FORCED LABOUR

Item I on the Agenda
International Labour Conference

FOURTEENTH SESSION
GENEVA 1930

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GENEVA
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INTRODUCTION

This is the second occasion on which the question of Forced Labour is before the Conference, in accordance with the double-discussion procedure as regulated by the Conference's Standing Orders. The first stage of this procedure was passed when the Twelfth (1929) Session of the Conference held a preliminary discussion of the question, decided to place it on the Agenda of the present Session, and drew up a Questionnaire on the subject for consulting the Governments as to the nature of the proposals on it which might be submitted to the present Session. To complete the second stage of the procedure the Fourteenth Session of the Conference will accordingly have to consider the question with a view to the adoption of proposals on it in the forms prescribed in Article 405 of the Treaty, i.e., Draft Conventions or Recommendations. To facilitate this task the present Report, following the usual practice of the Blue Reports, furnishes the Conference with the replies of the Governments to the Questionnaire and certain draft proposals based on those replies.

The stage now reached in the international consideration of the problems of forced or compulsory labour is the decisive phase of a long period of preparation and discussion. International provisions governing the use of forced or compulsory labour were first contained in the texts of the Mandates granted to various Powers for the administration of the extra-European territories
detached from the former German and Turkish Empires. The relevant provisions of the Mandates did not attempt to regulate the use of forced or compulsory labour in detail, but they clearly laid down two important principles:

1. Forced or compulsory labour may only be permitted for essential public works and services;

2. Such forced or compulsory labour must always be adequately remunerated.

These principles, formulated in 1922, are of course only applicable to mandated territories, but the Temporary Slavery Commission, which reported to the Council of the League of Nations in 1925, proposed their adoption as international rules of general application. The Commission accordingly suggested that the proposed Slavery Convention should contain a clause providing for the "prohibition of forced or compulsory labour, except for essential public works and services and in return for adequate remuneration."

The recommendations of the Temporary Slavery Commission were discussed at the 1925 and 1926 Sessions of the Assembly and an Article relating to forced or compulsory labour (Article 5) was included in the Slavery Convention; the Assembly at the same time adopted two noteworthy resolutions. Article 5 of the Slavery Convention does not cover exactly the same ground as the clause proposed by the Temporary Slavery Commission. On the other hand, the Article, taken together with the first of the two resolutions mentioned above, added other important international principles and prepared the way for further developments. The situation as it presented itself after the 1926 Assembly was as follows:

1. Forced or compulsory labour for other than public purposes to be suppressed, subject to certain transitional provisions (Article 5 of Convention).

The texts of the international decisions mentioned in this introduction will be found in the Introduction and Chapter I of the Grey Report on Forced Labour.
(2) Responsibility for any recourse to forced or compulsory labour to rest with the competent central authorities of the territory concerned (Article 5 of Convention).

(3) Forced or compulsory labour for public purposes recognised to be sometimes necessary, but, as a general rule, not to be resorted to unless it is impossible to obtain voluntary labour (first Resolution).

(4) As a general rule, forced or compulsory labour to receive adequate remuneration (first Resolution).

By the second Resolution, the attention of the Governing Body of the International Labour Office was drawn to the importance of the work undertaken by the Office with a view to studying the best means of preventing forced or compulsory labour from developing into conditions analogous to slavery.

The work of the Office in connection with native labour problems had arisen out of its study of the possibilities of application of general Labour Conventions in colonies, protectorates and possessions which are not fully self-governing (Article 421 of the Treaty of Versailles), and of the collaboration of its representative in the work of the Permanent Mandates Commission and of the Temporary Slavery Commission. To assist the Office in this work the Governing Body had appointed (May 1926) a Committee of Experts on Native Labour. These Experts, consulted regarding the labour problems in colonial and similar territories which were most suitable for, or which most urgently demanded, international consideration, unanimously indicated forced labour and long-term contract labour. Further, after examining the Office's draft of the Grey Report on Forced Labour, they unanimously requested the Governing Body to place this question on the Agenda of the Conference at an early date, a step which the Governing Body decided to take at its November Session in 1927.

It was in these conditions that the International Labour Conference was asked at its Twelfth Session to proceed to a first discussion of the question of forced or compulsory labour. The basis for the discussion was provided by the Grey Report on Forced Labour prepared
by the Office with the advice and assistance, at every stage, of the Committee of Experts on Native Labour. The Report contained a full summary of the legislation and practice concerning forced or compulsory labour in all territories for which information was available, a chapter (Chapter VII) giving the principles which the Experts considered should underlie the regulation of such labour, and a draft Questionnaire. After a general discussion, the Conference referred the question to a Committee, the majority of whose members belonged to countries directly concerned. The result of the Committee's deliberations and the subsequent discussions in the plenary Conference was the adoption of the Questionnaire afterwards communicated to the Governments. Finally, the Conference, by 101 votes to 15, decided to place the question on the Agenda of the 1930 Session of the Conference for a second discussion with a view to considering the adoption of a Draft Convention and various Recommendations.

The problem before the Fourteenth Session of the International Labour Conference is therefore that of developing in greater detail and precision the international principles governing the use of forced or compulsory labour which have been laid down since the foundation of the League of Nations, and of giving effective expression to those principles in international instruments. It is unnecessary to emphasise the great importance of the task before the Conference and the heavy responsibility which attaches to its accomplishment. The reference of the question of the detailed regulation of forced or compulsory labour to the International Labour Organisation by the Assembly and Council of the League of Nations gives a special significance to the work of the Conference in this matter, in which it is acting as the mandatory of the whole League of Nations. It is, moreover, the first time that the Conference has attempted to deal with the conditions of life and work of a large and increasing class of workers who are practically untouched by the international labour Conventions it has hitherto adopted, and whose conditions of labour frequently involve such injustice, hardship and privation that they will increasingly tend to produce unrest so great that the peace and harmony of the world may be imperilled.
The replies to the Questionnaire which the Office has received, and which are given in Chapter 1 of this Report, leave no doubt that there is universal sympathy with the objects of the proposed Draft Convention on forced or compulsory labour. While there are divergencies in the views of the Governments of the Members most directly concerned regarding the scope and structure of the Convention — divergences which will be examined in Chapter II — only one Government has expressed the opinion that the adoption of a Convention is unnecessary. The replies of the Governments of Members whose interest in the question is not so direct, and which in most cases refrain from attempting to answer the Questionnaire in detail, also express general approval of the purposes of the proposed Draft Convention.

By 15 February, the date on which the present Report was closed as regards the inclusion of replies to the Questionnaire, replies had been received from the Governments of the following 22 countries: South Africa, Belgium, Bulgaria, Cuba, Denmark, Finland, France, Germany, Great Britain, India, Irish Free State, Japan, Luxemburg, Netherlands, Norway, Poland, Portugal, Siam, Spain, Sweden, Switzerland and Yugoslavia. As already noted, a number of these replies, where the Governments have no direct experience of the problems of forced or compulsory labour, are confined to a general expression of sympathy with the object in view or to comments on special points. Four other Governments, those of Austria, Estonia, Hungary and Rumania, have informed the Office that they have refrained from answering the Questionnaire on account of their lack of experience of the subject. Finally, the Canadian Government has communicated to the Office the texts of the statutes of various provinces of the Dominion of Canada which provide for statutory labour.

Any further replies which may be received by the Office will be printed in a Supplementary Blue Report on the present item on the Agenda which will, if necessary, be published before the opening of the Conference.

1 The reply of the Italian Government was received while these pages were in the press, and in appended to Chapter I.
The replies received in time for inclusion in the present Report are reproduced in the first Chapter. The second Chapter gives a general survey of the problem in the light of these replies, and the third Chapter contains a résumé of the conclusions reached in the previous Chapter and the texts of one proposed Draft Convention and two draft Recommendations which are submitted for the consideration of the Conference.

Geneva, 10 March 1930.
CHAPTER I

REPLIES OF THE GOVERNMENTS

This chapter contains the replies of the Governments to the Questionnaire which were received by the International Labour Office in time for inclusion in the present report.

The thirty-five questions contained in the Questionnaire were divided into two parts:

A. — Questions tending to the adoption of a Draft Convention.

B. — Questions tending to the adoption of Recommendations.

Part A., containing twenty-five questions, was subdivided into fourteen sections under different headings, each of these sections dealing with a different aspect of the problem. Part B. contained six questions.

The same method will be followed in subdividing the present chapter. The replies of the Governments to the different sections of Part A. will be grouped together in English alphabetical order under the heading of each section, while the replies to Part B. will be arranged together in the same order.

1 See the list of Governments given in the Introduction.

2 For the reason explained in the footnote to page VII of the Introduction the reply of the Italian Government has not been subdivided but is given as a whole in an appendix to this Chapter.
Part A. — Questions tending to the adoption of a Draft Convention

Questions 1-3.

General

1. Do you consider that the International Labour Conference should adopt a Draft Convention, the object of which is to suppress the use of forced or compulsory labour in all its forms?

If so, do you consider that a period of transition is necessary before such suppression can be fully carried out?

If you do not consider it possible to adopt a Draft Convention, the object of which would be to suppress the use of forced or compulsory labour in all its forms, or if you consider that suppression is possible, but that a period of transition is necessary:

Do you consider that the International Labour Conference should adopt a Draft Convention the object of which would be to limit and regulate the use of forced or compulsory labour?

2. Do you consider that such a Convention should be drafted in such a way that its ratification by a State should imply, for the colonies and protectorates of that State, the application of the Convention without the reserves or modifications provided for in Article 421 of the Treaty of Peace?

3. Do you agree with the following definition of forced or compulsory labour for the purposes of such a Convention:

"All work or service which is exacted from any person under the menace of any penalty for its non-performance and for which the worker does not offer himself voluntarily"?
BELGIUM

1. It is to be expected that a considerable time will elapse before the colonising Powers are able to find in voluntary labour all the labour required for public works of general or local importance. In these circumstances, therefore, if practical results are to be achieved, it will be desirable to do no more than adopt a Draft Convention with the single object of limiting or regulating the use of forced or compulsory labour. The Convention should only be concluded between colonising countries which, by reason of their practical knowledge and experience of the special circumstances which arise in oversea possessions, are in a better position to solve the problem, taking account of contingencies and difficulties.

2. The reply is in the negative. Confidence may be felt, however, that Governments will only avail themselves of the option given by Article 421 of the Treaty of Peace in cases where the provisions of the Convention would in their opinion be such as to hinder the work of raising the general standard of the natives which they are carrying on in their colonies.

3. The proposed definition makes no provision for certain indispensable exceptions. The Belgian Government would therefore prefer the following text: "All work or service which is exacted from any person against his will, apart from military service or work executed as the result of a conviction or as the penalty for failure to comply with a civil or fiscal obligation.”

BULGARIA

1. A Draft Convention with the object of limiting and regulating the use of forced or compulsory labour would be supported.

2. The reply is in the affirmative.

3. The reply is in the affirmative.

1 See the general observation made by the Belgian Government at the conclusion of its replies (p. 112).
Cuba

The question under discussion has no relation to this country, in which there is no form whatever of forced labour. The Cuban Delegation to the Fourteenth Session of the International Labour Conference will however collaborate effectively in securing by all possible means the adoption of a Convention, the effect of which would be to abolish forced labour in countries in which it is still practised. If, however, it should not be possible to do this, the Government will support the adoption of a Convention which would effect a marked improvement in the procedure, form and determination of the places in which forced labour should be carried on, bearing in mind the necessity of restricting the scope of application in every case to what is considered as indispensable work. In so doing, account should be taken of the culture, civilisation, customs, sanitary conditions, geographical situation and laws in force in each country or colony, in those where, for the reasons explained above, forced labour cannot yet be finally suppressed, and where it may be necessary to employ a preparatory and gradual system of development before forced labour is entirely and finally abolished.

The views of the Government of Cuba on the question of forced labour may be summarised in the following phrases:

(a) The suppression of forced labour in those countries where it still exists as soon as it may be opportune and, if possible, without delay.

(b) The inclusion of a clause in the Convention condemning forced labour for a private employer, whatever may be the size of the undertaking.

(c) Forced labour should be admitted in principle, in those countries where it is at present practised, only when its absolute necessity for public ends has been verified, and subject to the following conditions: necessity, urgency, shortage of voluntary workers, and suitability to the capacity of the present generation.

(d) It should be considered, in accordance with Article 427 of the Treaty of Versailles, that labour should not be regarded merely as an article of commerce.

(e) That only those persons of all classes should be recruited who are capable of work, and that they should be recruited for temporary periods only.
That work should only be performed if no danger to the health of the persons engaged on it is involved, if they are suitably nourished and lodged, if the medical attention necessary in case of sickness or accident is provided, and if they are granted the appropriate daily or weekly rest period.

**DENMARK**

The Danish Government considers that it would be a sign of progress from the humanitarian point of view if it proved possible by international means to regulate or in time abolish forced labour. The Government therefore notes with satisfaction the efforts made by the International Labour Organisation to this end and expresses the hope that it may prove possible at the Fourteenth International Labour Conference to adopt a Convention which will form the basis for such progress and lead to a solution of the question.

Since this problem is not of direct importance to Denmark, and since this country has no practical experience which could contribute to a solution of the problem, the Danish Government considers that its reply to this Questionnaire may be limited to a general statement without going into details of the different questions.

In connection with the definition of the term "forced labour", however, as given in Question 3, the Danish Government wishes to draw attention to the fact that although Denmark has actually abolished forced labour for the benefit of the communes, which was permitted to a certain extent and could be imposed on the inhabitants in virtue of legislative provisions for execution of certain work, it is still permissible for the rural communes to a limited extent to force the inhabitants to provide vehicles for the transport of material for local roads, and the transport of fuel for schools and other communal buildings, and in addition to assist in certain work connected with the mending of local roads, which has to be performed without remuneration by the inhabitants of the communes as forced labour. Moreover, the inhabitants of the communes are still to some extent subject to an obligation to offer their services in case of fire.

Although such forced labour and other similar tasks may be described as work "which is exacted from any person under the menace of any penalty for its non-performance and for which the worker does not offer himself voluntarily ", the Convention should not in any way prevent a people forming an independent and self-governing State from imposing on itself forced labour for public purposes or in
the public interest. It might perhaps be well to state this fact expressly in the Convention.

FINLAND

An international Convention on the subject, which would limit and regulate forced labour in a suitable manner, should be adopted. A period of transition would appear necessary before the regulations in question could be applied.

An endeavour should be made to ensure that forced labour is only permitted for specific classes of work which are important for the community in question, and that such labour should be subject to the conditions mentioned in the Questionnaire and to the supervision of the authorities.

In view of the fact that Finland has no experience or detailed acquaintance with the matter, the Government adopts an affirmative attitude as regards the details of the Questionnaire in general, within the limits of the general principles stated above. This attitude is, however, subject to the reservation that the representatives of the Government at the Conference itself will explain the Government point of view on each special question in greater detail.

FRANCE

Preamble.

The possible adoption of an international Convention with the object of limiting or regulating the use of forced or compulsory labour in colonies and protectorates, raises certain general considerations, which require explaining in indication of the spirit in which the French Government has drawn up its reply to the different points of the Questionnaire adopted by the International Labour Conference at its Twelfth Session.

The French Government has deemed it necessary to prepare with a view to the discussions at the 1930 International Labour Conference certain elements of appreciation based on a survey of the whole of the efforts made to ameliorate social conditions in the French colonies.

These observations appear essential for the purpose of fully explaining the purport of the replies made to the Questionnaire. The importance of the problem of forced or compulsory labour, its close connection with the general principles governing colonial policy, the fact that any action affecting the organisation of labour in new countries may
have widespread economic and social repercussions, are considerations which must be borne in mind if the efforts made are not to be unavailing.

In this connection it should be remembered that the sixty million inhabitants of the French colonial possessions represent peoples of every race and in every stage of social development. Some of them, such as the citizens of Martinique, Guadeloupe, Reunion, Guiana and Senegal are entirely on the same footing as the citizens of the mother country. They are under the same obligations and enjoy the same rights. In the matter of labour legislation their protection is identical with that of the inhabitants of a French department. Thus for part of the French colonies the question of the regulation of compulsory labour no more arises than it does in a department in the mother country. The same even holds true as regards labour dues (prestations) to which a citizen of Normandy is liable as well as a citizen of Martinique.

Further, as regards a by no means inconsiderable portion of the French possessions, it would seem difficult to consider any regulation of compulsory labour on the lines of the preliminary discussions held in Geneva. This is the case with the North African territories, where the general conditions of work of the native population are the same as those obtaining in the mother country. Economic and social development in Algeria, Tunis and Morocco is indeed such that forced labour may be dispensed with altogether. The best proof of this is that public works in these territories are effected by the same methods as in France, and that the regulation of the employment of native labour is only concerned with normal forms of employment.

There remain as districts to which an international Convention on forced or compulsory labour can effectively be applied only those in which resort has to be had to local supplies of labour in order to create the economic equipment essential to the development of the district and the material and moral well-being of the population. Even here it is certain that, as a result of the advance of modern technical methods, the need for labour recruited under a system of compulsion will gradually decline. At Dakar, for example, the large works in progress for the improvement of the town and harbour are being entirely carried out by voluntary labour. The same holds true with regard to the works for the improvement and development of the large ports and centres in Indo-China. Moreover, the development of roads in the colonies is, owing to the increase of motor transport, leading to a marked decline in porterage, particularly in Indo-China where it is only resorted to in the mountain districts and in regions remote
REPLIES OF THE GOVERNMENTS

from the trade routes. The same tendency is apparent in the various West African colonies.

