30 per cent of adult women were still completely illiterate. She expressed her indignation concerning the fact that discrimination was enshrined in the law through section 1117 of the Civil Code, which gave the husband the right to bring his wife to court for taking a job that he or the family considered contrary to the interests of the family. She therefore called on the Government to abolish section 1117 of the Civil Code. She also strongly criticized the 1975 Protection of the Family Act, which was supposed to extend some rights to women, as well as a new law which had been adopted last April and which provided for sex segregation in health care at all levels.

With regard to violations of the compulsory dress code, while this did not lead immediately to a dismissal, other humiliating disciplinary measures were implemented which could be compared to dismissals. As for the new legislation on small enterprises which denied social protection and other rights at work, she considered this to be a clear violation of the Convention. Finally, unless new legislation and effective programmes were implemented to redress the situation and sanctions imposed on those violating the provisions of the Convention, no real progress would be achieved. As many women in the country were trying to achieve emancipation, these measures were needed to help them succeed in their efforts.

The Worker member of Turkey referred to section 6 of the Labour Code of the Islamic Republic of Iran which provided for equality without distinction based on ethnic origin, race or language. He noted that the absence of any direct reference to sex in respect of non-discrimination created the impression that this legislation did not provide for protection against discrimination for Iranian women. He stated that discrimination against women with respect to marriage, inheritance, guardianship and divorce, as stipulated in the Civil Code, had its parallel in employment and occupation as well. He further noted that section 6 of the Labour Code guaranteed the freedom to choose an occupation, provided that such an occupation was not inconsistent with Islamic principles. He asked for more information regarding the nature of such "Islamic principles".

He added that, under certain circumstances, discrimination on the basis of sex might take on a disguised form, such as in the assignment of tasks and jobs according to the alleged strength of a worker. In the context of a general attitude which considered women as an inferior sex with respect to mental and physical capabilities, such disguised discrimination might be especially important. In this regard, he asked the Government to provide information as to whether Iranian legislation or government policy considered males and females equal with respect to their mental capabilities. He also asked the Government to provide information regarding section 75 of the Labour Code, which provided that women should not be employed to perform dangerous, arduous or harmful work. He asked for further clarification with regard to the definition of these types of prohibited work and as to whether such prohibitions were based on internationally accepted standards. With regard to the observation that women judges had only advisory powers, he asked whether the regulation concerning the conditions for the selection of judges, which stipulated that only male Muslims could become judges, had been amended to bring it into conformity with the Convention.

He then turned to the question of consultations with representatives of workers' organizations during the ILO's technical advisory mission. He pointed out that the Labour Code provided for two types of workers' organizations: guild societies, and Islamic societies and associations established "in order to propagate and disseminate Islamic culture, to defend the achievements of the Islamic Revolution and to further the implementation of article 26 of the Constitution of the Islamic Republic of Iran". He indicated that current legislation allowed for the appointment of an employer's representative in such organizations. Consequently, he asked whether any such organization could be considered as an independent body.

Finally, he referred to the Rules of Procedure and Propagation and Extension of the Culture of Prayer of 29 April 1997, which provided that workers should also be evaluated by virtue of their daily prayers. He asked whether Muslims who did not fulfil their religious obligations could be considered as objects of discrimination.

In conclusion, he called for a direct contacts mission to the Islamic Republic of Iran and the inclusion of this case in a special paragraph.

The Worker member of Singapore noted that the Government had taken a number of measures to attempt to provide more opportunities for women and to assure them greater equality. She urged the Government to put these plans into practice. She further called upon the Committee of Experts and the ILO to continue to monitor the situation closely. With regard to discrimination, she observed that there was no religious basis to justify the ill-treatment and marginalization of women in any society. She stated that equal opportunity for women in education was an investment in the present and future of a country. It was an investment in the present because women made up at least 50 per cent of any society, and a society which chose to deprive itself of women's resources and intellect would severely restrict its own growth. It was an investment in the future because women remained the key caregivers in the family, and poorly educated women would have a harmful effect on future generations. She further stressed that the initiatives by the Government mentioned in the report of the Committee of Experts should not be regarded as concessions but rather as basic rights due to women in any civilized society. With regard to the new law mentioned by the Worker member of the Islamic Republic of Iran, she strongly urged the Government to repeal it immediately. She noted that small enterprises were common in developing countries and that they were usually the largest employer of workers. Excluding such small enterprises from the ambit of labour law would deprive a large majority of workers from the basic protection of the law. In conclusion, she called upon the Government to respect its obligations under the Convention and to immediately repeal the new law.

The Worker member of Romania recalled that this case had been discussed several times in the past and that it had been mentioned seven times in a special paragraph. After reading the report of the Committee of Experts, it appeared to him that several issues were still unclear. For example, he noted that the legal status of the technical mission had only been of an advisory nature and that the sources of information had not been disclosed in the report. According to available information, it appeared that recent law and practice had only increased discrimination against women and religious minorities. The participation of women in the labour market continued to be low and they did not have access to higher posts. Discrimination persisted in the areas of marriage, inheritance, guardianship and divorce, as well as in the field of employment. Legal obstacles to the promotion of women to higher positions in the public service also remained. The situation concerning the obligatory dress code for women public employees had not improved either. In this regard, he referred to the France-Press news agency which had reported last January on ten women who had been imprisoned for violating the dress code. Furthermore, discrimination on the basis of religion with regard to access to education and employment still persisted. Persons who wished to study at a university had to sit an Islamic theological examination, which prevented religious minorities from entering higher education. This religious discrimination also existed in the public sector. Finally, he emphasized that the new law exempting small enterprises with fewer than five employees from labour legislation constituted a new violation of ILO Conventions. He therefore requested that this case be mentioned in a special paragraph.

The Worker member of Canada stated that the Canadian trade union movement had always followed the situation in the Islamic Republic of Iran with concern and that it had always supported the mention of this case in special paragraphs and the request of a direct contacts mission. He wondered whether it was appropriate to reconsider this approach today. Indeed, a number of developments mentioned in the report of the Committee of Experts appeared positive and encouraging. Nevertheless, he emphasized that the report only mentioned plans and not real change. The Board of Follow-up and Supervision of the Implementation of the Constitution, which had as its aim the reexamination of legislation, was an example of a result which was still awaited. With regard to the Islamic Human Rights Commission, which also dealt with matters related to discrimination, he questioned the composition of the Commission and its independent character and impartiality. He expressed his scepticism about the future, since there had not been a real direct contacts mission, but rather a technical mission. In this regard, he wondered if the technical mission had really had access to victims of discrimination. Furthermore, he observed that, with the entry into force of the new legislation on small enterprises, 3 million workers had been deprived of fundamental rights, thus becoming even more vulnerable to all forms of discrimination. Finally, he emphasized that virtually nothing had been done in this case.

The Worker member of Colombia, referring to the reports of the Committee of Experts on [Convention No. 111](#) and on the technical advisory mission, said that although they contained some indications of progress, it would be a great surprise if the situation had

changed radically over such a short period. He emphasized the fundamental importance attached by the Conference Committee to the observance of human rights. In this respect, he stated that it had to be taken into account that cases of discrimination in employment in both the public and the private sectors in the Islamic Republic of Iran were examined by the Islamic Human Rights Commission. However, it was not known whether this Commission was indeed of an independent nature and of an authentically pluralistic composition. Although the Committee of Experts continued to report the existence of acts of discrimination, the Government representative had endeavoured to demonstrate that progress had been made. The Committee of Experts had indicated that recent legislative reforms appeared to include changes, but asked the Government whether it was possible to speak of progress in these matters when only 10 per cent of women participated in the labour market. He insisted upon the need for a direct contacts mission which, in his view, would be more effective than a technical advisory mission. With regard to the ILO mission which had visited the Islamic Republic of Iran, he requested information on the persons and organizations interviewed and whether the Iranian Government had met its requirements. The Conference Committee no longer wished to hear promises, but wanted to see results in law and in practice. In conclusion, he expressed concern at the adoption of a new Act on 26 February 2000 which excluded enterprises with fewer than five workers from the provisions of the Labour Code. This Act showed that, far from improving, the situation was continuing to deteriorate.

The Worker member of France recalled that he had made a firm intervention before this Committee several years ago to denounce the discrimination against the Baha'i community. At that time the Government representative of the Islamic Republic of Iran had severely criticized his statement. He appreciated that the dialogue was now more constructive. He was rather surprised at reading the report and the conclusions of the Committee of Experts. In his view, discrimination was still present in the Islamic Republic of Iran. He recalled that the Government had declared last year that the mission could be conducted without any restrictions on its mandate. This had, however, not been the case in practice. He referred to paragraph 4 of the report of the Committee of Experts and highlighted the contradiction between the fact that, on the one hand, only 10 per cent of women were employed, which apparently corresponded to their desires, and on the other hand, laws were in force which allowed men to prohibit their wives from working. Finally, he requested that this case be mentioned in a special paragraph.

The Worker member of Greece recalled that this case had been the object of discussions in a wholly different climate in the past. He noted with pleasure the changed attitude of the Iranian Government. He was uncertain why the Government feared a direct contacts mission and had transformed it into a simple advisory mission. With reference to the report of the Committee of Experts, he fully agreed with the observations made by the Worker member of France. He also emphasized that the word "Islamic" should not be part of the title of the Committee on Human Rights, as this meant at the outset that religious minorities would not be recognized by it. With regard to the discriminatory measures, he was of the view that international public opinion would not be appeased by statistics, but required concrete action. He also emphasized that the Islamic Republic of Iran had not ratified [Conventions Nos. 87 and 98](#). Finally, he considered that this case should be mentioned in a special paragraph, not as a sanction, but in order to enable observers to be informed both on the progress accomplished and on what remained to be done.

The Worker member of Pakistan stated that it was positive that the Government had accepted the mission and opened dialogue. He also noted with great interest the interventions concerning the contradiction between law and practice in the Islamic Republic of Iran and [Convention No. 111](#). He expressed particular concern regarding the reference that the Iranian Worker member had made to the new Act which deprived workers in enterprises employing less than five persons of all labour protection and social benefits. He further recalled previous discussions in this Committee in which the Government had displayed little interest in heeding the requests of the Committee of Experts. The fact that a dialogue had now been established was positive. He recalled, however, that the Government was bound by an international obligation to remove all discrimination based on gender, race, colour or creed both in practice and in law. He expressed the wish that by its next meeting the Committee would be able to note clear progress in this respect and that the recently adopted law would be repealed.