Even in French Tropical Africa, the administration has to deal with a great variety of populations; while some are in a state of social development approximating to that of the inhabitants of North Africa, others are still very backward, though their tribal systems are gradually being modified by the emergence of personal property and the development of individualism. In other regions again, extremely primitive communities are met. It is the same in Indo-China where the cultured Annamites with a civilisation dating back for a thousand years can hardly be assimilated with the savage peoples of the Moïs and Tôs mountains. The peasant proprietors of Tonkin and Cochin-China are in many respects on the same intellectual level as inhabitants of Normandy or Burgundy. Many similar instances could be cited and reservations made. They are a part of colonial sociology, which science is mentioned here in order to draw attention to the dangers of systematisation which if translated into practice would quickly lead to acute difficulties.

Even a brief demographic study of the French possessions suffices to show how unevenly the population is distributed in the more remote areas. This situation proves a frequent hindrance in schemes of economic development, with the result that it is quite impossible to provide the inhabitants with the essentials of material progress. One of the most difficult problems confronting colonial authorities is thus that of evolving a labour policy based on a rational distribution of the labour. In North and West Africa it has been necessary to resort to seasonal labour for work connected with the harvest and the gathering of grapes, olives and peanuts. Indo-China has co-operated very successfully with the possessions in the Pacific Islands. Finally, in the interest of the populations themselves the possibility of a certain redistribution of the labour supply has had to be considered in certain cases, for instance in Tonkin where there are over-populated districts in which wages are on a very low level. Further, in West Africa the population is attracted towards new centres of development and towards recently constructed railways. In fact, the development of “economic points” — new harbours, towns, rail or road heads, centres for the exploitation of natural products formerly neglected or unknown — often leads in colonial areas to a complete change in the distribution of the population. When these facts are considered it will easily be realised that any rigid system controlling the movements of workers should be avoided. Even in normal circumstances the problems connected with the distribution of labour are so complex that no international
system for the regulation of these questions would seem possible which goes beyond the enunciation of general principles.

Moreover, the problem of native labour in the colonies is bound up with that of the social education of the native races. As has been seen, these races have by no means reached a uniform level of evolution, and it would be necessary to devise a series of successive stages by which natives of those tribes in the Congo which still practice cannibalism could within a reasonable space of time be brought to realise the meaning and importance of trade unions. The colonial social "ladder" at present has so many rungs that the campaign to bring the different regulations governing native labour into harmony with European labour legislation appears to be somewhat premature.

In the French colonies legislation governing native labour falls broadly speaking into two distinct groups. First there are the texts relating to labour performed by populations at a backward stage of social development. These texts regulate the employment of native labour either for general public purposes or in private enterprises.

As regards labour employed on important public works, very complete regulations are contained in the Decrees of 4 May 1922 and the 1928 Circulars issued in Equatorial Africa, the Circular of 22 September 1925 in Madagascar, that of 31 October 1926 in West Africa, and the Orders of 25 October 1927 in Indo-China.

These texts do not refer to labour dues (prestations) which by French law are exclusively considered as taxes in kind, which are capable of being commuted and exist even in France itself. Regulations concerning labour dues in the colonies follow the same lines as the legislation on this subject in the mother country, which provides for their commutation at a rate based on the current wage for a day's work.

In the opinion the French Government, which keeps a close watch over the manner in which labour dues are executed and over their regulation, the system is a form of taxation coming under the heading of financial legislation and is outside the scope of the Convention under consideration.

A study of the Questionnaire prepared by the International Labour Conference for the different Governments reveals that questions are raised relating to the normal hiring of labour in the colonies and the ordinary conditions governing the health and safety of workers. To these the French Government has always devoted attention and has framed regulations regarding them in certain of its possessions. French colonial labour
legislation has always taken account of the essential importance of bearing in mind the different stages of social development of the inhabitants of overseas possessions. Thus, the North African possessions are gradually being endowed with labour legislation similar to that of the mother country. The only difference is that measures are adapted so as to be applicable to conditions in these territories. The Trade Union Act of 1884 has been made applicable to Algeria and the 1898 Act on industrial accidents was applied in 1909. The necessary machinery — such as a labour inspectorate and an administrative staff — has been created. By a Decree of 19 January 1915 the provisions of Book I of the Labour Code: "contracts of apprenticeship, work books, reserved employments, the employment of women before and after childbirth, conditions governing the payment of wages," were applied to Algeria. Some years later by a Decree of 15 January 1921 the whole of the provisions of the Labour Code were extended to Algeria. Regulations governing the health and the safety of workers, night work, the employment of women and children, the Eight Hours Act, have also been applied to Algeria with certain reservations. As regards Tunis a complete Labour Code was introduced by four Decrees dated 10 June 1910, supplemented by a Decree of 20 April 1921 regulating work in industrial and commercial establishments and in mines. Further, the Decrees of 21 March 1910 and 15 March 1921 adapted the Act relating to industrial accidents to local conditions. In Morocco a "Dahir" dated 13 July 1926 makes provision for an advisory labour committee composed of four employers and four workers together with the chiefs of services of the Residency. As a result of the work done by this committee a Dahir of 1927 adapted the Act concerning industrial accidents to conditions in Morocco.

Of the territories under the direct control of the Ministry of the Colonies the older colonies such as Martinique, Guadeloupe and Reunion are governed by the same labour legislation as France. Among others the Act concerning freedom of association applies to Martinique, Guadeloupe, Reunion, New Caledonia and the Pacific settlements, Guiana, St. Pierre and Miquelon.

The Acts relating to industrial accidents were applied to Martinique, Guadeloupe, Reunion and Guiana by Decrees dated 19 July 1925, while at the present moment the Council of State is considering the administrative regulations by which it is to be extended to New Caledonia. The Ministry of the Colonies has submitted a draft Decree to the Ministries of Finance and of Justice extending this legislation to French West Africa. In this field and generally it will be advisable to avoid precipitate action which may lead to injurious results in many directions.
The French Government is anxious to impress upon the International Labour Conference the great importance it attaches to the social problems raised by the employment of native labour. In this brief account of the difficulties attendant on the rational creation of legislation calculated on the one hand to satisfy the moral duty devolving on a colonising power and corresponding on the other to actual circumstances, the French Government hopes that it has afforded some useful guidance to the members of the Conference. In spite of some criticisms directed against it, which it is always easy to formulate, it is conscious of never having departed from the liberal policy of which France is justly proud. It will be found that the only purpose of the few objections raised in the replies to the Questionnaire is to bring into touch with reality certain proposals, which are excellent in themselves but are not yet capable of realisation. For these reasons it is considered that in drawing up the proposed Convention due weight must certainly be attached to the general considerations which have been advanced by the French Government in the interests of the task which the International Labour Conference has set before itself.

Finally, the French Government desires to draw the attention of the International Labour Conference to the unfortunate confusion caused by the adoption of the term “forced labour”. It is aware that the question has been discussed and debated, but in spite of this the fact remains that in France the term bears a resemblance to an expression used in penal legislation: “travaux forcés”, with the result that writers on the subject of forced labour are obliged to explain their use of the term. The addition of the word compulsory does not meet the case either and while the English term “forced labour” correctly expresses the general purpose underlying the proposed Convention, the French Government proposes that in the French version the term “travail public obligatoire” be substituted for the expression “travail forcé ou obligatoire”.

 Replies.

1. The French Government is not opposed to the adoption by the International Labour Conference of a Draft Convention the object of which is to abolish forced or compulsory labour.

French legislation in no case sanctions the use of forced labour for private purposes. As regards forced or compulsory labour for public purposes the French Government is of opinion that it can only be abolished gradually with a transitional period and in stages corresponding to the level of racial and
social development reached by the populations inhabiting the different possessions.

A Draft Convention could usefully regulate and limit the use of forced or compulsory labour during this period of transition, the length of which would vary according to districts and circumstances and could not in most cases be determined beforehand.

2. If, in framing the Draft Convention to be adopted, special attention is paid to local conditions which in all colonies may necessitate recourse to the reservations provided for in Article 421, the French Government would be prepared to consider the renunciation, by means of a provision of the Draft Convention, and for the sole purpose of the said Draft Convention, of the right to avail itself of Article 421. But it should be clearly understood that if the Draft Convention is framed as applying to all the territories of every State Member of the International Labour Organisation, without reference to local conditions, the French Government will be forced to maintain the reservations made in Article 421 of the Treaty of Versailles in cases where local conditions may render such action necessary.

It will naturally be for the Powers responsible for the administration of territories in which regulation of the use of labour is called for, to decide the question whether or not the Draft Convention pays sufficient attention to local conditions existing in each colony.

3. The French Government prefers the following definition of forced or compulsory labour as more nearly expressing the intentions of the Convention to be framed: "All work or service which is exacted from any person and for which the person does not offer himself voluntarily, apart from work or service resulting from his fiscal or military obligations or imposed as a penalty by the courts".

GERMANY

1. The reply to the first paragraph is in the affirmative. A period of transition will be necessary.

In calculating this transition period account must be taken of the reasonable desires of those States in whose territory forced labour still exists, but on the other hand it must be remembered that the main object has to be achieved within the shortest possible period.

In view of the great variety of conditions in the territories concerned, special regulations concerning forced labour can
never be entirely satisfactory, and time will be required for their practical application. Consequently it might be better to have no such special provisions if the period of transition is to be short.

2. It is certainly very desirable that States ratifying the Convention should, by some clause therein, renounce the reserves or modifications provided for in Article 421 of the Treaty of Peace.

3. The definition of forced or compulsory labour given here appears satisfactory.

**GREAT BRITAIN**

1. Yes. His Majesty's Government in the United Kingdom consider that the Draft Convention should definitely provide for the suppression of forced or compulsory labour. As they recognise that its immediate suppression may not always be practicable, they consider that the Convention should limit and regulate its use during the period of transition preceding its suppression. As regards the definition of forced or compulsory labour, they would refer to their answers to Questions 3, 4 and 5.

2. His Majesty's Government in the United Kingdom would welcome a Convention so drafted that it could be applied to the colonies and protectorates of all the signatory States without the reserves or modifications provided for in Article 421 of the Treaty of Versailles. They appreciate the legal difficulties to which the International Labour Office has drawn attention, but they consider that a special endeavour should be made, in the case of a Convention drafted with the special conditions of colonies and protectorates in view, to secure that its application to those colonies and protectorates shall be as general as possible. They therefore suggest that an Article should be inserted in the Convention providing that if any State desires to take advantage of the provisions of Article 421 of the Treaty of Versailles, which limit the application of Labour Conventions to colonies and protectorates, it shall attach to its ratification of the Convention as an integral part of such ratification (a) a list of the colonies, etc., to which it will apply the Convention immediately, of those to which it will apply it after an interval, stating the duration of such interval, and of those with regard to which it finds it necessary to reserve its decision: and (b) a list of the colonies, etc., to which it will apply the Convention
immediately with modifications, together with particulars of such modifications, a similar list of those to which it will apply it after a stated interval, and a list of those on which it reserves its decision as to the modified application of the Convention. It should be permissible for a State to withdraw at any time any reservation made in the manner suggested.

3. The definition appears to cover labour exacted under laws which provide for compulsory military service and convict or penal labour. His Majesty's Government in the United Kingdom consider that the intention in regard to these two kinds of labour should be more clearly defined. They consider that if labour exacted under laws which provide for compulsory military service is not regarded as falling within the definition of "forced labour", it should be expressly provided that such labour shall be used exclusively for military and not for public works purposes. As regards convict or penal labour, they presume that it is not intended that the definition should apply in cases where labour is demanded of a prisoner while he is serving a sentence of imprisonment. They consider that the Convention should not provide for the total abolition of compulsory labour imposed as a punishment in lieu of a fine or imprisonment but that such labour should in all cases be employed on public works and that the practice of hiring it to private individuals should be forbidden.

**INDIA**

1. The Government of India do not consider that the International Labour Conference should adopt a Draft Convention, the object of which is to suppress the use of forced or compulsory labour in all its forms, but they are in favour of the adoption by the Conference of a Draft Convention to limit and regulate the use of forced or compulsory labour.

2. The reply is in the affirmative.

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1 **Note.** — In their letter communicating their replies the Government of India state that the Questionnaire contemplates circumstances which have little or no relation to conditions obtaining in British India, and they have therefore found it extremely difficult to give categorical replies to some of the questions. They further indicate that the period available for replying to the Questionnaire was not, in their opinion, sufficient for an adequate consideration of the important points raised in it, and they accordingly desire it to be understood that the replies they have made are of a provisional nature.
3. The definition is suitable, but it would be advisable to insert a provision to make it clear that compulsory labour exacted for the following purposes is outside the scope of the definition:

(1) Services required by the State from its citizens for the defence of the country or for the maintenance of internal order or for any other similar public service,

(2) Forced or compulsory labour exacted from persons who have been convicted of criminal offences, or whose restraint is necessary in the interests of peace and order, and

(3) Services required from citizens in connection with the administration of justice, e.g. service on juries, liability to report offences and aid to the Police.

**IRISH FREE STATE**

The Government of Saorstat Eireann has considered the Questionnaire on forced labour. As this subject is not one in which the Saorstat has at present any direct concern, the Government is of opinion that it would not serve any useful purpose by furnishing detailed replies to the Questionnaire. The Government, however, desires to intimate the opinion that any extended use of forced labour is not desirable and to state that it would favour steps tending towards the abolition of the use of such labour in the future.

**JAPAN**

The Japanese Government agrees to the adoption of a Draft Convention and Recommendation concerning forced labour. It considers proper that the definition and scope of forced labour should be laid down as in Questions 3, 4 and 5.

As there exists in Japan no forced labour in the sense of Questions 3, 4 and 5, the Japanese Government is not in a position to express any opinion on other matters mentioned in the Questionnaire.

**LUXEMBURG**

As the question refers, if not exclusively at least mainly, to work compulsorily performed in colonies, the Government
of the Grand Duchy does not propose to give replies to the many special questions contained in the Questionnaire.

As far as the Grand Duchy is concerned, its working classes live under a regime of absolutely free labour. Section 310 of the Penal Code, in fact, lays down sanctions to repress any interferences with this freedom.

Luxemburg accordingly has no direct interest in the regulations contemplated, and for the same reason it is not for the Government to contribute, by detailed replies to the Questionnaire, to the international regulation of a matter for which Members of the International Labour Organisation which have to administer colonial territories are primarily responsible.

However, the Government of the Grand Duchy readily associates itself with any international action the object of which will be to improve the lot of native populations in colonies and to secure to them the advantages of the social institutions and measures of legal protection which are enjoyed by the workers of the majority of civilised countries.

NETHERLANDS

1. The reply to this question is in the negative, as the suppression of forced labour is not yet practicable. There is no objection, however, to the adoption of a Draft Convention with the object of limiting or regulating the use of forced or compulsory labour, the final aim being total abolition.

2. The Government of the Netherlands is of opinion that the International Labour Conference cannot include in a Draft Convention provisions the effect of which would be to render Article 421 of the Treaty of Versailles inoperative. It is clear that this Article applies to all Draft Conventions adopted by the Conference. The reply to Question 2 must therefore be in the negative if this question refers to the inclusion of such provisions. On the other hand, if it is merely a question of the utility, in order to attain the end desired by the Conference, of framing the Draft Convention in such a way that the modifications which may be desirable in applying Conventions to colonies should be included as far as possible in the Draft Convention itself, then the reply of the Netherlands Government is in the affirmative. If by framing the Draft Convention in this way account is taken both of home countries and colonies, it may be expected that there will be no reason why Governments should not apply the Convention to their colonies in its entirely.
3. The Government of the Netherlands agrees to the definition of forced or compulsory labour proposed in Question 3.

**Norway**

The use of forced labour, as defined in the Questionnaire, is unknown in Norway and consequently we have neither experience nor intimate knowledge of the subject. For that reason the Norwegian Government finds it correct to take the position not to reply to the Questionnaire in detail but only to put forward some general observations on the matter. We express our satisfaction that the International Labour Organisation has taken up the question of forced labour and we hope that it will be possible in the near future to suppress or at least to limit and regulate the use of forced or compulsory labour, in order that the people who to-day know such an appearance as forced labour will as far as possible get full freedom in making contracts of work.

To this end we consider that the International Labour Conference should adopt a Draft Convention.

The ideal to be aimed at is the total abolition of every form of forced labour. As it perhaps would be considered impossible to carry out a change of this kind all at once it seems necessary to adopt a Draft Convention the object of which would be to limit and regulate the use of forced or compulsory labour.

We consider that forced or compulsory labour should only be exacted with the sanction of the Home Government and on conditions mentioned in the Questionnaire and controlled by the competent authority in the territory concerned.

**Poland**

Seeing that the problem of forced labour primarily concerns States with colonies and mandates, the Polish Government has not considered it desirable to reply to the Questionnaire on this subject. Nevertheless, the Polish Government is of opinion that the abolition of forced labour would be in accordance with the ideas of social justice on which Part XIII of the Treaty of Versailles is based, and it therefore considers that it would be highly desirable for the International Labour Conference to adopt a Draft Convention concerning forced labour.
PORTUGAL

1. The reply of the Portuguese Government to this question is in the negative. It is considered that all that is desirable and possible for the moment in this matter has been effected by the Convention of 25 September 1926.

Forced or compulsory labour for other than public purposes has been prohibited. Those countries in which it still survives will endeavour progressively to put an end to it. It is still too early to fix a definite period for its abolition, since the coming into force of the Convention is too recent and the local conditions which have necessitated this form of labour cannot be changed in a day. This form of labour is destined soon to disappear, but it can only be regulated by individual States according to the difficulties to be overcome in abolishing it.

With regard to the regulation of forced or compulsory labour for public purposes by means of a Convention of the International Labour Organisation, the Portuguese Government considers this undesirable. In the first place it would not be in harmony with the dignity and rights of the State. This is a form of labour which only the State can employ and which is of a special nature in that it is a work of public utility. Secondly, it must be considered that the conditions and requirements pertaining to this form of labour are peculiar to the work of colonisation, which is being carried on in such widely differing situations that any generalisation would have no useful effect.

It should also be mentioned that the coming into force of the Convention is too recent to enable a basis of study with a view to stabilisation to be found in the regulations of the different States.

These regulations are at present in course of development.

Lastly, the Portuguese Government considers that the regulation of forced or compulsory labour for public purposes is purely a colonial question. In any case its application to colonies and protectorates is governed by Article 421 of the Treaty of Peace, which expressly authorises each colonising country to be the sole judge of the desirability of applying to its colonial territories International Labour Conventions which it has ratified. The prudent recognition of the special

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¹ As regards the meaning of the expression "forced or compulsory labour" employed in this reply, see the observation of the Portuguese Government on page 114.
The conditions of colonising countries in connection with international social work which is contained in this Article has recently been confirmed by the International Colonial Institute.

The latter institution, composed of the most qualified representatives of science and experience in all colonising countries, unanimously came to the conclusion that the system of labour in colonies could not yet be dealt with by international Conventions.

The Portuguese Government must also mention that serious legal objections are anticipated to the enforcement of the Convention foreshadowed by the Questionnaire.

The Government reserves the right to develop these objections and act upon them when it is considered necessary.

The replies to the following questions are given subject to the statements made in this reply to the first question.

2. The Portuguese Government cannot support the changes in Article 421 of the Treaty of Peace or the suspension of this Article as suggested by this question. This Article took into account actual and legal facts which remain unchanged.

3. The Portuguese Government cannot accept this definition which is extremely vague and obviously goes further than the subject to be defined. The English text does not agree with the French text, since the words worker and individu are not synonymous.

The word service goes further than the word work. The use of the words “forced or compulsory labour” appears to recognise two kinds of labour which should be separately defined. The expression “voluntarily” (de plein gré) is a psychological term which for that reason is difficult to define. It would seem that the definition was intended to include penal work, fiscal obligations and military service which cannot come under the proposed Convention.

It should be observed that the 1926 Convention only dealt with forced or compulsory labour which may develop into conditions analogous to slavery.

It is for this restricted subject that a clear definition must be found.

**Siam**

The subject is not of practical concern to His Majesty’s Government.

Siam is underpopulated and there is no emigration from the country, so that its nationals are not affected by the question of forced labour. . . . in other countries.
In view of the existing circumstances His Majesty’s Government regrets that they are not in a position to furnish any reply which would be of any practical value to the coming Conference.

**South Africa**

1. The Government of the Union is opposed in principle to forced or compulsory labour, and is in favour of the consideration by the International Labour Conference of a Convention to secure suppression of the use of such labour. In order, however, to meet the cases of countries, if any, where a transition period is necessary before the elimination of this form of labour can be made effective, it is considered that the use of forced labour should be limited and regulated during such period.

2. Yes, provided that it shall not apply to self-governing colonies of any State.

3. Yes; it is clearly understood that the use of the word “penalty” implies legal sanction therefor.

**Spain**

The Ministry of Labour and Welfare, after consulting the Council of Labour and in accordance with its report, formulates the following replies to the Questionnaire:

1. The reply is in the affirmative, inasmuch as the general rule should be the abolition of forced labour, while establishing the legal differentiation between the possibility of imposing labour, including recourse to coercion, and the possibility that in certain cases and for specified works in the public interest, the obligation of personal service may exist duly limited and regulated.

   There is no doubt that a certain period of transition would be necessary in particular territories, in view of the practice of forced or compulsory labour that has existed and exists in the same, a period of transition which should be reduced to the minimum duration possible and which should even disappear in case it is admitted that for certain works in the general interest personal service may under certain conditions be utilised with due guarantees for those under obligation to render the same.

   In case the principle of abolition pure and simple of forced labour is not accepted, the necessity of an international
Convention, the object of which would be to limit and regulate
the use of forced or compulsory labour, is undeniable, and such
limitation and regulation would also be applicable in the case
of abolition with a period of transition as well as in the case of
non-abolition of forced or compulsory labour in its various
forms.

2. The proposed Draft Convention should not contain
any reservations or modifications derived from the application
of Article 421 of the Treaty of Peace. This Article has provided
for a certain delay in the application of Conventions adopted
by the International Labour Conference in the case of colonies,
protectorates and possessions which are not self-governing.
This Article has for its basis the difference between developed
countries and those in which development has hardly
commenced or is in its infancy, diversities of situation which
justify the reservations of Article 421. The preparation of a
Draft Convention relating to forced labour, however, presup-
poses precisely that account will be taken of the situation of
the countries to which it is to be applied, which are not the
national territories in which there is a sufficient economic
development, but principally the territories of colonies or
protectorates subject to the sovereignty or administration of a
superior Power.

3. The definition proposed in the question is admissible,
although it would perhaps be sufficient to regard as forced or
compulsory labour for the purposes of the Convention all work
for the execution of which the worker does not offer himself
voluntarily.

SWEDEN

The Swedish Government considers that from the humani-
tarian point of view it would be desirable in principle to suppress
or to restrict as far as possible the use of forced or compulsory
labour. The Government would therefore welcome the success
of the efforts in this direction which may be made by the
International Labour Organisation.

As, however, the Government is without experience in this
matter, no reply is made to the individual questions in the
Questionnaire. It should be noted, however that the definition
proposed in Question 3 does not appear satisfactorily to define
the scope of the proposed Convention, which should not cover
work performed in the majority of countries in the customary
forms of punishment, corrective action and instruction, or in
the form of civil obligations of a general character on the
inhabitants.
Switzerland

I

It would appear, from the way in which the question of forced labour has been treated both by international opinion and international bodies, that the problem is confined to forced labour imposed on the natives of colonies, protectorates, mandated territories, etc., and that it does not therefore include certain forms of compulsory labour in force in countries which enjoy full self-government. In order to avoid any misunderstanding, the expression "forced labour in the strict sense" will be used in the sense of the above interpretation.

Forced labour in the strict sense being unknown in Switzerland, the attitude of the Government in this respect is the same as that adopted in respect of the Slavery Convention drafted by the Seventh Assembly of the League of Nations. The representative of Switzerland on the Sixth Committee of the 1929 Assembly again drew attention to that attitude, pointing out that, while not directly interested in the question, Switzerland would not hesitate to consider favourably the possibility of supporting the Slavery Convention if it appeared that the support of Switzerland might help in its enforcement.

Switzerland recognises, then, the moral and humanitarian reasons for which the question of forced labour has been placed on the agenda of the International Labour Conference, and satisfaction will be felt if a solution is found for the problem. On the other hand, the Swiss Government, having no experience in the matter, and being imperfectly acquainted with the facts relating thereto, is unable to state whether the solution of the problem should be sought in the entire prohibition of forced labour or in its regulation. For the same reasons the Government is unable to reply to the greater number of the questions relating to regulation, and is obliged to maintain an attitude of reserve which will be readily understood.

II

It is thought desirable, nevertheless, to draw particular attention to the following circumstances:

According to the way in which the question has been treated, the Convention which the Conference may adopt would only deal with forced labour in the strict sense. This is not made clear, however, in any of the questions. In the opinion of the
Swiss Government, it would be desirable that this matter should not be left vague, and that an exact definition should be given of the kind of work envisaged. If this is not done, there will be a danger of adopting an ambiguous text which in its literal sense might refer to certain forms of work to which there is no intention of applying it. For instance, if the definition of forced labour proposed by Question 3 were adopted, the scope of the Convention would cover all services which citizens are required to perform by reason of their citizenship. This would be the case, for example, with military service in countries where it is compulsory for the whole population; with civil service in all its forms; as well as various other compulsory services such as — to mention only what is done in Switzerland — the obligation to perform certain public duties or services (e.g. jury service, fire fighting in certain districts, etc.) or in certain country or mountain districts where labour and money are scarce, to perform work in connection with the construction or upkeep of roads, removal of snow, etc. ; in its present form the definition would even extend to the work of persons confined in prisons and reformatories.

III

It is consequently essential that the Conference should make it clear whether it intends to adopt a general Convention for all States without distinction, or merely a special Convention referring only to forced labour in the strict sense, and of interest, therefore, only to those States whose sovereignty extends over colonies, protectorates, mandated territories, etc. In the former case (adoption of a Convention of general scope) the text should be so framed as to exclude from this scope the various kinds of services and labour mentioned under II above. Further, it would be desirable to decide what exactly would be the position under Article 421 of the Treaty of Versailles. According to the appendix to the Questionnaire (page 69), the International Labour Office appears to think that if the Conference adopted a Convention of general application, it would not in that case be entitled to suspend the operation of Article 421. An awkward situation might thus arise, caused by a Convention which, while ratified by the States particularly interested, was not applied in the areas which are dependent on those States and for which it was specially drawn up. Nevertheless, if the exact signification of Article 421 is sought, it is thought that it may be possible to avoid this difficulty. The reason for the inclusion of Article 421 lies in the fact that the programme contained in the preamble to Part XIII and Article 427 of the Treaty of Versailles is
primarily addressed to States which have already reached a
certain stage of industrial development. It was therefore
desirable to enable those States whose colonies or protectorates
had not reached the same stage of development to adapt the
Conventions to the particular conditions prevailing in those
areas. This does not mean, however, that no account can be
taken of these conditions in a Convention which these States
undertake to apply unchanged to their colonies or protectorates.
It would be sufficient to include in the Convention a clause
laying down this engagement. It is not thought that this could
be considered a breach of Article 421, as each State remains at
liberty not to avail itself of the said Article, the authority for
refraining from so availing itself arising out of the act of
ratification.

In the second case, the Convention would be limited both as
regards the particular conditions dealt with (forced labour in
the strict sense) and as regards the territories in which it would
be applicable (colonies, protectorates, mandated territories,
etc.). It would thus be intended primarily for States responsible
for such territories. If the Convention is drawn up with a view
to particular conditions such as exist in these territories it is
considered that there would no longer be any reason for having
recourse to Article 421, and that a Convention of this kind would
normally involve the relinquishment of the licence given by
this Article.

The Government refrains from stating an opinion in favour
of one or the other of these two cases. It is thought, however,
that no ground should be left for misunderstanding, and that
the Draft Convention should be perfectly clear in one sense or
the other.

IV

The reply of the Swiss Government is confined to these
general considerations, and for the reasons mentioned above
it does not enter into the details of the questions raised.

YUGOSLAVIA

The Yugoslav Government prefaces its reply by the following
observations:

In view of the fact that the question of forced or compulsory
labour is primarily of interest to colonial and mandatory
Powers, while Yugoslavia has neither colonies nor mandated
territories, the Government considers it necessary to emphasise
the fact that consideration ought chiefly to be given to the
replies of these Powers when the subject is being dealt with internationally.

The reply of the Government to the individual questions is consequently given, not because Yugoslavia has an interest in the matter, but purely for reasons of justice and humanity.

The reply is as follows:

1. It is considered that the International Labour Conference should adopt a Draft Convention for the suppression of all forms of forced or compulsory labour. It is, however, desirable to make provision for a period of transition.

2. The reservations and modifications for which provision is made by Article 421 of the Treaty of Peace should in no way be applied.

3. The definition of forced or compulsory labour as proposed by the International Labour Office is accepted.
Part A. — Questions 4-5.

Exceptions from Scope of Convention

4. Do you consider that cases of emergency (force majeure) should be outside the scope of the Convention? If so, do you approve of the following definition of "cases of emergency":

"A case of emergency, for the purposes of this Convention, is the event of war and any occurrence which endangers the existence or the well-being of the whole or a substantial part of the population, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and so on"?

5. Do you consider that village services of a kind which have been traditional and customary amongst the local inhabitants, and which are performed within the close proximity of the village by the people who live in it, may be considered to be normal obligations incumbent upon the members of the community and not constituting forced or compulsory labour within the sense of the definition given in Question 3 above?

Belgium¹

4. Cases of emergency (force majeure) should be outside the scope of the Convention.

Such cases, in addition to cases of public disaster, should include a number of other cases in which, in the absence of other means of action, the authorities are obliged to call for the assistance of the persons present for the maintenance of public peace and order.

The following definition is therefore proposed:

"Public calamities, such as cases of war, fire, flood, invasion by animal, insect, or vegetable pests, etc., as well as events endangering public peace and order, such as organised robbery, resistance to the forces of law and order, etc."

¹ See the general observation made by the Belgian Government at the conclusion of its replies (p. 112).
5. The reply is in the affirmative, but the definition of forced or compulsory labour should also exclude services to be performed in places which are not within the close proximity of the village so far as such services are sanctioned by tradition.

BULGARIA

4 and 5. The replies are in the affirmative.

CUBA

See reply to Questions 1 to 3 (p. 4).

FRANCE

4. The French Government considers that cases of emergency should remain outside the scope of the Convention. In its opinion the definition of "cases of emergency" should comprise hostilities, disasters, and, in general, all occurrences endangering or likely to endanger the existence or the well-being of the whole or part of the population.

5. Village services sanctioned by the traditions and customs of the community concerned and forming part of the normal obligations of village life should not be subject to the provisions of the present Convention.

GERMANY

4. The reply is in the affirmative, and it is recommended that in the third paragraph, after the word "occurrence", should be added the words "or threatened occurrence", and that the word "substantial" should be deleted.

5. The reply is in the affirmative.

GREAT BRITAIN

4. His Majesty's Government in the United Kingdom consider that cases of emergency (force majeure) should be outside the scope of the Convention. They are prepared to agree to the definition of cases of emergency suggested, but would prefer the omission of the words "and so on".
5. His Majesty's Government in the United Kingdom consider that minor communal services of a kind which have been traditional and customary among the local inhabitants, or which, though not traditional or customary, are imposed not by any command of a chief or public officer but with the general approval of the village or tribal community for the purpose of meeting new communal needs arising as the result of social and economic progress, should be considered to be outside the scope of the Convention, provided that they do not necessitate the workers sleeping away from their homes.

INDIA

4. Yes. The suggested definition of "cases of emergency" is not unsuitable, but the Government of India would suggest the following revised version which in their opinion would be an improvement:

"A case of emergency, for the purpose of this Convention, is the event of war or any occurrence or threatened occurrence which would endanger the existence or the well-being or the peace of the whole or any substantial part of the population of any locality, such as fire, flood, famine, earthquake, riot, internal commotion, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests and so on."

6. Yes. The Government of India consider it very important that traditional and customary village services should be excluded from the scope of the proposed Convention.

JAPAN

See reply to Questions 1 to 3 (p. 15).

NETHERLANDS

4-5. The replies are in the affirmative.

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1 See footnote on page 14.
PORTUGAL

4. The Portuguese Government considers that cases of emergency are naturally excluded, and that no useful purpose would be served by defining such cases by way of example.

5. The reply is in the affirmative.

SOUTH AFRICA

4-5. The replies are in the affirmative.

SPAIN

4. There is no doubt that in case of force majeure work might acquire an obligatory character, but, admitting this, it is necessary that there should be in the text of the Draft Convention elements more than sufficient to prevent any doubt as regards what is intended by the words "case of force majeure". The term might be defined in the manner suggested by the Questionnaire. Perhaps the case of war might be a ground for some reservation in view of the situation which might arise in any territory in an exceptional situation from the point of view of sovereignty, but there is no doubt that national defence might be a ground for exception. An examination of the desirability that the power of compulsion should exist in case of war due to the imperious necessity of national defence, in case of attack on the sovereignty of the territory, might deserve special consideration.

5. Services of a communal character which have been traditional and customary amongst the local inhabitants as subjects for personal service might be admitted as exceptions to the performance of forced or compulsory labour, provided that they are executed in direct connection with the place where the persons under obligation to perform them reside.

YUGOSLAVIA

4. It is considered desirable that the provisions of the Convention should not apply in cases of emergency, the definition of which as proposed by the Office appears acceptable.
5. Village services of a kind which have been traditional and customary amongst the local inhabitants and in their interest, and which are performed within close proximity of the village by the people who live in it, may be considered to be normal obligations incumbent upon the members of the community, and should not constitute forced or compulsory labour within the sense of the definition given in Question 3 above.
Part A. — Question 6.

Authorities responsible for Recourse to Forced or Compulsory Labour

6. (a) Do you consider that the authority responsible for any recourse to forced or compulsory labour should be an authority of the metropolitan country, or, when that is not possible, the highest central authority in the territory concerned?

(b) Do you consider that, where higher authorities delegate to subordinate authorities the right of authorising forced labour for local public purposes, this practice should cease?

(c) Do you consider that the competent authority should define precisely, in so far as this has not already been done, the conditions under which forced or compulsory labour should be carried out under the control of minor and local authorities, and that these conditions should, in regard to the category of persons liable, the maximum duration for any individual, working hours, payment, indemnities, and inspection, be not more onerous than those indicated in this Questionnaire for putting into execution forced labour imposed by the competent authority itself?

BELGIUM

6. (a) The decision to employ forced or compulsory labour should only be reserved for the authorities of the metropolitan country in the case of work at a great distance or permanent or regular in character.

(b) One cannot refuse to authorise subordinate authorities to require forced or compulsory labour for public purposes in cases where workers are not transferred to distant places, and where the work is for short periods only.

1 See the general observation made by the Belgian Government at the conclusion of its replies (p. 112).
(c) It would be desirable that a precise definition should be given of the conditions under which forced labour ordered by subordinate authorities should be performed. So far as possible these should not be more onerous than those laid down for labour reserved for the decision of the authorities of the metropolitan country.

BULGARIA

6. (a) and (b) The reply is in the affirmative.

(c) The reply is in the affirmative, provided that the competence of the authority is clearly defined by law.

FRANCE

6. The French Government, having signed the Slavery Convention of 1926, agrees that the responsibility for any recourse to forced or compulsory labour rests with the competent central authorities. Minor authorities should only be authorised to sanction forced labour within the limits set by the regulations on the subject prescribed by the higher authorities.