The Government representative stated his appreciation of the views expressed during the discussion tending to constructive dialogue. He recalled that when a government was considering the ratification of a Convention, it studied its law and practice and, once it had determined that there were no contradictions, proceeded to ratify the Convention. His Government believed there were no contradictions; it was determined to implement all the provisions of

the Convention in full and requested the assistance of the ILO in that regard. In replying to the points raised during the discussion, he offered to provide all the available information to the ILO after it had been translated. With regard to the issue of religion, he pointed out that the new President had established the Supervisory Commission on the Implementation of the Constitution, the mandate of which covered all Iranians irrespective of their sex or religion. He also stated that the members of the Islamic Human Rights Commission were independent and that it was not just dealing with problems of Iranian Muslims. All Iranians could refer violations of their rights to this Commission. He recalled that the Protection of the Family Act gave the same rights to women as those granted to men in section 1117 of the Civil Code. With regard to the participation of women in education, he noted that UNICEF had reported on the increased participation of girls in the education system and the role of women in raising educational standards. For example, over 70 per cent of the candidates accepted for pharmaceutical examinations were women and their marks were better than those of men. He referred members of the Committee to the detailed statistics found in the UNESCO report. He also offered to provide a list of high-ranking women in the Government, including the Vice-President, deans of universities, and members of parliament. Concerning the new law on small enterprises, he noted that the workers had protested against the law and the Ministry of Labour and Social Affairs had objected to its adoption. He indicated that the new Parliament would soon address the issue again and consider a new law. On the subject of the recognized religious minorities, he emphasized that they were represented in Parliament and had enjoyed a long tradition of peaceful coexistence within the country. Although the members of the Baha'i faith did not belong to a recognized religious minority, under the terms of the legislation on the rights of citizenship approved by the Expediency Council in 1999, all Iranians enjoyed the rights of citizenship irrespective of their belief. The Government was making all efforts to remove difficulties within the framework of the Constitution. In conclusion, he recalled that the ILO mission had been made welcome although the discussions had sometimes been difficult. Everything should be done to facilitate the continuation of the constructive measures taken by the Government, including the holding of seminars and training courses. In view of the efforts which were being made, his Government looked forward to cooperation from all concerned.

The Employer members emphasized the importance of the Government making a demonstrable improvement in its law and practice before the next meeting of the Conference Committee. It would be necessary for it to provide the relevant amended legislation and statistical evidence to prove to everyone that meaningful progress was being made in complying with the provisions of the Convention.

The Worker members stated that between now and next year proof would need to be provided of the progress which had been made. The evidence should be reflected in the text of the report of the Committee of Experts next year. On the basis of the information provided during the discussion, the Committee should recognize the positive attitude shown by the Government and the value of the ILO mission. It should also express a cautious welcome with regard to certain positive developments in the country, while emphasizing the serious nature of the shortcomings in the application of the Convention. It should also urge the Committee of Experts in its next report to include a detailed assessment of the situation with regard to compliance with the Convention in practice and, in particular, in law. The Government's request for ILO assistance should also be noted.

The Committee took note of the statement made by the Government representative and the subsequent discussions. It recalled that this case had been the subject of discussion in the Committee over a number of years and that serious divergencies from the requirements of the Convention had been noted. It also recalled that last year it had welcomed the Government's request for a technical mission to examine all points raised concerning the application of the Convention, and that the report of the mission had been reflected in the report of the Committee of Experts. The Committee noted with concern that some legal restrictions remained on the employment of women, including the fact that women judges were still unable to render verdicts, and section 1117 of the Civil Code. In spite of the progress in participation rates, women's participation in the labour market remained very low. It noted that the Government was examining measures to remove the formal obstacles to equality for women, and noted the intention to hold a national seminar on workers' fundamental rights before the end of 2000. The Committee also regretted the legal and social obstacles to equality which still remained for religious minorities, although it noted the Government's intention to take measures in this regard. The Committee urged the Government to continue to work towards improvements in the application of the Convention in law and in practice, including the promotion of greater tolerance for all groups in

the country, and to be vigilant in prohibiting discriminatory practices on the grounds enshrined in the Convention. It noted nevertheless that serious questions of application of the Convention still remained. The Committee requested the Government to submit all the information provided orally during the meeting to the Committee of Experts. It also requested the Government to report in detail to the Committee of Experts on the concrete measures taken to address the questions raised by the Committee of Experts and this Committee, including detailed statistical analysis of the participation of women and men and minorities in the labour market in both the public and the private sectors. The Committee expressed the firm hope that the Government would deal with the issues raised as a matter of urgency and would be in a position next year to report progress on the outstanding issues in order to ensure the full application of the Convention in law and in practice and requested the Committee of Experts to provide a detailed assessment of compliance with law and practice. The Committee encouraged the Government to continue cooperation with the ILO.

#### **Convention No. 122: Employment Policy, 1964**

*Hungary* (ratification: 1966). A Government representative stated with reference to article 24 of the ILO Constitution that, in 1997, the National Federation of Workers' Councils submitted a representation against the Hungarian Government, alleging non-observance of **Conventions Nos. 111 and 122**. The representation related to a 1995 government measure. The ILO Governing Body set up a tripartite committee to examine the case. Under individual observations in Part 1A of its Report III, the Committee of Experts on the Application of Conventions and Recommendations discussed this issue under both Conventions Nos. 111 and 122, on the basis of the statements of the Committee and information provided by the Government. The Officers of the Committee requested the Government to express its standpoint regarding those aspects of this issue that were of relevance for Convention No. 122. In 1995, in a situation of financial emergency, the Hungarian Government approved a supplementary budget act requiring, among other things, a reduction in costs provoking lay-offs in higher education. The representation contested the manner in which the measures in question were implemented. The Government admitted that certain unlawful steps were taken in the course of the implementation of the measures concerned, which were likewise pointed out by the Hungarian authorities. It did not wish to plead that these had occurred under the previous Government, as they affected the fate of individuals — hopefully not irremediably. On the other hand, lessons could be drawn from the issues involved as regards the development of employment policy for the Government in office at the time. Points 1 and 2 of the report of the Committee of Experts summarized some sections of the latest government report on the implementation of Convention No. 122. Under point 3, the Committee of Experts noted the higher labour market participation rate of men than women, and requested the Government to provide further information on measures to promote employment amongst women. The Government representative pointed out that the lower labour market participation rate of women was not a specifically Hungarian phenomenon. According to the OECD (*Employment Outlook, 1999*), in 1998, among those aged 15-65, the participation rate of women was lower than that of men in most developed countries. In the countries of the European Union, the average difference was 20 per cent. In Hungary, the corresponding rate was somewhat more favourable at 16 per cent, but this occurred at a lower employment level. The lower unemployment rate of women than of men, on the other hand, was a specific, and positive, Hungarian feature: in 1999, the respective annual average rates were 7.5 per cent for men and 6.3 per cent for women. However, the Government remained dissatisfied with the situation and was making efforts to improve it, through job creation and by promoting the employment of women.

He highlighted two of the employment policy objectives for the year 2000 set by Governmental Decree: (1) employment expansion and, in the long-term, attainment of full employment, in accordance with the objectives of the European Union; (2) moderation of labour market discrepancies, in particular by promoting an equal opportunity policy, one of the four pillars of the European Union employment strategy. Over the last few years, the Government had taken the following measures, besides specific programmes and amendments to legal regulations, with a view to reinforcing the principle of equal opportunity for women: protection under labour law; shorter working hours for minors, pregnant women, mothers/parents; improvement of labour market opportunities for women and parents with young children, achieved through the following programmes: teleworking; part-time employment promotion; promotion of potential entrepreneurs; improved labour law protection to parents returning to work from childcare leave; free legal coun-



selling programme launched by the Ministry of Social and Family Affairs to remedy and prevent discrimination at the workplace; authorization of the labour inspection authorities to investigate allegations of violations of the principle of equal opportunity, and the training of labour inspectors. The case in question had encouraged the Government to put through legal amendments to remedy the situation which permitted discrimination arising from differences between the pension eligibility criteria of men and women. Although not directly linked to the issue of discrimination, certain aspects of the same issue also encouraged the Government to take steps to shorten court procedures by substantially raising the courts' budgets. As a result, the duration of labour law proceedings had shortened radically, thus improving the position of workers involved in such litigation. Technical training was provided to job centres so as to enable them to act effectively in cases of possible mass lay-offs.

Further action plans included: the evaluation of the programmes launched to assist women; the extension of those which proved viable, with special regard to the improvement of labour market opportunities for mothers with children and persons near retirement age; encouragement of the social partners and strengthening of cooperation between the Government and social partners; preparation of the appropriate transformation of the system of statistical accounting; adoption by the Government of every equal opportunity directive of the European Union this year. The Government representative had submitted statistical data concerning the development of employment of women over a period of time to the Office.

Point 4 was related to the concerns that arose in the Committee of Experts expressed in respect of the 1998 termination of the Ministry of Labour. This termination had been one of the measures the Government instigated on taking office in June 1998. The first question before the Government concerned the procedures to monitor the effectiveness of its measures to promote economic and social development. In June 1998 the Government reallocated the responsibilities of the former Ministry of Labour as follows: employment policy-making, managing active employment measures, and collective bargaining came under the Ministry of Economic Affairs; issues related to vocational training came under the Ministry of Education; adult training and labour market training, the employment service, passive employment policies, labour law and labour inspection stayed with the Ministry of Social and Family Affairs, who took over the full powers of the former Ministry of Labour. The idea behind the present structure of the Government was that if job creation was to be its most important employment policy objective, it was best served by being firmly grounded in economic policy. His Government was of the opinion that these measures had been justified. Now halfway through its term, his Government was currently evaluating its experience so far in office, and it was probable that corrective measures would be taken in order to increase the effectiveness of the cabinet. His Government would notify the ILO of such corrective measures in due course.

With regard to discussion and procedures of employment-related issues within the Government, in line with Article 2 of the Convention, the Government had established employment policy objectives in a Decree, the implementation of which involved several ministries. These objectives had been fixed for the year 2000 bearing the European Employment Strategy in mind, as well as the guidelines adopted by the European Council. In the same section, the Committee of Experts had also inquired about the way in which the dissolution of the Ministry of Labour affected the consultation process with employers' and workers' organizations and other actors. It could be assumed from the question, that the Committee of Experts was aware of the fact that Hungary had had soundly operating institutional forms of social dialogue ever since the political changes which had taken place within the country. The former national tripartite consultative forum — the Council for the Reconciliation of Interests — had been replaced, although its participants virtually unchanged, by the National Labour Council. This forum fully retained the authority held previously by the Council for the Reconciliation of Interests, which included both determining the national minimum wage, as well as tasks provided under the Labour Protection Act, and it also ensured a consultative forum concerning issues related to the world of labour. The Governing Body of the Labour Market Fund operated principally in the field of consultation and was responsible for decisions concerning subjects related to the world of labour. This tripartite body discussed the Government's employment policy objectives and priorities, and decided on the allocation of funds from the Labour Market Fund used to implement employment policy objectives and those to be allocated to active and passive measures; it was also responsible for the allocation of central funds, available for national programmes, and the decentralized financial resources to be channelled to the districts and countries. On a county or district level, the use of these was decided on by the county labour councils, jointly with representatives of local governments. His Government had also created the

Economic Council and the National ILO Council. Strategic consultation undertaken in the Economic Council concerned the whole of the economy, and comprised, besides the traditional social partners, other actors, such as the Economic Chambers and the Banking Association. The National ILO Council held a mandate in conformity with the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). To the speaker's best understanding, the social partners were satisfied with its performance. It was a great honour for the members of the Council when the Director-General of the ILO participated at one of their sessions during his visit to Budapest in May this year. In compliance with article 22 of the ILO Constitution the Government had prepared a detailed report in 1999 on the implementation of Convention No. 144, describing the new system of collective bargaining. The Council unanimously accepted the report.