GERMANY

6. (a) The main responsibility will rest with the highest central authority of the territory in question and not with the authorities of the metropolitan country.

(b) No; the responsibility, however, will remain with the authority mentioned in (a).

(c) The reply is in the affirmative.

GREAT BRITAIN

6. (a) and (b) His Majesty’s Government in the United Kingdom consider that responsibility for allowing a system of forced or compulsory labour to exist should rest with an authority of the metropolitan country or, when that is not possible, the highest central authority in the territory concerned. When forced or compulsory labour is allowed to exist, it is however inevitable that the decision to have recourse to it in specific instances must to some extent rest with subordinate authorities, but the responsibility for ensuring that such
recourse shall only be had on proper occasions and under prescribed conditions should continue to attach to the higher authority.

(c) Yes.

**India**

6. (a) No. In India some of the legislation under which forced labour is exacted for public purposes relates to provincial subjects over which provincial legislatures have the power of legislation. Owing to this constitutional position, it would be impracticable in India for the Central Government to be constituted the sole authority responsible for any recourse to forced or compulsory labour.

(b) No.

(c) Yes.

**Netherlands**

6. (a), (b) and (c) The reply is in the affirmative.

**Norway**

See reply to Questions 1 to 3 (p. 17).

**Portugal**

6. The subject in general has already been dealt with by the 1926 Convention. The questions in paragraphs (b) and (c) are matters to be dealt with exclusively by national legislation.

**South Africa**

6. (a) Yes. The highest authority in the territory concerned should be vested with full responsibility, and delegations thereof should be specific and controlled in conformity with the provisions of the Convention to be adopted.

(b) and (c) See reply to (a).

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1 See footnote on p. 14.
6. *(a)* It is considered that the responsibility for the decision should be incumbent on the authority adopting it and that in this case the higher authorities of the territory concerned should be responsible, but so that this shall not exclude the responsibility of the metropolitan authorities in case they have approved in special cases the decision of their subordinates or tolerated the infringement by the latter of the provisions in force.

*(b)* The delegation to subordinate authorities of the power to decide to have recourse to compulsory labour should be reduced as far as possible. If it is not directly abolished, it should be limited to cases provided for in the legislation having a purely local character, without prejudice, of course, to the right of appeal which should always be available to the higher authorities of the territory.

*(c)* The reply to this question should be in the affirmative. The very fact of considering a Draft Convention desirable on the subject presupposes in the exceptional case of recourse to compulsory labour the clear definition of the cases in which the same may be utilised and the due regulation which would constitute a guarantee for those under obligation to perform such labour.

**YUGOSLAVIA**

6. It is considered that the authority responsible for any recourse to forced labour should be an authority of the metropolitan country or, when that is not possible, the highest central authority in the country concerned. It should be for this authority to lay down precisely the conditions under which forced labour as specified in paragraph *(c)* should be carried out. The contract for the performance of the work should be guaranteed by the local authorities.
Part A. — Question 7.

Criteria to be satisfied before recourse is had to Forced or Compulsory Labour.

7. Do you consider that the competent authority, before permitting any recourse to forced or compulsory labour, except the compulsory labour mentioned in Question 12, should be satisfied:

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;

(b) that the work or the service is of present or imminent necessity;

(c) that it has been found impossible to obtain voluntary labour for carrying out the work or the service by the offer of the rates or wages ruling in the area concerned for similar work or service; and

(d) that the work or service under consideration will not lay upon the present population concerned too heavy a burden, having regard to the labour available and its capacity to undertake the work?

BELGIUM

7. (a) It would obviously be desirable to ensure that the work is of important interest. It is not necessary, however, that the work should be of direct interest for the community required to perform it. It would be sufficient that the latter should benefit indirectly, as in the case of the construction of a railway by means of which the country is opened up.

(b) The work need not necessarily be of present or imminent necessity. It would be sufficient that it should be necessary for future development, but on the condition that attempts to

1 See the general observation made by the Belgian Government at the conclusion of its replies (p. 112).
recruit voluntary labour appear unlikely to yield results before the expiration of a period which would appreciably retard the execution of the undertaking.

The replies to (c) and (d) are in the affirmative.

**Bulgaria**

7. (a), (b), (c) and (d) The reply is in the affirmative.

**France**

7. The French Government considers that the circumstances described in this question are broadly those which the competent authorities should take into account before having recourse to forced or compulsory labour.

**Germany**

7. The reply is in the affirmative.

**Great Britain**

7. His Majesty's Government in the United Kingdom agree that in all cases in which forced or compulsory labour is called out by the central Government of the territory concerned, all the criteria specified should invariably be satisfied. Where such labour is called out by a chief exercising administrative functions, the same criteria should be satisfied if the work involves the workers sleeping away from their homes; if this is not involved, strict compliance with criterion (c) might not immediately be practicable.

**India**

7. The reply is in the affirmative.

**Netherlands**

7. (a), (b), (c) and (d) The reply is in the affirmative.

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1 See footnote on p. 14.
PORTUGAL

7. The Portuguese Government sees no advantage in including in an international Convention principles of which each colonial administration should be the judge and which these administrations alone can effectively establish.

SOUTH AFRICA

7. The reply is in the affirmative.

SPAIN

7. (a) Undoubtedly if recourse is to be had to forced or compulsory labour, the work or service to be rendered should be of important direct interest for the community, inasmuch as apart from the notion of general utility there could be no ground for imposing the obligation of personal service.

(b) The condition of present and imminent necessity should also be required, it being understood that imminence implies immediate necessity for the performance of the service in question.

(c) Similarly recourse to personal compulsory labour for work of public interest should only be allowed where voluntary labour is difficult to obtain, notwithstanding the offer of wages in proportion to those obtaining in the territory for similar work or services. Voluntary labour should be the rule and compulsory labour the exception.

(d) It is undeniable also that there should exist an adequate proportion between the quantity of work required compulsorily and the other requirements of a similar character of the native population and that regard should also be had to the capacity of the population to undertake the work in question.

YUGOSLAVIA

7. The reply is in the affirmative.
Part A. — Questions 8-11.

Forced or Compulsory Labour for Private Employers

8. Do you consider that in no case whatever should the competent authority impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies, or other entities than the community?

Are you of opinion that where such forced or compulsory labour exists, every effort should be made to bring it to an end as soon as possible?

Are you further of opinion that a time limit for such abolition should be fixed, and if so, what time limit would you propose?

9. Do you consider that, where forced or compulsory labour is demanded by chiefs who exercise administrative functions in consequence of traditional rights, this practice should be abolished as soon as possible, and that, until it is abolished, Administrations should ensure that such labour should be directed to public purposes and that the conditions under which it is carried out should be regulated in the same manner as is work of a similar nature done under the compulsion of the administrative authority?

10. Do you consider that whilst it is the duty of officials of the Administration to encourage the populations under their charge to engage in some form of labour, they should not be permitted to put constraint upon them to work for private employers?

11. Do you consider that no concessions granted to individuals or companies should permit any form of compulsion for the obtaining of the products which such individuals or companies utilise or in which they trade; and that, where such concessions already exist, (a) they should not be renewed except in such a way as to terminate any arrangements of this kind, and (b) every effort should be made to change, in the same way and as early as possible, existing concessions which are not yet due for renewal?
BELGIUM

8. The reply to the first question is in the affirmative, subject to the right of Governments to entrust the work to be performed for the community as a whole to a private undertaking acting under the supervision of the authorities.

The reply to the second question is also in the affirmative. As the problem does not arise in territories under the authority of the Belgian Government, the latter is unable to say whether the fixing of a time limit is possible nor, in consequence, to suggest any limit.

9. The Belgian Government agrees as to the principle. It should be observed, however, that when a chief is maintained by virtue of custom and in so far as he exercises a public office, the labour required for such upkeep should be considered as labour for public purposes. Further, if it is desirable to regulate the labour due to chiefs it is not possible to subject it to the same rules as those fixed for labour required by European officials.

10. The reply is in the affirmative.

11. The reply to the first part of the question is in the affirmative.

With regard to the actual cases and the measures provided for in the second part—(a) and (b)—the Belgian Government can scarcely give an opinion, as such concessions do not exist in territories under Belgian authority, and the Government has consequently no means of appreciating the situation.

BULGARIA

8-11. The replies are in the affirmative.

CUBA

See reply to Questions 1 to 3 (p. 4).

1 See the general observation made by the Belgian Government at the conclusion of its replies (p. 112).
FRANCE

8. French colonial legislation prohibits forced or compulsory labour for the benefit of private persons. The French Government is favourable to this prohibition being applied generally. It is of opinion that the expression “labour for general public purposes” covers labour undertaken in the public interest by private contracting undertakings which are under the supervision of the competent authorities and have been duly authorised to this effect.

9. The French Government accepts the principles enunciated in Question 9, concerning the need for bringing the regulations relating to forced labour in regions administered by native authorities into line with those in force in territories under direct government.

10. The French Government would point out that the main duty of its officials in its colonies and protectorates is, by their counsels and technical advice, to encourage the populations under their care to collaborate in the work of economic development pursued in French overseas possessions.

11. The French Government considers that this question, which relates to commercial operations, is outside the scope of an international Convention on forced or compulsory labour.

GERMANY

8. If forced labour for public purposes is to be abolished as soon as possible, then it is clear that the same must be done to at least the same extent in the case of forced labour for the benefit of private individuals or companies. In this case also it will prove necessary to have a period of transition for the reasons mentioned under Question 1.

The period for abolition should be so fixed that it is sufficient to enable the forced labourers to be replaced by voluntary labour so as to avoid any harmful results caused by a sudden interruption of work. In many cases, especially in larger works which may be of a public nature, the interests of the private individuals concerned coincide with those of the community or of the authorities. As a rule such important works are conceded in whole or in part to private contractors, who have as great an interest as the community in bringing the work to a conclusion, but who are also influenced by their personal interest in completing the work entrusted to them at the
lowest possible cost. For that reason the period laid down for the abolition of forced labour for public purposes must be identical with that for its abolition for the benefit of private individuals.

9. It is assumed that the chiefs referred to are those who exercise administrative functions in virtue of traditional rights tacitly or expressly recognised by the Governments. In that case these chiefs are part of the administrative hierarchy and are as much subject to the supervision of the Government as any other administrative bodies; they are not to be regarded as private individuals. Consequently they are subject to the same regulations as other competent authorities, and on this assumption Question 9 may be answered in the affirmative. It would have been better to have placed it after Question 6 in the Questionnaire.

10-11. The replies are in the affirmative.

GREAT BRITAIN

8. His Majesty's Government in the United Kingdom most emphatically agree that in no case whatever should the competent authority impose or permit the imposition of forced or compulsory labour for the benefit of a private employer or contractor. They consider that where such forced or compulsory labour exists every effort should be made to bring it to an end as soon as possible. They consider that a time limit for such abolition should be fixed and that it should be as short as possible.

9. As stated in their answer to Question 1, His Majesty's Government in the United Kingdom consider that the Draft Convention should provide for the abolition, after a period of transition, of all forms of forced or compulsory labour coming within its scope. But they think it necessary to indicate two types of labour for chiefs which fall within the definition of forced or compulsory labour.

There are certain native communities where the chief in virtue of his position as the patriarchal head of the community has the right of receiving labour services from the individuals or families of whom the community is composed. Such services are rendered to chiefs because the chief is the head of the community, and is occupied in looking after its interests. The work is therefore in effect done for the benefit of the community. His Majesty's Government in the United Kingdom consider, however, that this labour is justified only
in primitive communities, and it has long been their policy to restrict the extent to which it may be demanded to the minimum practicable and to commute it gradually for money payments. They consider that this substitution of money payments for unpaid personal service should be carried out at the earliest possible moment.

The second type of labour for chiefs is labour by the community for communal purposes, called out by the chief in virtue of his traditional rights as administrative head of the community. This type of labour for chiefs occurs in parts of the Colonial Empire in which the system of government followed is that generally described as "indirect rule". Under this system the primary duties of administration, the provision of "peace, order and good government", remain with the traditional rulers of the people. In these circumstances it is inevitable that during the period of transition communal labour should continue to be called out by chiefs under the general responsibility of the central authority as described in the answer to Question 6. His Majesty's Government in the United Kingdom entirely agree that such work should be directed to public purposes only, and this is invariably the case at present. It should be pointed out that in these cases, while there may be no direct payment of wages, the people concerned receive either in kind or in cash payment at least sufficient to provide food and drink. His Majesty's Government in the United Kingdom agree that, so far as it is practicable, the central Government should ensure the application to the labour so called out of the detailed provisions for the protection of workers which are embodied in a Convention.

In view of the existence of these two types of labour they suggest that the question as drafted cannot produce replies which will form the satisfactory basis of an Article in a Convention.

In the first place, any such Article must recognise that where the labour rendered by the community to its chief is no more than his patriarchal due, the variety and often indeed the nature of the services are such that, although general principles may be laid down, they cannot be made the subject of detailed regulations. The Article should provide for the commutation of these services for a money payment at the earliest possible moment.

Secondly it must recognise that, where a tribal chief discharges administrative functions, the labour called out by him cannot invariably be subject to the same degree of regulation as labour called out by the central authority. His Majesty's Government in the United Kingdom are, however, anxious to see an Article so drafted that it will prevent possible
abuses of traditional customs, and they accordingly suggest that it should incorporate clauses on the following lines:

(i) Where labour which is performed for a chief in the exercise of his administrative functions entails the workers sleeping away from their homes the provisions as regards payment and conditions of employment shall be the same as those applicable to labour of a similar nature done under the compulsion of the central authority.

(ii) Where such labour does not entail the workers sleeping away from their homes, these provisions shall apply so far as is practicable. Such labour should invariably be employed on works or services which are of important direct interest to the community called upon to perform them and from which that community will derive the principal benefit. The maximum of 60 days suggested in Question 18 for the annual period should include days spent on labour of this type.

The heading "Forced or Compulsory Labour for Private Employers" should be eliminated, as the labour contemplated does not in any way fall within that description.

10. His Majesty's Government in the United Kingdom agree that officials of the administration should not be permitted to put constraint upon the populations under their charge to work for private employers.

11. The reply is in the affirmative.

**INDIA**

8. Yes, but with the qualification that forced labour may, where it is performed for the benefit of an individual or a company discharging a public utility service, be permitted in circumstances where the failure of such service would occasion an emergency as defined in the answer to Question 4. Where forced or compulsory labour exists for private purposes, every effort should be made to bring it to an end as soon as possible. The Government of India suggest a time limit of 5 years from the date on which a State ratifies the Convention.

9-11. The replies are in the affirmative.

**NETHERLANDS**

8. Paragraph 1. The reply is in the affirmative.

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1 See footnote on p. 14.
Paragraph 2. The reply is in the affirmative. The redemption of private lands (*Particuliere Landerijen*) may at any time be delayed by unforeseen circumstances, for which reason it is impossible to fix a time limit.

9-11. The replies are in the affirmative.

**PORTUGAL**

8. The subject has been dealt with by the 1926 Convention. Labour for public purposes carried on by companies or undertakings under State supervision does not cease to be labour for public purposes. In places where the labour referred to in this question still exists, each State should take what it considers to be the best steps for its gradual abolition. There is no advantage in fixing a time limit for this abolition, as it would probably delay abolition in districts where it might be possible to effect it within a shorter period. Confidence must be had in colonial administrative services and the respective Governments.

9. The Portuguese Government considers that this is in reality a very delicate problem of native policy. It should be left to the legislation of each State to arrive gradually at the abolition or transformation of these traditional rights.

10. The reply is in the affirmative.

11. The Portuguese Government does not consider it necessary to give a reply to this question, which exceeds the limits of labour regulation.

**SOUTH AFRICA**

8. Paragraphs 1, 2 and 3. Yes.

9. Yes, subject to avoidance of such action as would disintegrate tribal authority which it may be the policy of the administration to maintain and to regulate.

10-11. Yes.

**SPAIN**

8. In no case should the competent authorities impose or permit the imposition of forced or compulsory labour for the
benefit of private individuals, companies or entities other than the community, but it should be pointed out that in certain cases concessionnaires of services or contractors for public works exist for whom the possibility of compulsory labour should be admitted to a certain extent. The negative reply previously given refers to the case in which the work is to be performed for the benefit, not of a public work but of an individual undertaking or company distinct from the community which regulates and organises public services.

The reply is in the affirmative, that where such forced labour exists every effort should be made to bring it to an end as soon as possible.

The transitory situation evidently supposes a time limit for the abolition of forced labour for the benefit of private individuals. It is always difficult to fix such a limit in advance, but in general it should be the shortest possible, having regard to the economic situation of the territory, the organisation of labour in the same, and the possibility of obtaining voluntary labour in such abnormal conditions.

9. As in certain territories work performed for the benefit of tribal chiefs exists, the question must be answered in the sense that the practice of such labour should be abolished as soon as possible, and that so long as such abolition cannot take place, owing to the impossibility of suddenly breaking with the political and social organisation which gives rise to such classes of work, the respective administrations should take great care that such work is not performed for objects other than those of general interest to the tribe or clan in question, and that in case of utilisation of compulsory labour the regulations should be similar to those applicable to such labour carried out under the supervision of the administrative authorities.

10. The encouragement which administrative officials may use for inducing the native population to adopt a particular form of labour freely offered, not only cannot be regarded as prejudicial but, on the contrary, is desirable, particularly if such encouragement arises out of instructive and educational work in connection with the forms of labour and conditions of the native population. What must be regarded, however, as not only a right but a duty of officials must not be converted into encouragement of such a nature as to imply the use of constraint which on occasion may easily exceed the limits of advice and become something more than moral compulsion. Everything resembling the use of compulsion by officials should be avoided. The action of officials should be limited to requiring personal service for work of general utility and the encouragement of
natives by educational and instructive work to perform voluntary labour for private employers.

11. In view of the previous replies, the answer to this question must logically be in the affirmative, both as regards the first part and the clauses (a) and (b), inasmuch as work performed under a concession should be subject to the same system as that previously indicated for work directly performed for the administration.

YUGOSLAVIA

8. The employment of forced or compulsory labour for the benefit of private individuals, companies or other entities than the community should not be permitted. Where such labour exists it should be abolished. The time limit for such abolition should not be greater than two years.

9-10. The replies are in the affirmative.

11. Concessions granted to individuals or companies for the use of forced or compulsory labour should not be renewed. They should even be altered in the spirit of the Convention before their expiry.
Part A. — Question 12.

Forced or Compulsory Labour as Tax or in lieu of Tax

12. Do you consider that, where forced or compulsory labour is demanded as an equivalent to or a substitute for a tax, this practice should be abolished as soon as possible, and that until it is abolished the competent authority should be satisfied:

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service?

(b) that the work or service is of present or imminent necessity?

(c) that the work or service under consideration will not lay upon the present population concerned too heavy a burden having regard to the labour available and its capacity to undertake the work?

(d) that the workers while performing their work remain in the neighbourhood of their homes?

(e) that the execution of the work or the rendering of the service shall be directed by the local authorities in accordance with the exigencies of religion, social life and agriculture?

BELGIUM.¹

12. It is doubtless desirable that the practice in question should disappear, but it can only disappear gradually as the use of money becomes more general and as it becomes easier to find the necessary voluntary labour for work which may be ordered as equivalent to a tax.

As regards the conditions enumerated in the subsidiary question:

¹ See the general observation of the Belgian Government at the conclusion of its replies (p. 112).
The reply to (a) is in the negative. It is sufficient that the work should be of indirect interest for the community which has to perform it.

The reply to (b) is in the negative. The work may be only of future interest for the community.

The reply to (c) and (e) is in the affirmative, as also in principle to (d), but in this case the condition should only be insisted upon as far as possible.

**Bulgaria**

12. (a) to (e) The reply is in the affirmative.

**France**

12. Question 12 relates to the system of labour dues (prestations) existing at the present moment in France and in the French colonies. The French Government, considering that there is no question here of forced or compulsory labour but of a form of taxation sanctioned in the mother country as well as in all French overseas possessions, maintains its opinion already voiced on this subject that this question is outside the scope of a Convention on forced or compulsory labour.

**Germany**

12. Sections (a), (b), (c), (d) and (e) are answered in the affirmative.

**Great Britain**

12. His Majesty's Government in the United Kingdom are able to answer the question in the affirmative, but for the sake of greater precision they would prefer that in the Draft Convention the phrase corresponding to (d) should read "that the workers while performing their work are able to return to their homes at night."

They consider that, where labour is permitted as an alternative to a money tax, it is desirable that such taxation should bear a proper relation to the ability of the worker to pay.

**India**

12. The reply is in the affirmative.

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1 See footnote on p. 14.
12. The reply is in the affirmative. The work referred to in this question is only performed at the present time in the Dutch East Indies under the conditions proposed in the question.

_Memorandum on the system of labour dues (Heerendiensten) in the Dutch East Indies_¹

Forced labour in the Dutch East Indies is exclusively of the kind mentioned in Question 12, that is to say it constitutes a labour tax. Forced labour at very considerable distances from the workers' homes and for long periods of time is unknown in the Dutch East Indies.

In Java and in some parts of the Outer Provinces (36.1 million inhabitants) forced labour has already been totally abolished. The districts of the Outer Provinces in which forced labour ("heerendienst") still exists (15 million inhabitants) may be divided into three main areas:

1) The primitive regions in which a system of barter still prevails, where money is scarcely used and the population is unwilling to perform voluntary paid labour. In these districts, it appears that it will be necessary to exact forced labour for some considerable time to come, and the payment of such labour would not be compatible with its character of taxation. Moreover, apart from the great difficulties involved in the payment of money wages to a large number of workers scattered over a large area and the supervision of payment, money wages would be of little benefit to a population unaccustomed to the use of money.

It is possible that in a few places voluntary labour may be forthcoming for the maintenance of roads, but it is unlikely that in these backward regions a permanent supply of regular workers will be available for this work. To import workers from other districts would be difficult and costly; moreover, it is doubtful whether such workers would be willing to spend long periods of time in the areas in question.

2) The densely populated rice-producing regions, such as Bali and the West Coast of Sumatra in which the problem of heerendienst no longer raises any difficulties. The population is willing to commute its labour dues and to perform wage labour on the roads. In these districts forced labour is in process of being abolished or replaced by a road tax.

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¹ In its letter of 7 December 1929 communicating its reply to the Questionnaire the Netherlands Government states that it transmitted the above memorandum by way of explanation of the reasons for its reply to Question 12.
(3) The less densely populated regions with a large export of native agricultural products destined for world markets (rubber, coffee). Here as a result of favourable economic conditions the people are very willing to commute their labour dues but are disinclined for wage labour since they find work on their own plantations sufficiently remunerative. In these areas there exists on the contrary a demand for labour from other districts to work on native plantations. On account of the prevailing system of produce-sharing and the absence of supervision the natives prefer labour on native plantations to labour on the roads, and the main problem in these districts is how to obtain wage labour for road maintenance. Thus conditions are entirely different from those obtaining in the backward areas; in the latter no money is available for commutation and there is very little inclination to perform wage labour, whereas in the areas just described the population is anxious to commute labour dues but unwilling to perform wage labour.

The problem therefore arises whether or not it is feasible to organise a permanent body of labourers for road maintenance, partly recruited, if necessary, in other districts. When considering this question a distinction should be made between regions favourably situated for such a development — e.g. South Sumatra, which has good communications with Java and possesses certain amenities of a nature to attract foreigners — and districts like Djambi where conditions are adverse in this respect.

It follows that in regions (1) and (3) forced labour cannot yet be dispensed with: in area (1) because the population is not in a position to contribute its due share of taxation or to furnish an adequate and regular supply of labour for road maintenance, while area (3) cannot always be relied upon to furnish the requisite supply of regular voluntary labour.

In the Dutch East Indies, therefore, forced labour is commuted into a money payment only to the extent that the population is able and willing to pay and that sufficient supplies of free labour are available. In regard to the future, it is hoped that, as the country develops and a money system replaces the barter system, a free labour market will be created, with the result that the entire population will be able and willing to commute its labour dues and that an adequate supply of free wage labour will everywhere become available. When this stage is reached it will be possible to abolish forced labour altogether.

To enforce the remuneration of forced labour would retard this transformation of a labour tax into a money tax, since the incentive to commutation will be weakened to the extent that forced labour is rendered attractive through the payment of current wage rates. If current wage rates are paid for the performance of "heerendienst" the large majority of persons who now commute their services will again become forced labourers, whereas the chief purpose of the Convention is to reduce this form of work as much as possible, with a view to its total abolition.

There are moreover practical difficulties connected with the remuneration of forced labour. Such payment is of course possible — and is already made in the Dutch East Indies — in the construction of large public works involving the concentration of considerable numbers of labourers in one place under adequate supervision. On the other hand in the case of road maintenance, on which some 90 per cent.
of the forced labourers in the Dutch East Indies are employed, such remuneration presents great difficulties, because very large numbers of workers spread over a wide area are involved. Finally, attention should be drawn to the fact that the payment of wages to persons still living under an economic system of barter, instead of conferring benefits, is apt to produce harmful results.

These considerations lead to the conclusion that, as regards the form of forced labour prevailing in the Dutch East Indies, i.e. a "labour tax" — it is impossible to give an affirmative reply to the question whether the remuneration of such labour is desirable.

PORTUGAL

12. This question relates to taxation, in regard to which each State is supreme. The Portuguese Government considers that it goes beyond the scope of the proposed Convention.

SOUTH AFRICA

12-28. In general the principles governing these restrictive clauses are supported, but as to the particularisations set out it is necessary to know the circumstances of countries likely to be affected thereby before a final opinion is expressed.

SPAIN

12. Forced or compulsory labour should not be demanded as an equivalent to or as substitute for a tax. Such a system is exactly the opposite of the practice followed in certain States of redeeming the obligation for personal service for local work of public utility by the payment of a sum equivalent to the daily wages of workers in the locality. For the period of transition the various conditions referred to in clauses (a) to (e) should be observed as being indispensable conditions during such transitional period.

YUGOSLAVIA

12. The reply is in the affirmative.

Protection of Forced Workers

13. (a) Do you consider that in any area where forced or compulsory labour still exists, complete and precise regulations should be adopted, in so far as this has not already been done, in regard to the organisation of this labour, and that such regulations should provide for the compiling and recording of statistics concerning it, in particular as regards the organisation of work and the hours of work and the method of payment of wages?

(b) Do you consider that in any territory where forced labour exists the legal provisions or administrative orders governing its application should be printed (and freely exhibited) by the competent authority in such one or more native languages as will convey its import to the workers concerned and the population from which the workers are to be drawn; and that copies of such printed matter should be made available, at cost price, to the workers or others?

(c) Do you consider that a definite procedure should be established to allow forced workers, as well as all other native workers, to present all their complaints relative to the conditions of labour to the authorities and to negotiate concerning them?

14. Do you consider that the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour should be extended to cover the inspection of forced labour, and that, in the absence of such an inspectorate, other adequate measures should in all cases be taken to assure that the regulations governing the employment of forced labour are strictly applied?

15. Do you consider that the illegal exaction of forced labour should be punishable as a penal offence, and that the penalties should be really adequate?
BELGIUM

13. (a) Yes, as far as possible.
(b) Yes, as far as possible.
(c) The reply is in the negative. It is very dangerous, in colonies where the natives are still in a primitive stage of development, to authorise them to combine with a view to common action. They are extremely emotional and have not the material and moral sources of restraint which in the case of civilised peoples usually prevents the right of association from leading to extreme measures. The right of taking common action is still less appropriate in the case of forced workers. In this case the coalition of interests would be directly against the sovereign power and against the public purposes which have determined its decisions.

14. The reply is in the affirmative.
15. The reply is in the affirmative.

BULGARIA

13. (a), (b), (c) The reply is in the affirmative.
14-15. The replies are in the affirmative.

FRANCE

13. In view of the present position as regards labour legislation in French possessions, the French Government is of opinion—

(a) that in territories where recourse is had to forced labour it is important that this system of labour should be made subject to detailed regulations, as has been done by the French Government;

(b) that, as the measures proposed in this paragraph do not in every case accord with the level of development reached by different populations, the most that can be done is to pass a Recommendation on the subject;

1 See the general observation made by the Belgian Government at the conclusion of its replies (p. 112).
(c) that it is unnecessary to lay down any rigid procedure in the matter of collective complaints on the part of the workers, as individual workers are given every facility personally to approach the competent authorities.

14. One of the duties incumbent on the colonial authorities responsible for the employment of labour in general, should evidently be to ensure that regulations governing the use of forced labour are duly enforced. The problem of the inspection of labour in overseas countries is very complex. The French Government is paying constant attention to the question and has already succeeded in establishing regular labour inspectorates in North Africa, the West Indies and Réunion. Elsewhere, as for instance in Indo China and Equatorial Africa, it has been found necessary to detail officers of other departments to undertake this duty. Further, a Bill is before Parliament at the present moment for the creation of a body of labour inspectors who will be called upon to supervise and study the problems of labour legislation in the whole of the Colonies administered by the Ministry for the Colonies.

In view of these facts it would seem better not to embody provisions relating to the inspection of forced labour in the proposed Convention. In any case, the passing of such measures would follow as a logical consequence from the ratification of the Convention by each of the Contracting States.

15. The answer to this question is in the affirmative. The case is provided for by French colonial legislation.

GERMANY

13. (a), (b) and (c) These questions cannot be considered as having great practical value.

14-15. The replies are in the affirmative.

GREAT BRITAIN

13. (a) Yes.

(b) His Majesty’s Government consider that the legal provisions or administrative orders governing the application of forced labour should be brought to the notice of the workers concerned and the population from which the workers are drawn. They consider that this should be done by the printing and exhibition of such provisions or orders in languages that
can be read by the persons concerned, or, where this is impracticable, in any other manner that is likely to be effective.

(c) Yes.

14. His Majesty's Government in the United Kingdom consider that the duties of any existing labour inspectorate should be extended to cover the inspection of forced labour, or that other adequate measures should in all cases be taken to assure that the regulations governing the employment of forced labour are strictly applied.

15. His Majesty's Government in the United Kingdom consider that the illegal exaction of forced labour should be punishable as a penal offence and that it should be an obligation incumbent upon any signatory to the Convention to ensure that the penalties imposed by law are really adequate and that they are strictly enforced.

**India**

13. (a) and (b) Yes. But in the opinion of the Government of India, it would be needless to make the suggested provisions apply to occasional forced labour of a few days' duration required for public purposes. They suggest therefore that the provisions suggested in parts (a) and (b) should apply only to forced labour which continues for more than 10 days at a time, inclusive of days of rest and the time taken to proceed to and from the place of work.

(c) Yes.

14. It should be left open to ratifying States to adopt whatever adequate measures they consider best to ensure that the regulations are strictly applied.

15. Yes. It is already a penal offence under the Indian law to compel a person unlawfully to labour against his will.

**Netherlands**

13. (a) The reply is in the affirmative.

(b) The reply is in the affirmative, but in the opinion of the Government of the Netherlands the method of publication

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1 See footnote on p. 14.
proposed in the question appears to be too well adapted to Western countries to be applied in many regions.

(c) So far as is necessary and possible.

14. The inspection referred to here is neither necessary nor possible in the case of the "Heerendiisten" (labour dues). It is unnecessary because adequate inspection is provided by native chiefs, and impossible because labour inspection should be directed to other ends.

15. The reply is in the affirmative.

PORTUGAL\(^1\)

13. The Portuguese Government considers that forced or compulsory labour should be regulated in accordance with the 1926 Convention. The Government has already done so. It is also considered that such regulation falls exclusively within the competence of each Government with respect to colonial territories. Further, the variety of conditions in these territories renders any other effective regulation impossible. Thus, for instance, the organisation of the statistics referred to in the question is still very difficult in certain colonies. The distribution of printed regulations to natives also seems of doubtful utility in many subtropical territories.

14. In principle, if there is an inspectorate for voluntary labour, it should be concerned also with the application of the 1926 Convention. If there is no such inspectorate it is the duty of each State to regulate the use of forced or compulsory labour and to ensure its supervision.

15. The reply is in the affirmative, but each State should be the judge of the efficiency of its penal legislation.

SOUTH AFRICA

See under Question 12, ante, p. 51.

SPAIN

13. (a) The desirability of a complete and precise regulation of forced or compulsory labour does not admit of

\(^1\) As regards the scope of the expression "forced or compulsory labour" in this reply, see the observation of the Portuguese Government on p. 114.
doubt. The usefulness of statistics concerning hours of work and the method of payment of wages and information relating to the method of organisation of such classes of work, is also clear. The practical difficulties that may be presented by the obtaining of such information and the compilation of such statistics must not, however, be forgotten. In order to be of use such statistics must possess the indispensable conditions of accuracy and reliability in the various numerical elements of which they consist. In case provision is made for the compilation of statistics, regard should be had to the congruity of the basic elements of the same, so that the compilation may avail itself of the various countries and the various parts of territory subject to the same sovereignty but with different economic and social conditions.

(b) It is also impossible to deny the desirability of the diffusion of the regulations made by the competent authorities in the native languages, although it is desirable not to lose sight of the practical difficulties which may exist in certain cases in attaining the objects sought by such diffusion. It should not be forgotten also that the oral publication of such conditions should possibly accompany their written publication.

(c) The contents of this question suppose the existence of a guarantee of the rights of individuals which cannot be denied, even on the basis of legal regulations in connection with the administrative organisations of the territory, it being obligatory for such regulations to provide for a procedure by which complaints or claims relating to conditions of work imposed on workers subject to compulsory labour may reach the competent authorities.

14. The reply to this question is also in the affirmative, inasmuch as the regulation of compulsory labour, where it exists, assumes the existence of an inspectorate to supervise the observance of such regulations.

15. The illegal exaction of forced labour should involve really adequate penalties. The term "penalty" may be interpreted in the sense that the illegal exaction of forced labour involves in itself a corrective penalty of an administrative character, or that in particular cases it may constitute an offence of a strictly penal character. The reply is intended to suggest the utilisation in the first place of penalties of an administrative order and that a repetition of such an offence should constitute a penal offence, without prejudice, however, to the consideration that if the means implied for illegally imposing forced labour in themselves constitute an offence under the penal law, the penalty incurred by such acts should be immediately applicable.
13. The reply is in the affirmative.

14. The duties of the labour inspectorate established for the inspection of voluntary labour should be extended to cover the inspection of forced labour, and in the absence of such an inspectorate the supervision of the enforcement of the regulations should be left to the local authorities.

15. The reply is in the affirmative.
Exemptions from Forced or Compulsory Labour

16. Do you consider that only adult males of not less than 18 years of age should be called upon for forced or compulsory labour, subject to the following limitations and conditions:

(a) Prior determination by a Government medical officer that the persons concerned are not suffering from any contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;

(b) Exemption for persons already bound by a contract of employment;

(c) Exemptions for school teachers and pupils;

(d) The maintenance in each community of the number of adult able-bodied men indispensable to family and social life;

(e) Respect for conjugal and family ties?

17. Do you consider that from any given community no more than a fixed proportion of the resident able-bodied males should be taken at any one time for forced or compulsory labour which entails their sleeping away from their homes?