In point 5 of its report, the Committee of Experts requested the Government to provide further information in its next report under article 22. The Government had taken note of the Committee of Experts' request, and would be pleased to satisfy it.

The Worker members thanked the Government representative for the detailed information he had supplied and recalled that this was the first time the case had come before the Committee on the Application of Standards although the Committee of Experts had previously commented (in 1993, 1996 and 1998) on Hungary's application of [Convention No. 122](#). The Worker members emphasized the importance of a genuine employment policy in the context of globalization; the need to frame a coherent, integrated and non-discriminatory employment policy; and the significance of tripartite consultation on all employment-related aspects of social and economic policy. The Worker members noted with concern employment developments in Hungary and in particular the comments made by the Committee of Experts on employment policy and its effects on employment in general. The Worker members drew attention to three matters raised by the Committee of Experts in its report. The first concerned the labour market participation rate for men and women. According to information in the Government's report the rate for men was higher than women's. This raised the issue of compliance with Article 1, paragraph 2(c) of the Convention, which provided for a non-discriminatory employment policy. Doubtless, some of the blame could be attributed to social attitudes unfavourable to women workers. However, inasmuch as the complaint against Hungary submitted under article 24 of the ILO Constitution alleged breaches of [Convention No. 111](#) and of Article 1, paragraph 2(c), of Convention No. 122, there were serious indications that discrimination was *also* due to the Government's employment policy; that was central to the debate. The representation against Hungary concerned the effects of the Supplementary Budget Act of 1995, which provided for a reduction in personnel expenses in institutions of higher education. The Worker members observed that the Committee which had been set up under article 24 of the ILO Constitution and examined the representation was unable for want of sufficient information to reach a firm conclusion. For that reason they agreed with the Committee of Experts that more specific information be requested notably on the actual impact of the 1995 Act on higher education and detailed statistics assessing the respective effects of the Act on men and women. While the Government had furnished information, the Worker members considered that much more detailed statistics were necessary to assess the real impact of the 1995 Act. The third point raised by the Committee of Experts concerned the Government's decision to dissolve, purely and simply, the Ministry of Labour and to distribute its previous functions to various separate ministries, such as the Ministry of Economy, the Ministry of Education and the Ministry of Social and Family Affairs. The Worker members regarded this development as worrying and largely at odds with the provisions of the Convention concerning coordinated employment policies that integrated economic and social issues. The Worker members accordingly supported the questions raised by the Committee of Experts in this respect for it was necessary to establish how the Government managed to fulfil its obligations under Articles 2 and 3 of the Convention and what procedures it had adopted to ensure that its various policy decisions, whether at the planning or implementation stages, had a positive impact on employment. They seriously doubted whether measures had been taken to guarantee a coordinated employment policy. Under the circumstances they wondered whether the country had effective tripartite consultative machinery that could contribute to the framing of a dynamic employment policy following the dissolution of the Ministry of Labour. They feared that dissolution of the Ministry might have a harmful effect on the employment situation in Hungary, for which they expressed deep concern.

The Employer members stated that this was the first time the case of Hungary was being dealt with by the Committee. They thanked the Government representative for the detailed and comprehensive information he had just supplied to the Committee.

They further noted that information contained in the Government's report was relevant for the period May 1996 to May 1998 and hence dealt with a past situation. With regard to the content, the Committee of Experts had examined numbers concerning employment and unemployment rates. It was surprising that, while the potential workforce was growing in the country, the number of economically active persons had declined. There was a decrease in labour supply in response to a decrease in labour demand. The Employer members believed that this was due to the phenomena of extended education and training periods and early retirement. As a result, there was an obvious decrease in the number of economically active persons. Turning to the issue of employment rates for men and women, they noted from the Committee of Experts' comments that the labour market participation rate was higher for men than for women and from the Government representative's statement that the situation was similar in many other countries. They were of the view that evolution in society and different expectations could explain the statistical data provided by the Government which illustrated that the unemployment rate for women was lower than for men.

The Employer members pointed out that the objective of Convention No. 122 was to obtain a comprehensive overall picture concerning employment policy. Economic and social policies were part of government policy, therefore an isolated view on issues concerning employment policy was not possible. They expressed their surprise over the fact that the Committee of Experts had raised the issue regarding the dissolution of the Ministry of Labour. There was, of course, a long-standing tradition regarding the establishment of labour ministries. If the Ministry of Labour had been dissolved, obviously its task had been distributed to other ministries. What was important was that the tasks traditionally carried out by the Ministry of Labour were undertaken by another body. It was therefore of minor importance to which ministry or institution these tasks were distributed. The Employer members believed, however, that the Committee of Experts was more concerned about the manner in which the dissolution had probably affected consultation with employers' and workers' representatives on subjects concerning the coordination of employment policy. In this regard, the Employer members welcomed the information provided by the Government representative to the effect that tripartite consultations were effectively carried out in the country. With reference to the conclusions of the Committee set up to examine the representation made under article 24 of the ILO Constitution, to which the Committee of Experts also referred, the Government should supply additional information in order to determine the effect of the Supplementary Budget Act of 1995 which had been the subject of the abovementioned representation. Since the Government representative had shown his Government's readiness to provide this information, the Committee's conclusions should mainly reflect this aspect. The Employer members concluded that the issue of employment policy was an ongoing duty of each government and that the Committee would certainly come back to these cases.

The Worker member of Hungary indicated that in 1995, more than 10,000 employees were dismissed within some weeks at the higher education institutions in Hungary in connection with the Supplementary Budget Act of 1995 which decreased the staffing costs and the budgetary contributions of these institutions. At the same time, Government Decree No. 1023/1995 prescribed a 15 per cent staff reduction for higher education institutions. This was followed by a Ministry of Culture and Public Education measure also ordering these institutions to undertake the staff reductions. The Government fixed a deadline of only three months for the execution of the staff reduction. The purpose of this mass redundancy was to make savings in the state budget. However, no consultations had been held with the workers' representatives or the universities before taking this decision. The government decision had not been taken with respect to any aspect of an employment policy. With regard to the legal aspects of the case, the Hungarian Constitutional Court had qualified the Decree and the Ministry of Education measures as anti-constitutional and had cancelled them on 22 June 1995, on the grounds that the measures constituted unlawful interference with the autonomy of the universities. However, the staff reduction measures were nevertheless implemented. Moreover, although the Parliamentary Commissioner of Citizens' Rights (the Ombudsman) had asked the Ministry of Education to take the necessary measures to remedy the harm done to the teachers and the researchers concerned, no action had been taken. Finally, in 1997 Parliament ordered the setting up of a special committee to assess the implementation of the whole staff reduction process — in accordance with the Ombudsman's suggestion — but this committee was never established. Regarding the social aspects of the case, since the Government had not taken into consideration the employment effects nor the social aspects of the staff reduction measures, the vast majority of the employees concerned had still not obtained any financial, moral or any other kind of remedy. As regards the Government's current employment policy, she pointed out that the

social partners were still not involved in the formulation and preparation of national employment policy. In Hungary at the moment, there was no special labour or employment ministry. Employment policy was shared between three ministries. The Ministry of Economy was responsible for reconciliation and employment policy; the Ministry of Social and Family Affairs dealt with social matters and employment policy; the Ministry of Education was responsible for training, retraining and vocational training policy. Consultation with the social partners at the national level was being carried out within several special tripartite or multipartite councils set up by the Government last year. The main new councils were: the National Labour Council; the Council of Economy; the National ILO Council; the Council of Social Affairs; and the Committee for European Union Integration. The trade unions were not perfectly satisfied with this new structure and especially not with its operation.

The Worker member of France observed that over the past few years a good many countries had changed the names of their Ministry of Labour and restyled them Ministry of Employment or Ministry of Employment and Social Affairs. Those changes generally reflected progress towards the implementation of more active employment policies with an accent on the initial and ongoing training of workers, including the long term unemployed, and the integration of young people and women in the labour market. It was an innovative and original step to dissolve purely and simply the Ministry of Labour and reallocate its functions to other ministries. Although [Convention No. 22](#) did not stipulate what structure a government should have, governments had to be structured in such a way as to be able to implement the effective employment policies that the Convention required. In this respect, the treatment of staff in institutions of higher education under the Supplementary Budget Act of 1995 was a cause of particular concern, the more so in so far as training was an essential weapon in the battle against unemployment. According to the report of the Committee of Experts, Hungary plainly had a critical need for an active and coordinated employment policy. Only a very small proportion of the active population was employed. The proportion of long-term unemployed workers was exceptionally high (having risen to nearly 50 per cent, despite a slight drop in recent years) and the average duration that people remained without work was quite long (in the order of 19 months). That suggested high levels of "moonlighting", a lively informal economy and widespread unlawful activities. It therefore had to be asked what means the Government had to carry out effective and coherent policies to reduce unemployment, train workers, generate employment (self-employment or wage earning), etc. and what means it had to follow up these policies and ensure coordination with social policy generally.