Do you consider that this proportion should be regulated according to the seasons and the work which must be done by the persons concerned on their own behalf in their locality, and, generally speaking, that the economic necessities of the normal life of the community in question should be respected?

Do you consider, finally, that this proportion should be prescribed, and what proportion do you suggest?
Belgium

16. As regards age and sex, the reply is in the affirmative except in case of local work required for the improvement of village conditions.

With regard to the various subsections:

(a) This should be observed as far as possible, but on the assumption that a medical examination is always necessary for workers required to proceed long distances or for a prolonged period.

(b) The reply is in the affirmative.

(c) The reply is in the affirmative.

(d) The reply is in the affirmative.

(e) This should be observed as far as possible, but on the assumption that particular efforts are made to respect the marriage tie.

17. The reply to the first two paragraphs is in the affirmative.

The reply to the third paragraph is also in the affirmative, but it should be left to local administrations to decide the proportion, which is essentially variable. They would have to take account of the demographic situation, the degree of development, the state of health of the population, as well as seasonal requirements, etc.

Bulgaria

16. (a) to (e) The reply is in the affirmative.

17. The reply is in the affirmative. The proportion should not exceed 30 per cent. of the number of inhabitants available for forced labour.

Cuba

See reply to Questions 1 to 3, p. 4.

1 See the general observation made by the Belgian Government at the conclusion of its replies (p. 112).
FRANCE

16. The answer to this question is in the affirmative. The provisions suggested are broadly in accordance with the system under which workers are recruited for the construction of public works.

The French Government is continuing its efforts to improve the system referred to, at the same time bearing in mind local conditions and the interests of the populations concerned.

17. It appears impossible to arrive at any exact proportion such as it is sought to lay down in this question. Each local government concerned will have to determine — if necessary with the consent of the central authority — the number of workers required to furnish forced labour in cases where recourse to it has been authorised through the regular channels. It is obvious, however, that in making such demands the authorities should take into account the density of the population and the burdens already imposed on it and should pay attention to the normal economic requirements of the community from which the workers are drawn.

GERMANY

16. The replies are in the affirmative.

17. Paragraphs 1 and 2. Yes.

Paragraph 3. The conditions are so different in various cases that it is not desirable to fix a definite percentage.

GREAT BRITAIN

16. His Majesty's Government in the United Kingdom consider that only adult able-bodied males of the apparent age of eighteen years should be called upon for forced or compulsory labour. As regards the limitations and conditions proposed, they think that (b) should be omitted; the others are, in their opinion, desirable, but they consider that it would only be practicable to carry them out in cases where the labour necessitates the workers sleeping away from their homes. If it is intended that they should apply to forced porters, then they consider that compliance with (a) would be impracticable, but the person employing such labour should be held responsible for ensuring that the persons employed are physically fit and not suffering from any contagious disease.
17. His Majesty's Government in the United Kingdom answer the first and second parts of the question in the affirmative. They consider that it is very desirable that the maximum proportion of the adult able-bodied population which may be called upon to perform forced labour should be determined. They think, however, that that proportion must vary greatly according to the circumstances of each territory and the habits of life of the people concerned, and that it would be impracticable to include a fixed maximum of universal application in the Convention.

**INDIA**¹

16. Yes. But the proposal in part (a) of the question should not apply to forced labour not involving unusual physical effort. In some parts of India, owing to difficulty of communications, it may not always be practicable for a Government Medical Officer to examine the persons who are called upon to perform forced labour for public purposes. It is suggested therefore that the words "where possible" should be inserted after the word "determination" in the formula suggested in part (a).

17. The reply is in the affirmative.

**NETHERLANDS**

16. The reply is in the affirmative except in the case of (a), as the conditions mentioned in this paragraph can only be complied with in exceptional cases.

17. The reply to the first two paragraphs is in the affirmative.

The reply to the last paragraph is also in the affirmative. The enforcement of a provision fixing at one-fourth the maximum proportion of individuals who may be taken for forced or compulsory labour at the same time can be sufficiently supervised.

**PORTUGAL**

16. The Portuguese Government considers that the details of this question can only be usefully regulated by the internal

¹ See footnote on p. 14.
legislation of each country. The age limit must vary according to the precocity of physical development. Further, so far as age is concerned it must be remembered that in many native tribes registration is still in an embryonic stage.

17. The Portuguese Government recognises the value of the principles enumerated in this question. They are applied in Portuguese colonial administration, but no advantage is seen in fixing in a Convention a simple declaration of principles which should find their place in treatises on colonial policy.

**SOUTH AFRICA**

See reply under Question 12, ante, p. 51.

**SPAIN**

16. The limit contemplated by this question is admissible subject to such modifications as may be required by the physiological development of the races or tribes by which forced labour is to be performed. The requirement of a previous medical examination; the maintenance in each community of the number of adult able-bodied men indispensable to family and social life; the respect for conjugal and family ties, are conditions appearing in every legal provision relating to the matter. The exemption from forced labour of persons already bound by a contract of employment seems logical, but the exception should be expressed clearly, since a person might be bound by a contract of employment but not perform the same.

17. In connection with the previous reply, it seems to follow logically that only a certain proportion of persons should be compelled to perform services, a proportion which should, of course, vary according to the seasons, the work which must be done by the persons concerned on their own behalf, and generally the economic necessities of the normal life of the community to which they belong, although it is impossible to indicate a priori a fixed proportion, since this must vary according to the kind of normal life of the community and its requirements, which must always be met even in case forced labour is imposed on a certain number of its individual members.
YUGOSLAVIA

16. The reply is in the affirmative.

17. It is considered undesirable that from any given community more than a certain proportion of the available labourers should be taken at any one time. In fixing this proportion account should be taken of the economic conditions of the community. In the opinion of the Government the proportion should be 25 per cent. of the available labour of the community in question.
Part A. — Questions 18 to 23.

Regulation of Forced or Compulsory Labour

Duration.

18. Do you consider that the normal maximum period for which any individual may be taken for forced or compulsory labour of all kinds should not exceed 60 days in any one period of 12 months, including the time spent in travelling to and from work,
or in exceptional cases where workers have to be brought from a considerable distance, 6 months in any one period of 24 months, it being understood that in this period will be included the time employed in the work contemplated in Question 12, and that any two such periods occurring in consecutive terms of 24 months should be separated by an interval of at least 3 months?

In cases where workers have to be brought from a considerable distance, do you consider that the individual worker who has served in any one year for a longer period than the normal maximum of 60 days fixed above, or than any lower maximum which may be fixed, should be exempt from further forced or compulsory labour for a number of years equal to the number of times the normal maximum which he has so served?

Do you consider that the normal maximum period for which any individual may be taken for the work or service contemplated in Question 12 should not exceed 30 days in any one period of 12 months?

Habituation.

19. Do you consider that forced workers should not, except in cases of special necessity, be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health?

Do you consider that in no case should the transfer of workers be permitted unless all necessary measures for the accommodation and health of the workers can be strictly applied?
When such transfer cannot be avoided, do you consider that, on competent medical advice, measures of gradual habituation to the new conditions of diet and of climate should be adopted?

Do you consider that, in cases where forced workers are required to perform regular work to which they are not accustomed, measures should be taken to assure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and the increase or amelioration of diet which may be necessary?

**Working Hours**

20. Do you consider that the normal working hours of forced workers should not exceed eight per day and forty-eight per week, and that the hours worked in excess of these should be remunerated at rates higher than the rates for the normal working hours?

Do you consider that a weekly day of rest should be provided for and that this day should coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned?

21. In the case of forced transport workers, do you consider that the normal daily journey should correspond to an average eight-hour working day, it being understood that account shall be taken not only of the distance covered, but also of the nature of the route, the season of the year, the weight to be carried and all other relevant factors, and that where hours of journey in excess of eight per day are exacted they should be remunerated at rates higher than the normal rates?

**Wages**

22. Do you consider:

(a) that forced or compulsory workers, including transport workers, should in all cases be paid in cash at rates not less than those ruling for similar kinds of work either in the district in which they are employed or in the district from which they are recruited, whichever may be higher?
(b) that the wages should be paid to the workers individually and not to their tribal chiefs or other authorities?

(c) that the days necessary for travelling to and from the workplaces should be counted for the purpose of payment as working days?

(d) that deductions from wages should not be made either for the payment of taxes or for special food, clothing or accommodation supplied to the worker for the purpose of maintaining the worker in condition to carry on his work, nor for the supply of tools?

Workmen's Compensation.

23. Do you consider:

(a) that any laws relating to workmen's compensation for accidents or sickness arising out of the circumstances of their employment shall be equally applicable to forced as to voluntary labour?

(b) that the laws providing compensation for the dependants of dead or incapacitated workers should be equally applicable to all labour whether forced or voluntary?

(c) that the competent authority or any authority employing forced workers should be obliged to ensure their subsistence when an accident or illness renders such workers totally or partially incapable of providing for themselves?

(d) that when the forced worker is not living at his own home no distinction should be made as to whether or not the accident or illness was caused by his work?

(e) that in the case of permanent incapacity, total or partial, the right to an indemnity calculated according to the degree of incapacity should be ensured?

(f) that the competent authorities should take measures to ensure the maintenance of dependants of an incapacitated or deceased forced worker?
(g) that any existing laws or administrative orders concerning compensation or indemnification for sickness, injury to, or death of forced workers should be printed, exhibited and offered for sale by the competent authority, in the manner provided for in the case of the laws and orders concerning forced or compulsory labour?

Belgium

18. The reply to the first paragraph is in the negative, as such restrictions might not be in the interests of the population.

The reply to the second paragraph is also in the negative, following upon the reply to the first paragraph. At the same time any worker who has worked for a long period should be exempt from any further compulsion.

In the case of the third paragraph it does not appear possible to lay down a general rule. Everything depends on the circumstances of the case.

19. The reply to all paragraphs of this question is in the affirmative.

20. The reply to both paragraphs is in the affirmative.

21. The reply to both paragraphs is in the affirmative.

22. The reply to all paragraphs is in the affirmative.

23. As regards paragraphs (a) to (f) the laws relating to workmen's compensation for accidents or sickness, to the compensation or maintenance of persons dependent upon deceased or incapacitated workers applicable in the case of voluntary labour should be extended to forced labour, and the extension should be made in the most liberal spirit. It is not possible, however, to lay down in detail the measures to be taken, as the questions under consideration have not yet been settled in the Belgian Congo in the case of voluntary workers, and require prolonged study.

The reply to (g) is in the affirmative.

Bulgaria

18. The reply is in the affirmative.

1 See the general observation made by the Belgian Government at the conclusion of its replies (p, 112).
19. The reply is in the affirmative.

20. The Government is in favour of a maximum of eight hours in the day and 48 hours in the week. The Government is in favour of a weekly day of rest on Sunday.

21. No reply is returned.

22. The reply is in the affirmative, except in the case of the compulsory labour mentioned in Question 12.

23. (a) to (g). The replies are in the affirmative.

CUBA

18-23. See reply to Questions 1-3, p. 4.

FRANCE

18. The French Government considers it very difficult to fix a maximum duration for forced labour, without previous agreement between the authorities and the communities from which the workers are recruited. Obviously the shorter the periods fixed, the more numerous will have to be the calls on the population for labour. Moreover, it will be impossible to provide those measures of habituation on which the questionnaire justly lays stress. In the view of the French Government the Convention should indicate only general principles on this subject, leaving the Contracting Powers free to apply them as they find necessary. As regards the periods suggested in the question in relation to the services mentioned in Question 12, the French Government once more registers its opinion that the question of the regulation of labour dues should not be dealt with in a Convention on forced labour.

19. The problem of the habituation of workers involves measures which can only be studied and put into effect by local authorities. On this account these measures cannot be included in a Convention on forced labour, but can only be embodied in a Recommendation.

In this connection the French Government desires to submit a copy of the text of instructions relating to the protection of the health of railway workers, issued by the Governor-General of French Equatorial Africa on 31 March 1928. (See next page).
INSTRUCTIONS

ISSUED BY THE GOVERNOR-GENERAL OF FRENCH EQUATORIAL AFRICA CONCERNING THE PROTECTION OF THE HEALTH OF WORKERS ON THE RAILWAY.

Brazzaville, 31 March 1928.

To the Lieutenant-Governors of Ubangi-Shari and Chad, the Chiefs of the district of the Middle Congo, the Labour Director of the Coastal Division, the Chief of the Labour Service at Brazzaville, the Inspector of Health and Civil Medical Services and the Inspector-General of Public Works.

Ministerial Circulars which have appeared in the Journal officiel for French Equatorial Africa have laid down the measures which must be taken for the protection of the health of the workers in public and private works employing native workers in all colonies and the measures to be taken for safeguarding the health of native workers employed at a distance from their homes. These Circulars form the basis of all the regulations of this type at present in force. The letter and the spirit of these regulations have inspired all the acts of the Governor-General of French Equatorial Africa since they appeared and more particularly the institution of the Labour Service on the railways, regulated by the Orders of 7 and 20 January 1925, and of subsequent measures for improving the conditions of the workers both in public and in private works.

These Circulars were transmitted at the time to all the administrative services, along with instructions from the Inspector of Health and Medical Services for the doctors, but were not immediately published in the Journal officiel because their complete application was not and is not yet entirely possible in French Equatorial Africa, where unfortunately several stations possess no doctor because the Mother Country has none to supply, where means of communication are slow and difficult and where we are forced to make our own tools before we can use them. It seems to me therefore, that it is desirable to profit by the experiences of the last three years and codify all previous provisions in one general Instruction, which, however, will include only those measures which can be respected with the material means at your disposal and which should be improved upon wherever possible.

There has been progress, but it has been slight compared with what still remains to be done. Nevertheless, it has reduced the distance which separates our present possibilities from the aim to be achieved, which is the complete application of the Instructions of 22 July and 4 October 1924.

Particularly in the case of the native labour for the Brazzaville-Ocean railway, the difficulties of recruiting workers in the various colonies of French Equatorial Africa and the delicate constitution of these workers when removed from their country of origin and their incredible imprudence make it necessary

1. to take extremely detailed precautions at every stage of the journey from their village to the works;
2. to exercise constant vigilance during their work on the railway so that no detail of their material life may be neglected and their morale may be kept at a satisfactory level.

Consequently, the present Instructions, prepared in agreement with the General Inspector of the Health Services of the Colonies during his visit and inspired by the rules laid down in the Ministerial Circulars already cited of 22 July and 4 October 1924 concerning the protection of native workers in the colonies, shall henceforth serve as a guide to the administrative and medical authorities of all ranks.

The experience of the last three years enables us to enter into details so as to deal simultaneously with all the avoidable causes of waste; the word “avoidable” must be used, because unfortunately there are certain causes which it has so far proved impossible to avoid in spite of all the efforts of the technical and health services, and the researches of scientific and medical bodies more and more perfectly equipped, thanks to the assistance of the Pasteur Institute, as real laboratories of human biology. The chief of these inevitable causes is the inability of the inhabitants of this country, who are unaccustomed to regular work, to stand the successive shocks of expatriation and a changed mode of life without undergoing severe natural selection.

It is therefore all the more necessary for all Europeans to understand that while, with a view to developing the resources of the country, which is after all the aim of colonisation, it is possible to ease the burden for the native worker by the steady improvement of the machinery used when more effective means of communication permit of its profitable employment, it is nevertheless impossible to do without the assistance of the natives, who must be treated and led gently but firmly in such a way as not only to inspire confidence but also to maintain and strengthen these still undeveloped sources of energy which lie deep-rooted within them. They must be understood and they must be made to understand the Europeans so that they can be convinced of the necessity for lending their indispensable aid in the completion of the railway and in the work of building roads, factories and harbours, which will improve their well-being by putting an end to porterage and increasing their wealth.

Such is the purpose of the detailed general provisions which follow and which will be supplemented, as is stated later, by instructions for their application and by special regulations for each district.

1. — Annual preparation for recruitment and transport

Every year, along with the budget, the Governor-General shall draw up a plan for recruiting the workers for the railway works in each colony of French Equatorial Africa, taking into account local needs, the demographical situation and the health factor. This plan shall be accompanied by instructions laying down the general administrative and technical principles for recruiting, assembling, clothing, equipment, the formation and health of convoys, despatch, river transport, etc.

The Lieutenant-Governors, on receipt of this plan, shall prepare their plan for the distribution of the quota to be provided by their colonies, taking into account the same factors. This shall be
accompanied by administrative and medical instructions established on the basis of the principles laid down by the Governor-General in co-operation with the Chief of the Health Service and providing complete details of the measures to be taken from the moment the workers are recruited until their arrival at Brazzaville or at their destination.

The plans for the transport of workers from the different colonies, accompanied by instructions for their application, shall be submitted to the Governor-General for approval and all steps shall be immediately taken to ensure that the movement can begin by 1 January.

The instructions shall determine precisely the duties of the supervisory and executive officials at every stage so that if there is any change in the health conditions it may be immediately reported to the Governor-General with any suitable suggestions.

2. — Recruiting

Recruiting shall be carried out with the greatest care so as to avoid having a high proportion of persons whose constitution is not strong enough to resist the fatigues of the journey or the work on the railway, and who would have to be repatriated immediately after their arrival.

Conditions of fitness shall in general be the same as for military service, without, however, taking into account those infirmities or defects which are incompatible with military service but which do not prevent employment on public works. Those persons who are too young or too old, hernious or weakly shall not be taken.

Men recognised as fit should, at their departure, be able for all kinds of work. In order that there should be no difference of opinion between doctors with regard to the conditions of fitness, the Inspector of Health Services shall issue detailed instructions, with the approval of the Governor-General, which shall be transmitted to all doctors and which shall be applied under the supervision of the Inspector of Health Services.