[Convention No. 122](#) derived from the ILO's Constitution itself, in particular from the Declaration of Philadelphia which enjoined the Organization to support programmes that promoted productive and freely chosen employment and the raising of standards of living, the reduction of unemployment and the guarantee of a salary sufficient for acceptable living conditions. [Convention No. 122](#) also followed from the Universal Declaration of Human Rights, which said that "everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment". [Convention No. 122](#) required member States to declare and pursue, as a major goal, an active policy designed to promote full employment for all who were available for and seeking work. The measures required and adopted to this effect had to be decided on and kept under review within the framework of a coordinated economic and social policy. Representatives of the persons affected by the measures to be taken, in particular representatives of employers and workers, had to be consulted concerning employment policies, with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies. Without question, Hungary greatly needed an active and coordinated employment policy. It had to be asked how such coordination could be ensured when the functions of the Ministry of Labour had been parcelled out among various other ministries. The same question arose concerning consultation and ongoing collaboration with the social partners, areas in which significant gaps seemed to have appeared. It was the role of a Ministry of Labour or a Ministry of Employment and Social Affairs to frame such policies, to coordinate them with other policies and consult and collaborate with the social partners, to draft labour legislation and follow its application, to help the unemployed find work again and take measures that guaranteed suitable unemployment compensation, and to give women equal access to employment. The Hungarian approach was to subordinate social issues to economic ones in denial of their inherent value under the ILO Constitution. It was therefore important for the Government to open consultations quickly with the social partners to examine ways and means to achieve an effective and coherent employment policy in keeping with the aims of the Convention and to comply with its provisions. The right to work

was a basic human right since it enabled workers to provide for their own needs as well as those of their family. It was, to be sure, for the Government to choose the most appropriate means of safeguarding that right. In any event it had to protect it. The statistics before the Committee demonstrated that this right had not been implemented. The Worker member appealed, therefore, to the Government of Hungary to frame an active, coordinated and coherent employment policy fully involving the social partners and to set up an effective and coherent coordination structure.

The Worker member of Romania stated that although this Committee was examining the case of Hungary for the first time, the Committee of Experts had already formulated three observations regarding the application of this Convention by Hungary and underlined the importance of [Convention No. 122](#) for workers. The fact that the labour market participation rate was lower for women than for men was a violation of Article 1, paragraph 2(c), of the Convention. The second point raised by the Committee of Experts in its observation concerned the representation presented under article 24 of the ILO Constitution. The representation related to the application of the Supplementary Budget Act of 1995 which had resulted in the mass dismissals of employees of institutions of higher education. As regards the third point raised by the Committee of Experts, namely the pure and simple dissolution of the Ministry of Labour, he considered the situation to be unacceptable. The negative effects of such a decision on the consultation process between the social partners could already be foreseen.

A Worker member of Italy stated that it was quite clear that employment policy and social dialogue remained a major problem in Hungary with no adequate and effective strategies especially to fight long-term unemployment and enhance equal opportunity programmes to include women in the labour market and promote job creation in the emerging sector. The so-called growth promotion strategy indicated in the Committee of Experts' report could not succeed due to structural mistakes within the government measures and total lack of social dialogue. The first structural problem was linked to the splitting of the Ministry of Labour. This fragmentation of responsibilities and lack of effective coordination represented a major handicap for effective employment programmes. Such programmes needed a higher synergy in the monitoring, planning and implementation stages, especially to face long-term unemployment and to adapt vocational training to match market supply and demand. It would appear that there was still a lack of an appropriate investment policy in areas with higher unemployment in order to create better conditions in terms of infrastructure to attract productive investments. There appeared also to be a lack of appropriate social measures to support affected workers and help them to find new jobs. This critical situation also risked producing a high emigration of young unemployed persons towards neighbouring countries thereby creating a critical social situation which would undermine economic and social stability. A joint coordinated socio-economic employment plan within the Government and at all levels of public administration needed to be defined with the full inclusion and participation of employers' and workers' organizations in the search for adequate solutions. Such social dialogue, however, was not implemented even though a national labour council and other bodies existed on paper. Empty institutions needed to be clearly restructured in order to develop a joint employment pact between the Government and employers' and workers' organizations. Moreover, an effective employment policy had to be promoted jointly with respect for core labour standards. This lack of implementation of adequate employment policies and plans had been sharply criticized by the European Committee and the Economic and Social Committee of the European Union in more than one report, in view of employment in the European Union (EU) and the entry of Hungary in the EU. The most significant example of the lack of such an employment policy in Hungary was the dismissal of more than 10,000 employees in the higher education institutions due to budget restrictions. No consultations with the union and, above all, no social measures had been taken to help the workers find new adequate jobs. The Government should therefore promote a fundamental change of strategy to be verified by this Committee. A joint task force between all interested authorities and social partners both at the national and local levels should be set up with the support of the ILO MDT, thus taking advantage of European programmes and positive experiences in social dialogue.

The Government representative acknowledged the statements by the Worker member of Hungary. However, he recalled that the issues raised dated back to 1995 and therefore concerned the previous administration. He stressed that the new administration had learned from the mistakes of the prior Government. As far as the functioning of a coordinated employment policy was concerned, it did not depend on the existence of a Ministry of Labour. He noted that the distribution of powers was a matter for the Government and that coordination must take place at the government level. In his Government's view, it was imperative that the issue of employ-

ment policy be handled correctly and that it must form part of the Government's policies as a whole. In conclusion, he stated that the coordination of employment policy as well as tripartite consultations were functioning correctly.

The Worker members took note of the information furnished by the Government representative. They asked that he transmit all the information requested to the Committee of Experts so as to conclude the representation presented against the Hungarian Government under article 24 of the ILO Constitution. They noted that the Government was preparing reforms to its statistical data management and invited it to keep the Committee of Experts informed of any developments in this regard. Regarding the issue of employment policy, they emphasized that it was not the name of the competent ministry which was important but rather the substance of the policy to be implemented as well as consultations between employers' and workers' representatives. They requested the Government to take advantage of ILO technical assistance in order to establish a truly coordinated employment and social policy.

The Employer members believed that the Government representative had already supplied comprehensive information on this case to the Conference Committee and indicated that the Committee's conclusions should request the Government to keep the Office fully informed on all employment policy matters in future reports to the Committee of Experts.

The Committee noted the detailed information, including statistics, supplied by the Government representative, and the discussion which followed. It was concerned by the continuing low rate of employment in the country, particularly for women, and the effect of the employment policy on women. It noted, however, that the Government had adopted a policy of promoting economic growth which was expected to have the effect of increasing employment opportunities, and hoped the Government would provide detailed information on the effect of this strategy. It also hoped the Government would submit additional information on its efforts to increase the labour market participation of both men and women. The Committee noted the dissolution of the Ministry of Labour and the redistribution of its functions. It expressed the hope that the Government would furnish the detailed information requested by the Committee of Experts on the effects of this decision on employment and on the promotion of economic growth. This should include information on the effect of this move on ensuring that a coherent employment policy was pursued, as well as on consultations with employers' and workers' organizations and other forms of social dialogue. It asked the Government to ensure that employment policy in conformity with the Convention was assured, and that social dialogue was not compromised.

#### **Convention No. 169: Indigenous and Tribal Peoples, 1989**

*Mexico* (ratification: 1990). The Government has sent the following information:

With regard to the first paragraph of the observation of the Committee of Experts, the Government has reaffirmed its desire to pursue cooperation with the ILO not only by submitting reports and information requested from time to time, but also by the implementation, when necessary, of specific recommendations. With reference to the 1996 observation of the Committee of Experts, on 24 May 1999, the Government organized a "Seminar on the Inspection of Labour Conditions in the Rural Sector". This technical cooperation included the participation of ILO officials, representatives of indigenous peoples' organizations, and officials of the Mexican Government.

The second paragraph deals with the protection of land rights of the Huichol Indian community of San Andrés Cohamiata, in the municipality of Mezquitic, Jalisco. In June 1998 the Governing Body adopted the report of the committee set up to examine the representation concerning the violation by Mexico of ILO Convention No. 169, submitted under article 24 of the ILO Constitution by the Radio Education Trade Union Delegation, D-III-57, section XI, of the National Radio Education Trade Union (SNTE). The Government of Mexico had received supplementary information from this trade union delegation in August 1999 and replied in October 1999. At this stage, the Committee of Experts requested the Government to provide detailed information in its next report. The Government of Mexico provided the information as requested to the ILO on this representation concerning an alleged violation of [Convention No. 169](#). According to the complainant, the Mexican authorities have not returned to the Huichol Indian community of San Andrés Cohamiata, and in particular to the "Tierra Blanca" group of Huichol Indians, land they had historically possessed and which had been given to another rural mixed-race population at Nayarit. This case has been on judicial appeal for several years. In this regard, the Government had presented its comments in communications dated 24 November 1997, 8 December 1997, and 9 and

24 March 1998. The Committee of Experts is already aware of the decision of the Agrarian Unity Tribunal of Tepic, Nayarit, of district XIX, which is the authority in charge of examining the “amparo” No. 430/96 (request for constitutional review), brought by the indigenous people of “Tierra Blanca” in application of the executory decision of the third circuit collegial tribunal which declared the lower court’s decision groundless, resulting in the appeal procedure to clarify the terms used in the judgement which protected them. The “Asociación jalisciense de apoyo a grupos indígenas” (AJAGI) was legally involved in the controversy concerning San Andrés Cohamiata and “Tierra Blanca”. This association developed management advisory training and agrarian military defence and human rights activities in the Huichol region, in the states of Jalisco and Nayarit, and is funded by the Indian National Institute (INI) to develop its activities in the framework of a coordination programme of conventions regarding legal recourse. Detailed information will be supplied on this case in the next report of the Government in 2001; however, this discussion is a suitable forum at which to indicate that the case is before the Agrarian Unity Tribunal. Concerning the executory act previously mentioned, on-site inspection is presently taking place.

The third paragraph of the observation of the Committee of Experts refers to a representation concerning land rights of the indigenous community of Chinanteco displaced in the Uxpanapa Valley in Veracruz. In November 1999 the Governing Body adopted the report of the committee set up to examine the representation concerning the violation by Mexico of ILO Convention No. 169. The representation had been submitted under article 24 of the ILO Constitution by the Radical Trade Union of Metal and Similar Workers. In January 1999 the Mexican Government received a request for information on the indigenous community of Chinanteco, and provided a reply on 25 February 1999. At this stage, the Committee of Experts requested the Government to provide information on the measures taken to bring a solution to the situation of the indigenous community of Chinanteco. The Government of Mexico has informed the ILO of the situation of the indigenous population of Chinanteco which had been displaced from their native land of Oaxaca in the Uxpanapa Valley, following a government decision to build a dam in 1972, and of the complaints regarding presidential decrees ordering their displacement. Reserving the right to provide supplementary information in the report it is preparing, the Government of Mexico has provided the following information on the current situation.

In the first place, the Government had concentrated its efforts on communication with the indigenous community of Chinanteco resettled in the Uxpanapa Valley. To this end the INI has supported the creation of social organizations such as the Committee for the Defence of Indian Rights, Chinanteco-Zoque-Totonaco and the Indian Council of Uxpanapa to protect the rights of the communities and to further economic and social development. Parallel to this, there is a Regional Indian Fund in the Uxpanapa Valley which supports the organizational process of the communities and promotes regional development. A Regional Indian Fund for the women of Chinanteco will be set up in August to promote training and development with regard to gender questions. Following its creation in 1996, the free municipality of Uxpanapa has benefited from significant financial resources: 15 million pesos during the past five years, financing public works, food projects and, in general, all economic and social development projects of the region. In November and December 1999, the INI developed workshops for evaluation and planning of infrastructures. These workshops helped to provide financing for various agricultural programmes and the purchase of machinery. Since January 1999, the municipality of the Uxpanapa Valley has the following public services: 19 systems of drinking water, 26 electrical energy networks, one drainage infrastructure, a market, a garrison, municipal agencies, a post office, a satellite telephone and a radio communication system. Concerning education, there were 44 crèches, 67 primary schools, nine secondary schools, two high schools and five dormitories for students of the INI. Concerning public health: one clinic of the ISSSTE, the IMSS-COPLAMA and a health secretariat, eight treatment centres organized by the health secretariat of the government of Veracruz, and six rural medical units.

The fourth paragraph of the observation referred to a loss of a right of inalienability of indigenous lands, to agreements with multinational enterprises allowing exploitation of mineral and forestry resources on indigenous lands without the involvement of indigenous peoples as contemplated in the Convention, the failure to take account of results of consultations with indigenous representatives concerning constitutional reforms, and allegations of abuse and exploitation of indigenous migrant workers. In September 1999, the International Labour Office sent the Government of Mexico information concerning a second report from the Authentic Workers’ Front (FAT) on the situation of the indigenous populations in Mexico. The Government provided its comments on 5 November 1999.

The Committee of Experts considered that the information provided in this reply was insufficient.

(a) The Government considers that land rights belong to every Mexican Indian. The lands of Indian populations can be considered in three different ways which are recognized by the Constitution: national, private and social. With regard to the composition of the population, the communes and the communities can be Indian or mixed-race; all are not made up of exclusively indigenous populations. Similarly, the indigenous populations of Mexico are not all organized in communes. Concerning the arguments according to which the protection of land of indigenous peoples had been ended with the repeal of the Federal Law on Agrarian Reform of 1972, according to which the Agrarian Reform of 1992 would render indigenous land transferable, attachable and seizable, it must be observed that the Constitution and numerous relevant articles of the Agrarian Law prove the contrary, since article 27 of the Constitution recognized the legal personality of the *ejido* (collective lands) and *comunidades* and that Title VII, paragraph 2, deals with protection and the integrity of the lands of indigenous peoples.

In its paragraph 4, the aforementioned text sets forth that: “The law, as concerns the wishes of the members of an *ejido* of a community to adopt the most suitable conditions for the exploitation of the productive resources, will regulate the exercise of rights of members of the community over the land and the *ejidatario* over its part (...) and as concerns its *ejidatarios*, will regulate transmission of land rights to other members of the community. Likewise, it will set the conditions according to which the *ejido* assembly grants to each member influence concerning its parcel. In the case of transfer of parcels, the right of preference set forth in the law will be respected”.

In conformity with the Agrarian Law (articles 64 and 107), the land of the *ejidos* and the communities which are set aside by the Assembly for Human Settlement are inalienable and non-transferable since they are a part of the irreducible patrimony of the community. Lands for building are the property of their holders, whether these are *ejidos* or members of a community, as set forth in the Federal Law on Agrarian Reform of 1972 and previous agrarian codes (1934, 1940 and 1942). Lands for collective use, governed by one or the other form of social property are inalienable, non-transferable and non-attachable, except in cases where the communal Agrarian Assembly — the highest authority — decides to transfer when and as it sees fit to do, to civil or commercial enterprises (articles 74, 75, 99 and 100). Land subdivided in parcels within domains (*ejidos*) belong to their allocates, who exercise a right of maintenance, use and usufruct. The law states the procedure to follow in order to transfer these lands and the relevant rights (articles 76-86). In conformity with article 101 of the previously mentioned law, the communal form of ownership implies the individual status of the member, a status which gives the latter the use and possession of his parcel, and right of transfer to parents or next-of-kin. Article 56 of the Agrarian Law states that it is for the communal Agrarian Assembly, collective domains or communities to designate its zones of parcels for common use or for settlement. Concerning land for collective use, it is also up to the assemblies to define the rights of members, the rule being that these rights are presumed to be granted on the basis of equality, unless the Assembly decides to attribute the parcels proportionately, according to the financial contribution, the work and the financial resources of each individual. In keeping with the preceding, and in direct connection with the legal safeguards under the law, the Agrarian National Register delivers certificates attesting to the rights on land for collective use. These certificates state the name of the holder as well as his percentage of rights over the lands for collective use, as provided in the agreements of the assemblies. It should be mentioned that certificates confirming the rights on lands for collective use do not state a specific surface area for their holders, since land for collective use is worked collectively, for the benefit of the agrarian community as a legal person and the *ejidatarios* or members of the community in their assigned proportion. It should be noted that the rules concerning the use of collective land, as set forth in article 10 of the aforementioned law, must be specified in the by-laws or communal statute, according to whether it is a *ejido* or a community.

As regards the devolution, transfer or conveyance of rights, if the Agrarian Law authorizes the member of an *ejido* to transfer his rights over a parcel as provided in article 80, this right simply allows conveyance either to other *ejidatarios* or other members of the same community, it being understood that the spouse and children of the transferor exercise the same right. Likewise, the Agrarian Law sets forth in article 47 that no *ejidatario* can hold rights over parcels with a surface area greater than 5 per cent of the total land of the *ejido* or the equivalent of a small holding. In the case of co-emption, the Secretariat of Agrarian Reform orders, after review, a member of an *ejido* to sell the excess within one year from notifica-

tion of the decision. As is the case with devolution of land, articles 81-86 of the Agrarian Law govern the procedure for full and complete accession to property. As regards communal property, under article 101, the Agrarian Law provides for the transfer of rights, this transfer being limited to parents or next of kin, but is not authorized for third parties outside the community. Any devolution of lands or accompanying rights which breach the Agrarian Law would be justifiable before the agrarian tribunals in such a manner that the Commissariat for Agrarian Questions has in this regard the prerogatives of the Public Minister and would represent the accusation in this context.

The sale of land is an historic phenomenon, which existed within the agrarian communities prior to the constitutional reform. It is necessary not to lose sight of the form which the conveyance of property or the use of property or land has taken. According to agrarian studies carried out on the *ejidos* by the Commissariat for Agrarian Questions in 1998, a third of the *ejidatarios* have an agreement for the use of their parcel which implies a transfer of the usufruct on the land in the form of tenant farming, an annuity or a loan. This signifies that the lands are worked by people other than their owners. Likewise, the survey showed that this type of practice has existed for many years and that they were only brought to light during the reform of article 27 of the Constitution. In fact, nearly one-third of the agricultural agreements pre-date the reform, 42 per cent have been drawn up since the start of the process in 1993 in collective property, and 26 per cent began when the Notarial Act was deposited and ended with the last harvest. According to this study, it can be seen that the forms according to which rural workers to whom the collective property belongs acquire these lands are determined by socio-economic and cultural conditions according to the large regions of the country, and they have been reinforced by the characteristics of the agrarian reform in each region.

(b) Concerning the working rights for mineral and forestry resources, it must be noted that article 27 of the Constitution, section VII, authorizes rural workers who belong to the community to join together with the State and third parties in authorizing the use of these lands.

Section VIII(b) of this constitutional provision declares void: "All concessions or sales of land, water or hills made by the Secretariats of State for Development and Finance or any other federal authority since 1 December 1876 to date, which enabled invasion or illegal occupation of collective lands, communal property, or other property belonging to inhabitants of villages, hamlets, congregations, or communities".

Likewise, the rural workers in villages of indigenous communities enjoy the right to work and manage forestry resources or those of protective natural zones by virtue of laws on forestry from 1997 and on ecological balance and environmental protection in 1996 in particular. The Government indicates that it is worried about the supervision of the application of these standards and procedures concerning the management of resources, the forms of participation, exploitation and administration as provided in the national legislation.

(c) Concerning consultations with indigenous representatives on constitutional reforms, as previously indicated to the Committee of Experts in the report sent in 1998, several drafts of constitutional reforms were submitted in March 1998 to Congress, with a view to recognizing indigenous rights. The impetus for the process of constitutional reform which recognizes the rights of indigenous peoples in the context of their cultural difference, began a little more than a decade ago in local Constitutions, in criminal codes and codes of procedure, regulatory laws, organic laws relating to judicial power, organic municipal laws and other texts in the federal and state framework.

(d) Independently of the information that the Government will provide in its next report, it should be noted that, concerning the abuse of indigenous migrant workers, the Government has held consultations with the responsible authorities and, when it has received this information, it will bring it before the Committee of Experts.

Concerning indigenous migrant workers, it should be noted that the Government has adopted the following measures in order to make known the labour rights applicable to indigenous communities:

- publication and distribution among the core indigenous population of a document entitled "Labour rights and obligations for rural workers";
- translation of information on labour rights in the different indigenous languages with the help of the INI;
- communication of information on labour rights by means of 18 radio broadcasts by the INI;
- creation and management of training scholarships and advice on commercialization of productive projects. In order to identify

the needs concerning indigenous women workers, links were set up with programmes with the Secretariat of Labour, such as the programme for training of unemployed workers (PROBECAT), and the programme of qualification and integral modernization (CIMO), as well as the Council for Standardization and Certification (CONOCER);

- the training of government officials in charge of explaining labour rights of indigenous populations, such as rural teachers of the National Council of Educational Development (CONAFE). Likewise, measures have been taken with the Autonomous University of Chapingo to train social workers;
- the creation of a commission in charge of analysing the problems and determining the strategies for implementation of social security law. This commission includes organizations of employers, rural sector agricultural workers and the Federal Government through the Secretariat of State for Labour and Social Security and the Mexican Institute of Social Security;
- the promotion and defence of labour rights;
- the holding of seminars, including the "Seminar on Migrant Agricultural Workers" which was held in Los Angeles, California, in February 1999.

Moreover, in the field of safety and health, as well as conditions of work, the federal labour delegations of the Secretariat of State for Labour and Social Security have referred to a total of 4,237 inspections carried out in all the States of the Republic, in their monthly reports sent from January to September 1999.