Every man certified as fit shall receive a medical certificate filled up in the district or sub-district to which he belongs, which must be legibly signed by the official in charge of recruiting and stamped by the doctor at all stations where a medical officer exists. The results of medical inspections, the monthly checking of the weight and health of the worker, the periods spent in hospitals and ambulances, etc. shall be entered on this form as they occur.

Each man shall carry his own medical certificate, which shall be shown to the doctors at every visit, initialled by them and returned to the man. When the worker is in a hospital camp this certificate shall be kept at the office and returned to him when leaving.

A standard form shall be prepared by the Inspector of Health Services. The Administration shall issue to every man, along with his medical certificate, a case for containing the same. Until these cases are ready any other method of protection may be employed.
3. — Vaccination

Vaccination shall continue to be carried out under exactly the same conditions as for native soldiers and as far as possible before the commencement of the journey. It shall be followed by eight days' rest.

The Inspector of Health Services shall take all the necessary steps for ordering vaccines and the necessary material, and shall see that they are sent in good time to the doctors who are to perform the vaccination.

4. — Clothing and equipment

The heads of districts or sub-districts shall, as soon as they have the necessary material, provide each worker from that district before his departure and for his own personal use with the following objects:

- 1 linen working suit (khaki tunic and shorts),
- 1 blanket and 1 mat,
- 1 wooden bowl and 1 spoon,
- 1 water bottle and 1 drinking vessel,
- 1 kit bag.

Women shall receive 1 blanket.

In addition, the head of each detachment of 20 men shall receive:

- 1 pot of 25 litres,
- 1 camp basin,
- 1 canvas bucket.

These utensils, which are intended for cooking during the journey, shall be returned to the Labour Service on arrival at the central station in Mayumbe, to be used under the same conditions by returning convoys. During the journey from their place of origin to the central station, the detachments shall keep these utensils, which shall be checked at each passage from one sub-district or district to another, and shall be completed when necessary.

Supplies of clothing and equipment shall be sent to Lieutenant-Governors by the labour stores at Brazzaville and Pointe Noire as soon as the plan of recruiting has been drawn up by the Governor-General. The Lieutenant-Governors shall distribute these stores among the districts concerned.

5. — Departure and journey

The workers shall be divided into detachments belonging to one race and consisting usually of 20 to 25 men with a leader and with approximately 25 per cent. of that number of women; each detachment shall, as far as possible, be accompanied by a district guard, also of the same race, who shall act as chief of the group and as interpreter. Detachments of any one group of recruited workers must be accompanied by each chief of district during its journey through his territory and handed over in person to the chief of the next sub-district.
Before the journey begins the resting places on the way shall be examined, cleaned, supplied with mats if possible, and provided with wood and water. Such rest places shall in principle be set up every 20 or 25 kilometres, but shelters shall be provided between these, particularly near rivers which are subject to sudden flooding. In order to avoid the use of excessive labour for constructing such shelters, the distances at which they shall be built shall be fixed by the Lieutenant-Governor at the suggestion of the chiefs of the districts in each region.

It shall be compulsory for food to be issued in kind at each station, and if the experiment proves successful it shall be issued in bags, each corresponding to one day’s rations; a certain margin shall always be left to cover the risk of delay or accident.

When, however, the condition of the food crops in the country permits the head of the detachment to obtain during the journey fresh food of the type which the natives are accustomed to eat, then an allowance may be granted for the purchase of such food. The detachments shall nevertheless be supplied with dry rations for a certain number of days and with a reserve of tinned meat.

In principle there shall be a rest of 24 hours after 4 or 5 days’ journey, preferably at administrative stations for examination and for the issue of rations. There shall be a halt at all medical stations for a medical examination and for handing over the sick.

Transport by motor or by river, even in canoes, shall always be employed when possible; the plans for the journey shall be drawn up in an appropriate form.

6.—Halt at Banqi

A careful medical examination of all the men shall be carried out, and if some are found to be unfit they shall be formed into a separate detachment and returned to their homes after being examined by the ordinary doctor and also by the Chief of the Health Service.

The men shall be weighed and the weight marked on their health certificates if the officials in charge of recruiting were not able to do so or if more than a month has elapsed since their departure.

The vaccination shall be examined and if necessary completed; the administrative authorities shall check the travelling vouchers, clothing and camp equipment.

7.—Transport by river

At Banqi before departure

(a) The barges shall be examined from the point of view of administration and health by a committee consisting of the Inspector of Administrative Affairs or some official appointed to replace him, the Lieutenant-Governor and the Chief of the Health Service; a report of this inspection shall be sent to the Lieutenant-Governor of Ubangi-Shari and to the Inspector of Health Services at Brazzaville.

(b) The detachment shall be inspected from the point of view of health by the Chief of the Health Service.
(c) A European shall be chosen from among the officials or military officers on the barge to take charge of the party; he shall see that the transport of the natives is carried out under satisfactory conditions, that their rations are duly distributed and that in a general way the conditions of transport are comfortable. These conditions shall be mentioned on the list of instructions given to the officer in charge.

(d) An escort shall be appointed, consisting of district guards specially trained for this service.

(e) A doctor among the passengers shall be appointed to give the necessary medical attention, or a health officer shall be sent. Failing this a native hospital orderly from Bangi shall, wherever possible, be appointed.

(f) Rations shall be taken on board for 20 or 25 days, according to the season.

At Ouessou and other river ports the same formalities shall be carried out in so far as is compatible with the resources of the staff and the type of vessel, always with the purpose of ensuring the best conditions of health, food, protection from weather and from crowding for the workers.

On arrival at Brazzaville the detachments shall be met at the quay by the commandant of the dépôt, to whom they shall be handed over by the officer in charge. A doctor appointed by the Inspector of Health Services shall examine the health of the convoy and the hygienic conditions of the barges on arrival.

In the case of groups of repatriated workers the procedure at the departure from Brazzaville shall be exactly the same, and 20 to 25 days' rations shall be provided for the journey to Bangi, according to the season.

Repatriated workers who have finished their period of work shall receive an outfit of clothes when leaving.

8. — Habituation to new conditions

The detachment of workers shall be kept at Brazzaville for at least three weeks so that they may gradually adapt themselves to new conditions of life: diet, discipline and regular work. As soon as they arrive a medical examination shall be carried out. They shall be weighed and their vaccination checked.

Those who are fit shall have two days' rest and shall then be gradually trained, beginning with five hours' work per day and rising to nine hours.

The sick who are likely to recover shall be grouped in a special detachment and shall be progressively trained to work for shorter periods under the supervision of the camp doctor; they shall not be taken to the workplace without his consent. Instructions on this subject shall be prepared by the medical inspector and submitted to the Governor-General for approval.

The unfit shall be sent home after being visited and examined by the camp doctor and the Chief Doctor of the Hospital.
The diet shall be particularly supervised, and at least one meal in every two shall consist of the basic food which is customary for each race (millet, manioc and bananas).

The equipment shall be examined, supplemented if necessary and a second working costume issued on arrival to each man if the one issued to him on his departure is no longer likely to wear for more than one month.

9. — Journey from Brazzaville to M'Vouti

This journey shall be made by railway as far as Mindouli where there shall be a rest of one day and a medical examination; on the following day the journey shall be continued by lorry, resting the first day at Madingou and the second day at Missafo; the stage from Missafo to M'Vouti shall be accomplished on foot. A non-commissioned officer shall accompany each convoy. As the railway and the motor road advance these stages shall be altered by service instructions from the Governor-General.

The trucks and lorries shall be fitted up and protected against rain; during the journey cold meals, which must include one ration of preserved meat, shall be issued in the morning; in the evening a hot meal shall be served. The detachments shall always be in possession of a supply of pots and receptacles for collecting water so as to be able to do their own cooking if necessary. They shall keep these supplies until they arrive at the central station where a fresh distribution will be made.

10. — Journey to Mayumbe

When passing through M'Vouti the detachments shall undergo a medical examination. Those who are sick shall be sent to hospital and those who are sickly or unfit shall be kept there and reported to the Chief of the Railway Health Service.

The convoy shall not continue its journey until the chiefs of sectors have made certain that the resting places are in good condition and that there are enough shelters against rain at distances which shall be determined by the Governor-General on the suggestion of the Labour Director. They shall be responsible for the maintenance of these shelters and resting places in their respective sectors.

On leaving M'Vouti for the central station the chief of the sector shall make certain that the stores issued to the detachments (one pot of 25 litres, one camp basin and one canvas bucket) are complete and in good condition and shall if necessary complete them.

11. — Measures on arrival

On arrival at the labour centre the detachments shall be distributed to special "acclimatising" quarters where they shall rest for such period as may be considered necessary by the doctor, but in no case less than eight days. They shall then be gradually
trained to work discipline, and to a scheme of work laid down in a plan to be drawn up by the Labour Director in agreement with the Chief of the Health Service.

They shall not be distributed over the different work places until after this period of habituation, which shall continue for at least three weeks including the eight days of rest. This period may be extended by the Director of the Labour Service on the proposal of the Chief of the Health Service.

Enrolment shall be carried out during the week of rest following the arrival and the results of the examination on this occasion shall be noted in the enrolment register. The men shall be classified as follows:

- Fit for general service;
- Fit for auxiliary service;
- Unfit, to be returned home.

Those men who are stated by the doctor to be tired or weak but likely to recover shall be grouped in special detachments under the immediate supervision of the doctor. They shall be given light work and special diet (extra issues of meat, sardines, earth nuts, kola, etc.). They shall later be classified in one of the three categories mentioned above.

Those classified as fit for auxiliary duty shall, according to their ability, be employed in the commissariat (attending to crops, herds, the maintenance and distribution of supplies from the stores, etc.), in the health service (hospital and sanitary orderlies), on the maintenance of huts and bedding in the camps and the supply of drinking water in the camps and workplaces.

The unfit shall be repatriated as soon as the doctor considers them able to stand the strain of the journey.

An enquiry shall be carried out into the conditions under which they passed the medical examination when recruited and the control examination at the selection stations of Bangi, Brazzaville and M’Vouti so as to ensure that no men are declared unfit when they are actually fit and that men should not be sent on this journey and prove incapable of employment because they were unfit before starting out.

12. — Distribution and establishment

As far as possible the workers in the workplaces shall be distributed into units belonging to the same race, with a maximum number of 500 in each. Each unit shall be under the control of an official who shall be assisted by one or two European officers as available; These officers shall live near the men, supervise every detail of their material existence (maintenance and hygiene in camp, bedding, clothing, distribution and preparation of food, etc.), accompany them to the workplace, keep in continuous touch with the staff of the Société de Construction des Batignolles and collaborate with this company so that the work may be distributed according to the strength of the workers and that the greatest possible protection be given against accidents and that the workers should have time to rest and refresh themselves.
13. — Camp hygiene

As the work advances new camps shall continue to be set up so that the men may always be certain of having shelter.

They shall be officially received by a committee including the Chief of the Sector and the Chief of the Health Service.

The site of the camp shall be chosen with care on open ground on the slope of a hill and in principle near to some spring and at not more than a quarter of an hour's walk from the workplace, unless the workers are transported by rail. The standard model for the huts to be occupied by the workers shall be fixed by the Labour Director at the suggestion of the Chief of the Health Service; these huts shall as far as possible resemble dwelling huts measuring three metres by five metres, with doors and a pent house of one metre at each end; the soil shall be rendered impermeable, the walls shall be of mud in a camp which is going to last for six months or more and there shall be room for four individual beds each 80 centimetres wide, with a platform, made if possible of movable planks, or, failing that, of trellis work; each bed shall be covered with a mat of plaited grass in addition to the workers' individual mat. Married men with their wives shall be lodged in separate huts.

The kitchens shall be placed in a shed or under temporary shelters and shall be provided with a fireplace and the necessary material for cooking the food (one pot of 25 litres, one camp basin and one bucket for each detachment of 20 men).

Water shall be provided in sufficient quantity for cooking, for bodily cleanliness and for washing clothes, and whenever possible a sheltered washing and drying shed shall be built. When there is an abundance of water a pool shall be made in which the men can bathe.

The drinking water shall be examined by the health service and if necessary purified.

A ration of 100 grammes of soap per week shall be distributed for personal use and for washing clothes.

Latrines shall be set up with all the necessary precautions, covered with earth and disinfected so as to prevent any danger of fecal contagion; the disinfectant shall be issued by the railway health service.

Every camp shall possess an incinerator for the destruction of decaying organic matter.

The sanitary work and minor fatigues connected with the huts and bedding shall be carried out in each camp by a sanitary squad consisting of two or more men from the auxiliary service according to the size of the camp. In each camp these squads shall be under the orders of the camp chief and under the technical supervision of the doctor for that sector, who shall give them the necessary oral and written instructions; their work shall include the supervision of the water supply at the workplaces.

14. — Diet

Rations. The question of diet is of primordial importance and the most effective health measures will prove useless unless good food is
supplied to maintain the necessary resistance and physical strength in the workers.

The issue of supplies in kind by the service employing them shall in principle be carried out at the same rates as the rations for native troops. Money in lieu of rations in kind shall not be given, as it would probably be wasted at gambling or on useless purchases and would in any case often be useless, since at numerous places no food can be bought; the only exception to this rule shall be that provided for in paragraph 5. The present rate of rations for the workers as laid down in the Order of the Governor-General of 6 April 1926 shall be revised at the suggestion of the Inspector of Health Services and shall be dealt with in a fresh order which shall provide for a special ration and a normal ration and shall also state what substitutions may be authorised in connection with the food. Whatever substitutions may be authorised, fish and meat shall always be issued every day if at all possible.

Measures shall be taken to ensure that the issues of food are not uniform, so that each race shall receive a diet suited to its customs at least for a few months after arrival.

In addition to the regular allowances for the daily ration, 75 grammes of rice or 100 grammes of manioc shall be issued and shall be prepared in the morning in the form of a warm thick soup which the workers shall take as breakfast before going to work; this shall be done only when a European is present to supervise its preparation. In the middle of the morning and the afternoon, when the heat is at its greatest, it is desirable to distribute some refreshing drink at the workplaces. Drinking water should in addition be always available for the men. Kola nuts shall be issued as a tonic to increase output.

Preparation of the food. The food shall be prepared for each detachment of 20 men by a cook of the same race who shall be specially detailed for this work and shall be provided with the necessary material. (One pot, one camp basin and one bucket.)

Married men shall receive their rations separately, and the preparation and cooking of the food shall in this case be carried out by their wives.

In exceptional cases, when the workplaces are more than a quarter of an hour away from the camps, the morning meal shall be prepared and eaten on the spot. Light shelters shall as far as possible be set up for this purpose so that the men may rest there after the meal. When the work is such that the men must remain away from their camp for quite a long period, kitchens shall be set up under a proper shelter.

In view of the traditional custom among native populations of grinding down the majority of the dried vegetables which they use, all camps shall be provided with a certain number of wooden mortars with a pestle, at the rate of one mortar at least for every two groups of 20 men.

Commissariat. The whole question of diet is under the control of the commissariat, which is of the greatest importance and shall continue to be organised with the greatest care. The Office of the Commissariat shall see that the base stores at Pointe Noire and Brazzaville have always a reserve of at least three months’ food.
REPLIES OF THE GOVERNMENTS

Fresh food (millet, manioc, sweet potatoes, bananas, fruit, leaves and various herbs) shall be purchased on the spot, and the cultivation of these shall be encouraged as much as possible. In view of the importance of these products for preventing diseases resulting from lack of nourishment among contingents of native workers, everything possible shall be done to ensure that a certain quantity is distributed every day.

For the same reason the Commissariat shall take steps to ensure that the issue of rice shall consist as far as possible of equal quantities of red rice and white rice and that only a mixture is issued.

The food in the stores shall be kept in the best possible conditions and every precaution taken to prevent its deteriorating; every month a local committee, on which the Health Service shall be represented, shall examine the supplies and ensure that they are well preserved. A pharmacist from the hospital in Brazzaville shall act as expert adviser to supply all the necessary information as to the best methods of preserving the stores.

15. — Protection against cold

This protection is very important on account of the extreme sensitiveness of the workers and their liability to intestinal and pulmonary diseases when they change from one district to another. Such protection shall be carried out by the erection of dwelling huts in camps, by rough shelters and rest places and by suitable clothing and blankets.

The huts shall be kept in perfect condition and completely water-tight, and the walls shall be of mud in camps which are expected to be maintained for more than six months. During the cool season fires will be permitted in camp and braziers shall be issued made out of petrol tins with holes bored in the lower part; the workers shall be issued with a thick mat which shall act as a mattress and shall be manufactured on the spot by men in the auxiliary service.

Between the resting places every 20 or 25 kilometres shelters shall be set up at points to be determined by the Labour Director in Mayumbe and by the Lieutenant-Governors at the suggestion of the heads of districts in other parts of the colony.

Clothing and blankets shall be issued on the journey to the workplaces as follows:

(a) one complete outfit (working costume, blanket and mat) on leaving the district of origin;

(b) a second working suit, when passing through Brazzaville in the case of contingents from the highlands and at Mavouadi in the case of contingents from the coast, to be distributed if the one issued on departure is no longer fit to be worn for a month.

(c) on the return journey a working outfit to be issued at Brazzaville or Mavouadi to all repatriated workers who have completed their stay.
Once a month the establishment officer shall carry out a detailed inspection of all the clothing, bedding and equipment and every article which is worn out shall be replaced. The labour stores must keep the necessary supplies.

The style and weight of the clothing and blankets shall be fixed and shall be approved by the Inspector of Health Services.

16. — **System of work**

The system of work must be studied with the greatest care and determined by the Labour Director in agreement with the Chief of the Health Service. The latter is the permanent labour inspector for everything connected with hygiene, and must supervise all activities which may affect the health and resistance of the workers.