Finally, concerning paragraph 5 of the observation, the Committee requests the Government to re-examine the measures taken to overcome the problems which indigenous people have had to face in the country. Throughout this commentary, the Government has indicated the mechanisms of permanent dialogue set up between it and the indigenous peoples at different levels. The mechanisms enable the description and the application of public policies, to find solutions to conflicts, and to meet the requests of the indigenous peoples. It is important to underline that these processes of change do not take place overnight. The Government will continue its efforts to improve the living conditions of indigenous peoples. As the Indigenous and Tribal Peoples Convention, 1989 (No. 169), sets forth in Article 2, with the participation of the indigenous population, Mexico has accepted to develop coordinated and systematic action with a view to protecting the rights of these people and guaranteeing the respect of their integrity. The Government indicates that it has demonstrated an openness in this regard at all levels. As an example, concerning the legislative power, it is appropriate to underline the plurality of parties present on committees in charge of indigenous peoples, both in the local Congress and in the federal Congress. The politico-social participation of indigenous people in Mexico has been gradually set up, particularly in the political, public administration, education, culture, health and social framework. Numerous measures have been taken to facilitate full, fair and equitable development of indigenous people, which have contributed to the improvement of their well-being and their standard of living. Progress and results in the policies and the measures taken by the Government of Mexico have taken place, and it should be underscored that these coincide with engagements resulting from the application of the Convention. The interaction between the Government of Mexico and the indigenous communities has been fruitful, open and responsible. This demonstrates that article 4 of the Constitution of Mexico is applied in this respect and ILO Convention No. 169 is incorporated in the national legislation. The Government will continue to work with the International Labour Organization in this regard.

In addition, before the Conference Committee, a Government representative stated that the observation of the Committee of Experts did not cast doubt on the compliance of the Government with the obligations it had assumed under the Convention. The Committee indicated that information on its comments should be provided by Mexico in its next report. The Government was already working on this report which would be submitted, as required, in 2001. For that purpose, it was holding consultations with all the institutions concerned with the situation of indigenous peoples. She reaffirmed the willingness of her Government to cooperate with the ILO.

The comments made by the Committee of Experts referred to the dialogue of the Mexican Government with indigenous communities and to three specific cases: the Huichol Indian Community, the indigenous communities in the Uxpanapa Valley and a general report on the situation of indigenous peoples in Mexico. She expressed surprise with regard to the comments of the Committee of Experts concerning the alleged expressions of concern by the Governing Body with regard to an "apparent lack of real dialogue between the Government and indigenous communities". She noted that the documents on the basis of which the Governing Body adopted its decisions on the cases to which the Committee of Ex-

perts referred did not contain such terms. There was permanent dialogue between the Mexican Government and its indigenous populations, which formed part of its public policies and was a characteristic of the country which had been in existence before its accession to [Convention No. 169](#), the ratification of which marked the commitment of the Mexican State to its indigenous peoples.

In Mexico, 10 per cent of the population was indigenous. Most of them lived in rural areas in widely dispersed communities. Forty-five per cent of these communities consisted of fewer than 99 inhabitants and were located in mountainous or tropical areas, which made it difficult for them to have access to the basic social infrastructure of health, education and roads. A priority objective of the Mexican Government was to develop a new relationship between the State, society and indigenous peoples based on dialogue and respect for cultural and linguistic diversity, as set out in the National Development Plan, 1995-2000. This Plan set out the main lines of the current Government's social, political and economic development policy. It also provided for the integral participation of all social groups in the improvement of the living conditions of indigenous peoples with a view to preserving their cultural and social heritage and ensuring recognition of their individual and collective rights.

With regard to the issue of the legal recognition of the rights of indigenous populations, she indicated that Mexico had commenced in 1986 a process of legislative reform at the federal, state and municipal levels based on consultation and consensus with a view to the recognition of the rights of indigenous peoples. This process had been intensified during the 1990s and had led in the first place to the reform of article 4 of the Constitution in 1992. This article recognized the pluri-cultural composition of Mexico "with its origins in its indigenous peoples" and established that "the law shall protect and promote the development of their languages, cultures, usages, customs, resources and specific forms of social organization, and shall guarantee to their members effective access to the jurisdiction of the State". This had been followed by amendments at the federal level, including the Agrarian Act, the General Education Act, the General Act respecting ecological balance and the protection of the environment, the Forest Act and the Copyright Act. This legislative process had not been confined to the federal level. Up to this year, some 16 of the 31 states of the Republic had adapted their constitutions to incorporate the principles for the recognition of cultural plurality set out in article 4 of the Constitution. The Federal Code of Penal Procedure and a number of state penal codes had been amended to include provisions envisaging the consideration of the usages and customs of indigenous peoples as elements in their assessment and to guarantee the presence of translators during legal proceedings. Options were also being explored for the adoption of legislation at the municipal level with a view to ensuring that the reforms had a greater impact and achieved a substantial change in the relations between the federal, state and municipal authorities for the benefit of indigenous peoples.

Between 1995 and 1996, the national consultation had been held on indigenous rights and participation, with the broad representation of indigenous peoples. The Federal Executive had introduced a constitutional reform initiative in 1998 respecting indigenous rights and culture which recognized the right of indigenous peoples to free determination, in the sense of the autonomous capacity to take decisions on, among other matters, the manner in which they lived in common and organized themselves, the application of their legal systems, the election of their authorities and the preservation of their culture. It was the responsibility of the Congress to decide upon and discuss this and other initiatives. At the international level, indigenous Mexican legislators participated actively in the American Indian Parliament (PARLATINO) and the Inter-Parliamentary Union. She emphasized that it was the traditional priority of the Mexican Government to combat the social, economic and educational backwardness of indigenous peoples. The national programme to promote priority regions operated on a basis of dialogue between the federal, state and municipal governments and social and community organizations. This programme promoted integrated and sustainable processes of development in rural and indigenous regions affected by the highest levels of social exclusion through the management and redistribution of economic resources. The plan gave priority for immediate action to 35 regions, 22 of which contained 51 per cent of the indigenous population. During the course of 1999, the programme had channelled investments worth over \$900 million. This year, the amount would be over \$1,000 million. With regard to health care, between 1995 and 1999, coverage had been extended in the indigenous areas of 24 states through the provision of basic services which directly benefited 5 million indigenous persons. During the 1999-2000 school year, basic education had been provided to over 1 million indigenous children, who received school books free of charge in 36 indigenous languages, as well as school equipment and learning materials. During the same period, 129 editions of books in indigenous lan-

guages had been reprinted with a circulation of 1 million copies. The programme of regional Indian funds of the National Indian Institute was promoting local and regional development through production projects developed by indigenous organizations of rural producers. The management, administration, technical follow-up and evaluation of these projects was also the responsibility of the above organizations. Over the past five years, this programme had covered 23 states, benefiting 11,583 organizations with 1.5 million indigenous members.

The Government representative reaffirmed that the access to justice and the promotion and defence of the human rights of indigenous peoples was also a priority of her Government, to which great efforts and resources were assigned. The National Human Rights Commission had established in 1998 a general support unit to address the demands and needs of indigenous peoples. The Secretariat of the Government, the Office of the Attorney-General of the Republic, the Federal Public Legal Institute and the National Indian Institute had signed an agreement to coordinate their activities and resources with a view to ensuring that indigenous persons who were the victims of crimes at the federal level had access under the best possible conditions to the jurisdiction of the State. Since 1995, a programme had been in operation to promote concerted agreements respecting access to justice, through which the National Indian Institute provided financing to indigenous organizations and communities and to non-indigenous organizations which worked in Indian regions with a view to promoting self-management in areas such as legal defence, guidance, training and the dissemination of information on rights. Through this programme, technical and financial support had been provided to almost 1,000 indigenous civil and community organizations.

She also referred to the civil registration programme, the objectives of which were to bring the civil registration services closer to indigenous persons; to train community promoters to facilitate the delivery of birth, marriage and death certificates and reduce administrative requirements for the indigenous population. This programme was particularly important in the case of migrant indigenous persons. Among the many activities undertaken to disseminate information on indigenous rights, the Mexican Government, through the Labour Secretariat, the National Human Rights Commission and the National Indian Institute had issued publications and analyses of indigenous rights, including information to promote the provisions of [Convention No. 169](#). In 1999 alone, over 1,000 radio programmes had been broadcast in 954 towns in indigenous areas.

Land was the fundamental basis of indigenous and rural culture and undoubtedly constituted a fundamental issue for the peoples and the Government. Since the first decade of the twentieth century, the Mexican revolutionary heritage had recognized that land belonged to whomsoever worked it. It could therefore be claimed that the first agrarian policy in Mexico had also been indigenous. Through the distribution of agricultural land, thousands of groups of rural workers had been provided with land for the upkeep of their families. At the present time, there were 27,460 *ejidos* (collective lands) and 2,400 *comunidades*. Over 50 per cent of the national territory was therefore under social ownership, which left less than half for private property, national lands and agricultural and stock-raising farms. The *ejidos* and *comunidades* in Mexico were two forms of land ownership which were characterized by their legal personality and inheritance rights. Indigenous peoples owned land under all the forms of ownership recognized by the Mexican Constitution. After 85 uninterrupted years of agrarian policies, the Government continued to endeavour to achieve the effective delivery of agrarian justice. Agrarian tribunals had been established in 1992 and enjoyed autonomy, full jurisdiction and were obliged to take into consideration the language, usages and customs of indigenous persons in their proceedings and to ensure the presence of a translator for anyone who required one. In 1999, the agrarian tribunals examined 30,664 cases of disputes concerning land holdings in *ejidos* and *comunidades* by indigenous populations. A satisfactory solution was found in 82 per cent of these cases. The Agrarian Legal Office, which had been set up in the same year, was the body responsible for the defence, representation and provision of free legal advice to holders of *ejidos* and *comunidades*, workers in *ejidos* and *comunidades*, daily agricultural workers and private landowners. The Agrarian Legal Office worked with the National Agrarian Registry to provide security of title for the ownership of rural lands. With a view to ensuring legal security to the rights and lands in *ejidos* and *comunidades*, a programme had also been established for the certification of the rights to *ejidos* and the titularization of unused land. The programme was a product of the reform of article 27 of the Constitution in 1992. The objective of the programme was to regularize rights of workers in *ejidos* and *comunidades* and to delimit lands within agrarian zones. Government agencies which were involved in agrarian issues, and particularly the assemblies of workers in *ejidos* and *comunidades*, which were the highest bodies in

agrarian zones, participated in the application of the programme. The above assemblies decided upon the time, the manner and the periods over which the certification and titularization process of their lands and rights would be carried out.

The Government representative indicated that public policies could not be carried out without the participation of indigenous peoples and that Mexico was therefore envisaging mechanisms of dialogue for their design and implementation. The representation of indigenous peoples was guaranteed through their participation in all political parties and in the federal and state legislative assemblies. For example, 40 per cent of the deputies were indigenous in Oaxaca, 16 per cent in Quintana Roo, 15 per cent in the Federal District and 10 per cent in Chiapas and Tabasco. This trend for wider representation was also being extended to the municipal level. Indigenous affairs commissions, composed of the various political parties, existed in 56 per cent of the states of the Republic, including those with the highest proportions of indigenous peoples. The Congress of the Union also had a Commission on Indigenous Affairs.

She then referred to a number of the points set out in the observation of the Committee of Experts. Reference was made in paragraph 2 to the land rights of the Huichol Indian Community in San Andrés Cohamiata, Mezquitic Municipality, Jalisco. She recalled in this respect that Mexico had already provided the ILO with information on the occasion of a representation alleging non-compliance with [Convention No. 169](#). According to the representation, the authorities had not returned to the Huichol community in San Andrés Cohamiata lands which had historically been in their possession, and particularly the area of the Huichol group of Tierra Blanca, the ownership of which had been recognized to another agrarian area in Nayarit. As the Committee of Experts was already aware, the Huichol of Tierra Blanca obtained a protection order under the terms of which the decision of the Unitary Agrarian Tribunal of Tepic, Nayarit, was overturned. In complying with the protection order, the case was currently at the stage of the presentation of evidence before the same Tribunal. Information on the outcome would be provided in the next report in 2001. In this respect, she emphasized that due attention had been paid to the Huichol people and existing judicial bodies had been used. She also indicated that the Jalisco support association for indigenous groups had represented and defended the persons concerned. This social organization undertook managerial, advisory, training and defence activities in agrarian matters and human rights in the Huichol region in the states of Jalisco and Nayarit. Over a period of five years, it had received from the National Indian Institute technical and financial support amounting to around \$100,000 within the context of the programme promoting concerted agreements for access to justice.

She noted that paragraph 3 of the observation of the Committee of Experts referred to a representation concerning the land rights of Chinantecos indigenous persons relocated in the Uxpanapa Valley in Veracruz. She stated that, in the same way as with other indigenous peoples, through its everyday work the Government was strengthening channels of communication with Chinantecos indigenous persons relocated in the Uxpanapa Valley. The National Indian Institute had supported the establishment and financed social organizations, such as the Committee for the Defence of Chinanteco-Zoque-Totonaco Indigenous Rights and the Uxpanapa Indian Council. These were organizations which protected the rights of communities and promoted their economic and social development. The Uxpanapa Valley Regional Indian Fund also supported the process of organizing the communities and promoting their regional development. The National Indian Institute had participated in the establishment of the Uxpanapa Municipality in 1996. Through the Regional Fund, it was currently channelling significant resources to the region for public works, nutrition projects and social and economic development. At the end of 1999, the National Indian Institute held diagnostic and planning workshops for infrastructure, the results which made it possible to obtain support for the opening of roads and the implementation of various agricultural projects. She added that in the next few weeks a regional fund would be established for Chinanteco to promote training and development activities in the area with a gender perspective.

With regard to paragraph 4 of the observation, she stated that the right to land was enjoyed by all Mexicans. The Mexican Constitution established three forms of land ownership: national, private and social. The lands of indigenous peoples could be owned under any of these forms of ownership. The report of the Committee of Experts had referred to the claims made by the Authentic Workers' Front (FAT), which had erroneously alleged that the agrarian reform of 1992 had had the effect of making indigenous lands alienable, seizable and prescriptible. She denied that this was the case and stated that the Mexican Constitution recognized the legal personality of communities on *ejidos* and *comunidades* and protected their ownership of the land, both in terms of human settlement and productive activities. It also protected the integrity of the lands of indigenous groups. The Agrarian Act provided that the assemblies of

agrarian areas were the entities which determined the possibility of alienating their lands or their rights. In this way, the workers on *ejidos* were the ones who had the exclusive competence to decide upon the alienation of their rights and lands. With regard to communal ownership, the Agrarian Act permitted the cession of rights to communal land, but provided that it could only be to the benefit of family members and neighbours of the community. This meant that the cession of rights was not permitted for the benefit of third parties unrelated to the community. She emphasized that any dispute in this respect could be taken to the agrarian tribunals.

Turning to the issue of rights to the exploitation of mineral and forest resources, she stated that article 27 of the Constitution allowed workers in *ejidos* and *comunidades* to establish associations among themselves with the State and with third parties, as well as to grant the right to use and benefit from their lands. Similarly, the protection of the resources and the participation of indigenous peoples and communities in activities related to the exploitation, management and administration of forest resources and resources in protected natural areas were set out in the Forest Act, 1997, and the Act of 1996 respecting ecological equilibrium and environmental protection, among other legislation. The Government supervised the application of rules respecting the type and management of resources, forms of participation, exploitation and administration set out in the law.

With reference to consultations with indigenous representatives concerning constitutional reforms, she stated that the Government had already reported that constitutional reform initiatives had been submitted to the Congress of the Union in March 1998 for obtaining the recognition of indigenous rights.

With regard to the dissemination of information on the rights of indigenous migrant workers, the Government of Mexico was publishing and distributing documents such as the volume entitled "Labour rights and duties of agricultural workers". Within the framework of programmes of grants for vocational training, integrated skills and the modernization and certification of vocational skills, a service had been established to guide and manage the award of grants for training and guidance in commerce and productive projects, and for the training of community resource persons for the dissemination of the labour rights of indigenous workers. A commission had also been established to examine the problem and establish strategies to promote their right to social security.

She referred to paragraph 5 of the observation, in which the Government was requested to re-examine the measures it was taking in regard to the problems encountered by indigenous peoples in the country. In this respect, she recalled that many channels of dialogue existed in Mexico between the Government, indigenous peoples and society. One of the major changes of the past decade had been the development of public policies which focused on indigenous peoples as the agents of their own development and promoted their cultural and linguistic diversity. All public policies respecting indigenous peoples therefore included dialogue mechanisms for their design and implementation. Indigenous peoples also enjoyed high levels of representation in the Federal Congress and in local Congress. These were real and effective institutions of dialogue. In accordance with Article 2 of the Convention, the Government was taking responsibility, with the participation of its indigenous peoples, for the development of coordinated and systematic action to protect their rights and ensure respect for their identity. For her country, compliance with the terms of article 4 of the Constitution also implied compliance with [Convention No. 169](#). She emphasized the amply demonstrated will of the Government to cooperate with the ILO, particularly for the application of [Convention No. 169](#). The Government compiled its reports on the basis of broad consultation processes. It dealt with complaints relating to specific cases and carried out cooperative activities such as the "seminar on the inspection of working conditions in the rural sector", held in May 1999.

All the efforts which had been described above indicated the series of coordinated government processes and activities which formed the historical, everyday and permanent work in relation to indigenous peoples, communities and organizations at the various levels through many institutions. These processes required time and evaluation. The task was not easy, but awareness was high that in order to carry through legislative action and programmes it was necessary to maintain the political will and the co-responsibility of the various actors in order to continue achieving the consensus needed to promote the participation of indigenous persons in the future of the country. This was a democratic and ongoing exercise which touched on social, cultural, political and legal matters involving the citizens of Mexico.

The Worker members noted with interest the oral and written information provided by the Government of Mexico. As the written information submitted was voluminous and was received at a late stage, they proposed to defer the examination of this document to the Committee of Experts. They underscored that this case had

been suggested by the Workers' group and it demonstrated their effort to balance attention given by the Committee on the Application of Standards to basic human rights cases and other difficult cases. They were somewhat concerned by the possible inference that could be drawn from the statement by the Government representative, Director of the National Indian Institute, that this case did not reflect serious problems. With reference to the Government's query as to the basis for the Committee of Experts' conclusions, he recalled, in particular, paragraph 45(a) of the November 1999 report of the tripartite committee set up to examine a representation under article 24 (GB.276/16/3, November 1999). They emphasized that, in their conclusions, the Committee of Experts had expressed serious concerns by the apparent lack of dialogue between the Government and the indigenous peoples. Another main point was the information submitted by the Authentic Workers' Front (FAT) which was still under scrutiny by the Committee of Experts. They expressed concern over the fact that the Government did not seem to attach sufficient importance to the grievances and dissatisfaction voiced by the indigenous peoples. While they acknowledged and had taken note of the efforts the Government had reported taking, they maintained that the Government had not deployed sufficient efforts, in particular towards establishing the appropriate climate of consultation. They further noted, with interest, that this case had been brought to the ILO by trade unions. However, neither one of the larger employers' and workers' organizations in Mexico seemed to have taken any interest in this case as their views had not been made known to the Committee of Experts so far. In this context, the Worker members quoted from paragraph 70 of the General Report of the Committee of Experts in which the Committee emphasized the importance it attached to the contribution by employers' and workers' organizations to the task of the supervisory bodies. They further considered it relevant to note that member States who ratified a Convention should be able to implement their obligations forthwith. A ratification could not only be seen as a declaration of good intentions. They concluded by expressing support for the proposal by the Committee of Experts that the Government request technical assistance from the International Labour Office (paragraph 5 of the observation by the Committee of Experts). Such assistance could represent a good starting point for a dialogue to seek a solution to the serious problems this case reflected. They underscored the importance of a broad representation in such a dialogue including, inter alia, the small trade unions who brought this case to the attention of the ILO and genuine representatives for the indigenous peoples concerned.

The Employer members recalled that this Committee had previously discussed the case of Mexico in 1995. At that time, information of serious problems involving Chiapas had been received from organizations representing indigenous communities and from the National Indian Institute. Noting that the Committee was now examining different issues, the Employer members thanked the Government representative for supplying a detailed report on the issues raised. The Committee of Experts had included four points in its observation, but had not provided sufficient detail. Accordingly, this Committee could not evaluate the issues in depth. With regard to the issue of the land rights of the Huichol community, the Employer members noted the Government's indication that a judicial appeal (*amparo*) was being pursued and that the indigenous peoples' rights had been recognized in that case. Noting that special agrarian courts existed in Mexico to address such land rights issues and resolve disputes, the Employer members considered that this special court system offered an effective form of assistance. Turning to another issue of land rights concerning the Uxpanapa Valley indigenous communities, who had been displaced following the construction of a dam, the Employer members noted that this problem was longstanding. Noting that the situation had not been resolved, the Employer members indicated that a real dialogue between the Government and the indigenous community might be necessary, as suggested by the Committee of Experts. Regarding the Government's conclusion of agreements with multinational enterprises allowing exploitation of mineral and forestry resources on indigenous lands, the Employer members noted that the Committee could only hold an interim discussion on this point, as insufficient information had been supplied.

The Employer members noted that the two representations brought before the Governing Body had led to the adoption of conclusions and recommendations suggesting that the Government engage in dialogue with the indigenous communities to resolve issues in accordance with the consultative spirit on which the Convention was based. Noting that consultation appeared to be the main issue of this case and was stressed in the closing paragraphs of the Committee of Experts' comments, the Employer members pointed out that, according to the Director of the National Indian Institute, the institute's main activity was in fact to develop and establish such a dialogue with the indigenous communities. The Committee should therefore express its hope that the necessary measures would be

developed and expedited so that tangible problems could be resolved. The Employer members requested the Government to provide detailed information on the issues raised by the Committee of Experts.

The Employer member of Mexico expressed full support for the report presented by the Government representative. He said that Mexican employers witnessed and were protagonists in the efforts made by the Government to maintain social dialogue and promote investment in the most isolated regions of the country, in which indigenous peoples predominated, with a view to ensuring their economic and social integration with the rest of the population. For this purpose, the development of private initiative was being promoted in these areas through fiscal incentives and many types of facilities to encourage the installation of industry. In this way, employment and the recruitment of local inhabitants was being encouraged. Nevertheless, he warned that the subject covered by the Convention lent itself to all types of rhetoric and manipulation by interests which were completely unrelated to the issue. It was no surprise that so-called workers' organizations, with a view to gaining notoriety, claimed to submit complaints concerning disputes of which they had no knowledge. It would be very different if the ethnic groups concerned had submitted a complaint setting out in detail the matter which was of concern to them. He emphasized that in Mexico the fundamental rights of indigenous peoples were recognized and respected and that they were considered to be an important part of the population. He added that employers were interested in developing sources of employment in the most isolated parts of the country. He stated that the Convention was fully applied in a context of dialogue, with the participation of the various social partners. Finally, he expressed the view that the additional report requested by the Committee of Experts from the Government would be sufficient to respond to the points raised by the Conference Committee.

The Worker member of Mexico indicated that the Confederation of Mexican Workers, like the National Peasants' Confederation and the Indigenous Council, had taken part alongside the Government in the legislative reform process through discussions and dialogue with various legislative bodies at the federal, state and local levels. At the state level it had been decided to draft community laws. He pointed out that more than half of Mexico's states had amended their constitutions to respect the principles of the Convention. It was important to observe that workers, peasants and indigenous peoples belonged to the Union Congress, whose decisions were taken jointly. The fact that Mexico had more than 100 distinct indigenous groups within its borders, each with its own language and customs, posed a serious problem. Those communities were open to interference from the outside not only by groups seeking to safeguard human rights but also from every sort of religious sect taking advantage of the situation to pursue its own interests. Peace and order could only be maintained under such circumstances in the context of respect for the law. Otherwise, the situation would degenerate into a large-scale conflict which, understandably, no one wanted. To conclude, the Worker member stated that a dialogue was under way and the problems were being addressed slowly, but productively.

The Worker member of Brazil indicated that he was speaking out of solidarity for the Mexican people and because there was also a high number of indigenous peoples in his country. He welcomed the statement by the Government representative. He stated that it was important to examine whether the activities and policies which had been described were in conformity with the Convention. He recalled the importance of one of the basic objectives of the Convention, namely that indigenous peoples should participate in the development of the policies applicable to them and should be consulted through appropriate procedures. In this respect, he shared the concern of the Committee of Experts with regard to the development of Mexican public policies which did not respect this principle. He emphasized that consultation required institutionalized mechanisms which were freely accessible to all organizations. Another aspect referred to in previous years by the Committee of Experts had been the legal and constitutional reforms which could have the effect of negating or restricting the legal scope of the provisions of the Convention. In that regard, he recalled that a country that ratified a Convention undertook to give it full effect in national law and could not therefore introduce reforms which undermined its application. With regard to Articles 8 to 12 of the Convention, he recalled that in previous years the Committee of Experts had expressed concern at the large number of indigenous persons who were in prison in the State of Oaxaca without having been found guilty. With regard to Articles 13 to 19 of the Convention, it had requested information from the Government concerning whether the ownership and possession of the land was guaranteed for indigenous communities. In respect of Article 20 of the Convention, which dealt with the recruitment and conditions of employment of indigenous peoples, it had noted that it was regrettable that wage discrimination still existed and needed to be eliminated. Finally, he



reaffirmed that an essential element of the Convention consisted of the holding of consultations with representative organizations. He added that where there was no certainty of being able to work with independent trade unions, it could not be said that the Convention was being applied.

Another Government representative, with reference to the intervention by the Worker members, said that there had perhaps been a misunderstanding when the other Government representative, in her statement had referred to the observation of the Committee of Experts which indicated that concern had been “expressed by the Governing Body over an apparent lack of real dialogue between the Government and the indigenous communities”. She had stated that the above statement did not come from the documents prepared for the Governing Body and that it was certainly an error on the part of the Committee of Experts. While the Committee of Experts had indeed expressed concern at the lack of dialogue, this was an unjustified concern since, as had been mentioned, there were numerous channels of dialogue. In contrast with the views expressed by the Worker members he denied his Government was minimizing the problem and emphasized that it was aware that the indigenous people had been exploited and that it was endeavouring to resolve the heritage of 500 years. For this purpose, the Constitution had been amended, new programmes had been implemented and funds and policies developed in favour of this underprivileged category of the population. It was not the intention of the Government to ignore this situation nor to remain inactive. It was not possible to expect that the poverty which existed in his country, and particularly in indigenous populations, could be resolved in the short term. The situation was a phenomenon of underdevelopment and efforts were being made to resolve it. He affirmed that Mexico had not ratified the Convention prematurely, as stated by the Worker members. When it had done so, all the provisions of the Convention had been covered in national legislation. Finally, he emphasized that none of the supervisory bodies of the ILO had stated that Mexico had violated the Convention.

Another Government representative emphasized that no attempt was being made by her Government to minimize the issue of indigenous peoples, which constituted an important problem in respect of which gradual progress was being made towards achieving results. She did not agree with the view expressed by the Worker members that the measures taken for the benefit of indigenous peoples could be described as completed. These were issues of justice and development, and it was never possible to consider that a task had been completed. If that was so, the ILO would not exist. With regard to the question of consultations, she indicated that they were not only common practice in her country, but also constituted an obligation for Mexican public servants. All policies and activities were organized and undertaken in consultation with the various indigenous communities. In response to the question raised by the Worker member of Brazil on land ownership, she cited part of article 27 of the Constitution under the terms of which “the legal personality of population units shall be recognized and their ownership of the land shall be protected. The integrity of the lands of indigenous groups shall be protected”. She emphasized that indigenous persons were not only entitled to own land and to the protection of their ownership, but also to recognition of the legal personality of their communities. She added that the National Indian Institute and the Social Development Secretariat were national consultative bodies which contributed to the dialogue on self-development projects, technical assistance and human rights, among other matters. A new body had recently been created with the participation of 50 representatives of 35 indigenous regions and in which 17 different languages were spoken. These were examples of institutionalized and pluri-cultural consultation bodies.

The Worker members expressed their full appreciation of the difficulties caused by the level of poverty in Mexico referred to by the Government representative. They disagreed, however, with the inference that poverty was or could be seen as the basic explanation for the problems at issue. Although they agreed that it was essential to obtain further information on this case, and that technical assistance from the ILO usefully could contribute thereto, they reiterated that one of the main problems in this case was the apparent lack of dialogue with the indigenous peoples concerned.

The Employer members noted the statement by the Government representative that numerous measures had been taken in order to resolve the problems encountered with respect to indigenous and tribal peoples. To this effect, an amendment to the Constitution, amendments of legislation and other measures had taken place. However, the Committee was not in a position to determine whether these measures were sufficient to protect the rights of indigenous and tribal peoples. This was also due to the particular character of the Convention which provided for complex measures to be taken by a ratifying State. Therefore, this discussion had rather an interim character which nevertheless was valuable as it should encourage the Government to take prompt action, and contributed

to creating a greater awareness of the problems of indigenous and tribal peoples. In conclusion, they stated that the Government should provide additional information in a report.

The Committee noted the detailed written and oral information supplied by the Government representatives, and the discussion which took place. The information provided indicated that the Government was taking active measures to address the questions raised by the Committee of Experts, but that continuing efforts were still required. It noted with concern that the Governing Body, in its conclusions on two representations under article 24 of the Constitution, had evoked problems in carrying out effective consultations between the Government and representatives of indigenous peoples. Similar questions had been raised in comments by workers’ organizations, as had continuing allegations of labour abuses practised against rural indigenous workers and questions concerning the land rights of indigenous peoples. The Committee urged the Government to continue to provide detailed information on measures to the Committee of Experts to resolve the numerous questions raised by the Committee of Experts concerning the application of the Convention, with the technical assistance of the Office, if necessary.

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#### **Convention No. 98: Right to Organise and Collective Bargaining, 1949**

*Saint Lucia* (ratification: 1980)

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

*Afghanistan* (ratification: 1969)

The Worker members recalled that, according to the usual working methods the case of a country, the Government of which had not responded to the invitation of the Conference Committee, was examined on the last day of the discussion of individual cases. The objective was not to examine the substance of these cases, given the impossibility of having a discussion with the governments concerned, but to underline in the Conference Report the importance of the issues raised and the necessary measures for the re-establishment of dialogue. The report would mention for each country the case in question.

The Worker members observed that the Committee of Experts had been drawing the attention of this Committee since 1997 to the reports which had been sent to it by various sources concerning the serious problems of gender discrimination which were culminating in the violation of [Convention No. 111](#) by the Government of Afghanistan. The Worker members expressed once again their regret and their grave concern at not having been able to discuss this situation with the Government and which merited the undivided attention of this Committee. It was regrettable that the efforts undertaken by the ILO had not succeeded up to now. The ILO and the whole international community should take their responsibilities with greater conviction and force and increase their pressure on the Government of Afghanistan.

Regarding the application of [Convention No. 98](#) by Saint Lucia, the Worker members recalled that this case had been included on the list because of the existence of violations of the right to collective bargaining and anti-union discrimination, actions against which there was no protection. For the last nine years, the Government of Saint Lucia had not sent a single report on the application of this Convention. It appeared, however, from the written information communicated by the Government that the latter had transmitted a copy of an act respecting the registration, status and recognition of workers’ and employers’ organizations. The Committee of Experts should examine this law and its application in practice.

The Employer members regretted that some countries had not appeared before the Committee, despite being requested to do so in relation to the application of ratified Conventions. In this regard, they referred specifically to Afghanistan and Saint Lucia, noting that this was not the first time that they had failed to appear. These countries had been placed on the list of individual cases due to the Committee of Experts’ concerns regarding their non-application of ratified Conventions. The Employer members considered this failure to appear as negative behaviour towards this Committee and the ILO as a whole. It was one of the worst forms of deliberate obstruction of the work of the supervisory machinery. The Employer members deplored this lack of cooperation in relation to the Committee of Experts and the entire Organization.

The Worker members, so that the report of the Committee should reflect this point, declared that they were certain that the Committee would also once again wish to request the Director-General to invite the Chairman of the Committee of Experts to attend next year’s general discussion as an observer.