Hours of work shall be regulated by an agreement between the employer and the Labour Service in such a manner that the hours of actual attendance at the workplaces may not exceed 9 per day after assembly and roll call. These hours of attendance should in principle be distributed as follows according to the weather and the opinion of the doctor:

From 6 a.m. to 11 a.m. or from 6.30 to 11.30; from 1.30 to 5.30 p.m. or from 2 to 6 p.m.

The day will thus be divided by a rest period of 2 or 2½ hours, during which a meal will be taken.

The Labour Service shall employ at the workplaces a system of sirens or klaxons for summoning the workers, and these must be powerful enough to be heard at all the camps concerned, so that there may be no misapprehensions as to the time, which would disturb the rest or interfere with output.

Wherever there is a European to supervise its preparation, a light meal shall be served to the workers in the morning before leaving the camp for their work; the mid-day meal shall be served at the workplaces if they are more than a quarter of an hour distant from the camp.

Shelters shall be provided to protect the men from the weather and permit them to lie down and rest; the evening meal shall be served in the camp after the men have attended to the necessities of cleanliness.

Whenever the work requires continuous strenuous effort, the establishment officers shall arrange with the foremen for the workers to have the necessary rest periods.

An adequate supply of drinking water shall be established at the workplaces so that all the men can drink whenever they desire. Measures shall be taken to ensure that this water is fresh and pleasant to the taste, and particularly that it is protected against any defilement.

In the morning and the evening, whenever there is a European to supervise the preparation, the cooks shall prepare a refreshing drink from citron and glycine or local aromatic plants according to the taste of the workers. This drink shall be distributed at the workplaces twice a day at the hottest times.

The labour establishment officers shall pay especial attention to the distribution of the work over different shifts, and in the workplaces
at Mayumbe they shall remain in close touch with the employers’ representatives so as to ensure that the work demanded does not exceed the strength and physical resistance of the workers. Porterage shall as far as possible be organised by daily relays at the resting places.

In the Mayumbe territory, the porters shall be chosen from among workers who have been acclimatised for at least three months, and who are sufficiently strong and resistant to carry out this difficult task without being excessively fatigued. The loads, which are normally 25 kilograms for 25 kilometres in the Colony and 20 kilograms for a distance of from 18 to 20 kilometres in the Mayumbe Territory, shall be less when the ground is difficult.

The establishment officers shall arrange with the employers’ representatives to take steps for regulating the transport of materials in such a way as to take account of the constitution of the workers.

The attention of the Health Service shall be specially drawn to the importance of this last question so that it in turn may supervise the physiological distribution of the work.

17. — Accidents in the course of the work

In all workplaces the Health Service shall keep a record in which “accidents occurring during the work and diseases contracted in the service of the employer” shall be immediately noted.

Until more complete regulations are issued, and a supplementary agreement is arrived at with the Société de Construction des Batignolles, the scale provided for in the agreement with this Company dated 17 July 1925 shall continue to be applied. If this Company pays no compensation in the case of death resulting from a disease contracted in its service, the administration, which has undertaken the medical work in connection with the natives and their repatriation, has the right to make good any injury which they may have suffered in the course of their work.

The workers shall be protected against wounds, irritants or infectious matter by linen overalls in the workshops or when working with machines, and by special clothing which will be specified in instructions to be issued later in agreement with the building company after tests have been carried out.

18. — Prophylactic measures

These shall consist in the first place in careful medical supervision of the workers, and secondly in the application of preventive measures.

The medical supervision shall aim at discovering as soon as possible any persons suffering from contagion and likely to prove a source of infection, and also any weakly persons, among whom the statistics of morbidity and mortality are at present highest.

This supervision will be ensured by daily visits, by inspections carried out by the doctors at the workplaces and in camp, and by a medical inspection once a month, at which all the workers will be
weighed and examined completely naked, and those who are suffering from a contagious disease or are in a weak condition will be removed.

Those suffering from a contagious disease shall be removed to a hospital camp, and those who are weak shall be put under observation in the infirmary, and later trained in a camp for those who are likely to recover, or transferred to the auxiliary service, or repatriated if completely unfit.

The preventive measures shall consist in the systematic application of all the means at present at the disposal of the Health Service for combating the endemic and epidemic diseases which at present endanger the health of the workers in French Equatorial Africa: croupous pneumonia, dysentery, malaria, helminthiasis, plague, recurrent fever, etc.

These measures shall be based on precise data which shall aim at combating disease carriers, and this will almost certainly prevent the formation of germ centres.

The doctors must constantly endeavour to trace all cases of trypanosomiasis, intestinal parasites, leprosy, and syphilis, so that therapeutic and prophylactic measures may immediately be taken. In each camp certain huts shall be erected apart from the others and surrounded by a palisade, so that contagious cases may at once be isolated.

The hygiene service shall be under the immediate supervision of the Health Service; in each camp it shall have the necessary number of men from the auxiliary service according to the size of the camp, and these shall be under the leadership of a sanitary or hospital orderly, whose duty it shall be to ensure the maintenance of hygienic conditions in the camp, the cleanliness of the huts and bedding, the installation of water supplies at the workplaces, and, if necessary, the purification of drinking water, the disinfection of latrines, delousing, disinfection, incineration, and any other prophylactic measures for preventing the spread of larvae, tsetse flies, rats, etc.

19. Working of the medical service

The medical service at the workplaces shall be closely connected with the hygiene service, and for the whole railway it shall be under the Chief of the Health Service, who, in turn, is subordinate to the administrative authority of the Inspector of Health and Civil Medical Services. The Department shall be asked to appoint him from among senior medical officers or principal officers of the Colonial Health Service who have proved capable organisers and experts in public health work.

The Chief of the Health Service shall have to assist him, as far as they may be appointed by the Department:

1. A pharmacist to supervise the supply of drugs, to carry out chemical studies of the various elements employed or capable of being employed in the workers' diet, and the technical control of the measures to be taken for preserving food supplies in the stores of the Commissariat;
2. An administrative officer to supervise the supply of materials for the Health Service, and the management and provision of supplies for hospital camps;

3. Two secretary-orderlies of the Colonial Health Service.

The various branches of the Health Service under the immediate control of the Chief of the Health Service shall include:

A store of drugs and medical supplies, which shall be a central station for the supply of technical requirements and their distribution to the different stations;

First aid posts at the different workplaces and in the camps within the immediate reach of the workers and moving with them as the work advances; these posts shall as far as possible be under the control of one or two hospital orderlies who shall give first aid;

Infirmaries in the important camps under the supervision of a doctor or assistant health officer who shall visit every day and treat those who are suffering from slight illnesses; each of those shall have a section for isolating in separate huts those suffering from contagious diseases and requiring disinfection;

Field hospitals with hospital material and complete equipment for the treatment of the sick, including surgical supplies and a clinical laboratory, with a surgeon and all the necessary staff; the number of beds shall be equal to 10 per cent. of the total number of workers with whom they have to deal, and there shall be special sections for Europeans;

Means for evacuating the sick (where roads exist) should be at the disposal of the Health Service on application and should be sufficiently comfortable and adapted to local conditions; these shall include covered stretchers, hand carts, fitted railway trucks, etc.

20. — Maintenance of morale

The morale has a considerable influence on the physical health and resistance of native workers. The native is very attached to his own people, his own customs, and his own patch of land, and when he is rooted up from it, he feels lost, his morale declines, and his physical well-being quickly reacts unless he can be inspired with a feeling of confidence.

The morale shall therefore be maintained by all possible means so that the workers may not have the impression of being isolated, which is unbearable to them. For this reason, the administrative authorities shall endeavour, as soon as the workers are recruited, to inspire confidence, show sympathy, listen to them, speak to them, and encourage them; the establishment officers can exercise a most useful influence in this sphere.

The following steps shall therefore be taken, as far as possible. When the workers arrive, other workers of the same race, who are already acclimatised, shall be appointed to receive them, to see them
settled, and to inform them of the conditions of their new life. Every Sunday and holiday the fullest facilities shall be granted for the organisation of tomtom concerts and dances peculiar to the different localities. Musical instruments and dance costumes shall be purchased by the Labour Directorate and placed at the disposal of the workers.

Sports shall be organised and the small objects which the natives love (belts, knives, pipes, etc) shall be distributed as prizes. On the same occasion, rewards may be given to those who have distinguished themselves throughout the week by their work or the hygienic condition of their hut, their bedding and their clothing.

The connection with their country of origin shall be maintained as closely as possible in the interests of the morale of the families as well as that of the workers.

For this purpose the Labour Directorate shall arrange with the countries of origin, to recruit, wherever possible, a certain number of secretary-interpreters of the chief races, who shall visit the camps periodically, receive confidences, and write family letters; the letters shall be stamped by the Labour Service and sent off, and every effort should be made to ensure their correct delivery

21. — Repatriation

When the workers are repatriated, the same precautions shall be taken as on the occasion of their departure from their country of origin, so that their health may be safeguarded as far as possible during the journey.

A medical inspection is compulsory before departure; its object is:

(1) to ensure that the worker who is being released is not suffering from any disease which can be transmitted;

(2) to check his working capacity as compared with it on his arrival, which was noted in the enrolment register.

These points shall be noted on the individual medical certificate and also in the enrolment register.

Workers who are released and are recognised before departure as being free from contagious diseases shall be despatched with a blanket, a suit of clothes in good condition, their other clothing and equipment, and the same allowances of food and accessories as during their journey to the workplace. They shall be formed into groups in the same manner, and identical measures shall be taken for their protection so as to ensure that their bedding, food, and the protection against weather, shall keep them in the best possible health until they reach their own country.

APPLICATION

The Governor-General appeals to all officials and all doctors to do their best to solve this delicate question of native labour.
The above instructions shall be scrupulously applied, particularly in view of the fact that they have been drafted with the constant care not to demand anything which is impossible, and to adapt each measure to the varying conditions in a country of infinite variety. Moreover, many of these provisions are merely a repetition of those which have formerly been issued. Those which cannot be applied in exceptional and particular cases shall be replaced by others of equivalent value, with the constant desire to achieve the aim which lies behind them.

More particularly, the Inspector of Health and Civil Medical Services shall follow the condition of the various detachments at every stage so as to determine the reasons for any faults which may rise, and put forward any proposals which may prevent their recurrence.

The manner in which these instructions are applied, and the results obtained, shall be noted either in special reports or in a special chapter of the periodical reports of all the local authorities as follows:

- Annual reports of the Lieutenant-Governors;
- Quarterly reports of the heads of districts;
- Monthly reports of the Labour Director;
- Special monthly reports of all doctors in any way connected with the Railway Labour Service, which shall be drawn up in duplicate, one copy being sent to the Governor-General (under cover and with the observations of the Lieutenant-Governor or the Director of Labour), and the other directly to the Inspector of Health and Civil Medical Services;

(Signed) R. Antonetti.

20. The French Government is favourably disposed towards the principle enunciated in Question 20, provided that it can be put into practice with due regard to local conditions.

21. The French Government, while recognising the importance of the points raised in this question considers that here again the principles laid down should be applied by means of special regulations relating to porterage.

22. As the manner in which wages are paid necessarily varies, the competent colonial authorities should be left free to regulate wages in accordance with local customs and needs, having regard more especially to the cost of living in certain areas. The institution of a deferred pay scheme (pécule), for instance, has an educative value for certain populations which accords well with the systematic efforts made by the French Government to raise the level of their social development.

23. While agreeing in principle that legislation concerning industrial accidents should gradually be extended to the colonies,
the French Government holds that in view of the difficulties attending the question, it would be desirable to leave the Powers concerned free to solve the problem of how such legislation should gradually be applied to areas where the population is still backward or has not reached a sufficiently advanced level of development. The French Government does not therefore consider that this problem can be treated except in the form of a Recommendation.

GERMANY

18. The reply is in the affirmative.
19. The reply is in the affirmative.
20. The normal working hours of forced workers per day and per week must be the same as those customary for voluntary workers, and any hours in excess of these should be remunerated at the same rates as are customary for voluntary workers in the same occupation. The same reply can be made to paragraph 2 of the question.
21. The normal daily journey of forced transport workers should not exceed the usual duration for voluntary porters. Overtime in excess of this amount should be remunerated at the rates usually paid to voluntary porters.
22. Yes, with the reservation that when other principles are usually applied in the case of the corresponding voluntary workers these principles shall also apply to forced workers.
23. Paragraphs (a) to (e) and (g) are answered in the affirmative.

(f) Maintenance can be guaranteed only to those persons for whose maintenance the deceased or incapacitated forced worker would otherwise have been responsible and only for so long as the obligation of the forced worker concerned would have continued had he lived longer or continued to be capable of working.

GREAT BRITAIN

18. His Majesty's Government in the United Kingdom consider that sixty days should be the maximum period in any one period of 12 months for which any individual may be taken for forced or compulsory labour of all kinds, including forced or compulsory labour for the transport of persons or goods and the time spent in travelling to and from work. They
consider also that no continuous period of labour should exceed sixty days.

They regard the provisions of paragraphs 2 and 3 of the Question as contemplating the employment of forced labour for long periods. They consider that such employment of forced labour should never be permitted and they therefore consider the provisions of these paragraphs to be unnecessary.

They answer the last paragraph in the affirmative.

19. The reply is in the affirmative.

20-21. The replies are in the affirmative.

22. His Majesty's Government in the United Kingdom presume that it is not intended that the provisions of this question should apply to labour of the type mentioned in Question 12. On this understanding they reply as follows:

(a) His Majesty's Government in the United Kingdom consider that forced or compulsory workers, including transport workers, should in all cases be paid in cash at rates not less than those ruling for similar kinds of work either in the district in which they are employed, or in the district from which they are recruited, whichever may be higher.

(b) Yes, except where native law and custom definitely preclude such a course.

(c) Yes.

(d) His Majesty's Government in the United Kingdom agree on the understanding that in order to ensure that workers do not underfeed themselves rations may be given as part of their wages, such rations to be of at least equivalent value to the money payment which they are taken to represent.

23. His Majesty's Government in the United Kingdom think it necessary to point out that legal provision for workmen's compensation does not exist in most of His Majesty's Colonies and dependencies where forced labour is employed. Since however, forced labour will only be used by Governments or by those exercising authority under Governments, they will be prepared to accept the obligation to pay compensation.

INDIA

18-22. The replies are in the affirmative.

1 See footnote on p. 14.
23. (a)-(b) The replies are in the affirmative.

(c)-(f) No. The suggestion contained in these portions of the question would give rise to difficulties in countries where there are no compulsory schemes of sickness benefits or family benefits for even voluntary workers.

(g) Yes, subject to the restriction suggested in connection with parts (a) and (b) of Question 13.

**NETHERLANDS**

18. The reply to the first three paragraphs is in the affirmative.

19. The reply to the four paragraphs is in the affirmative. This question does not, however, relate to conditions in the Dutch East Indies.

20. The reply is in the affirmative.

21. The reply is in the affirmative. (As regards the question of payment, see reply to Question 22.)

22. "Heerendiensten" (labour dues) should be considered as a tax in the form of labour, and it would scarcely be right to make payment therefor. In other cases it is a condition of equity that work should be paid for.

23. (a) to (g). The reply is in the affirmative, for reasons of equity. At the same time it should be mentioned here that such highly developed accident compensation laws do not yet exist in the Dutch East Indies.

**PORTUGAL\(^1\)**

18. There would be very real difficulties in fixing maximum periods and details of regulations. The extreme variety of individual, social and economic conditions in each colony militates against any method of generalisation. The Portuguese Government considers that the regulation of these questions should be left to colonial administrations.

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\(^1\) As regards the scope of the expression "forced or compulsory labour", see the observation of the Portuguese Government on p. 114.
19. The Portuguese Government considers that the habituation, preparation, transport conditions, health and protection of workers employed on compulsory labour should be one of the principal preoccupations of the colonial administration, but no advantage is seen in including general principles of too vague a character in an international Convention.

20. The Portuguese Government recognises the weekly rest day, but considers that any regulation of hours of work in colonies by means of an international Convention is as yet premature.

21. Porterage is prohibited in Portuguese colonies where there are roads fit for vehicles, and the system of roads in the Portuguese colonies is highly developed. The Portuguese Government considers, however, that regulations for porterage should not be international in character, the conditions, requirements and customs in the matter being so variable.

22. There is still a great variety in the conditions relating to wages in colonies, and although some of the conditions mentioned in the various paragraphs of this question are already observed by the Portuguese colonial administration, the Portuguese Government considers it unsuitable to fix such details in an international Convention.

23. In Sections 244 and 285 of the Native Labour Code, Portuguese legislation provides for compensation for industrial accidents and sickness. The Portuguese Government considers, however, that it is still too early to lay down the principles governing these matters by international regulation. The time should be awaited when the situation in the different colonies will have developed sufficiently to permit of uniformity.

SOUTH AFRICA

18-23. See reply under Question 12, ante, p. 5.

SPAIN

18. The limits indicated in this question appear generally acceptable, although the diversity of conditions of labour, of the places in which the work is to be performed, and of the capacity for work according to the physical development of the community concerned, may impose modifications in the sense of restricting the duration of such period, but not in that of limiting those indicated for the voluntary system.
19. The habituation of workers to the forced labour which they have to perform should be carried out under proper conditions for safeguarding the health of the workers and at the same time the efficiency of the compulsory work. For this purpose any measures adopted in favour of a rigorous habituation must be acceptable. An affirmative reply to this question is therefore logically imperative.

20. The Regulations should provide for normal working hours, and these should be in proportion both to the work to be performed and the rules issued by the competent authorities for regulating hours of work in voluntary labour. The matter of the weekly rest should be dealt with in the same way.

21. The answer to this question is also in the affirmative.

22. (a) Wages in general should be paid in cash, except in cases in which transactions are carried out in a different form in the community in question, and the rate should not be lower than that in force for work of the same kind in the district in which the workers subject to forced labour are recruited.

(b) Wages should be paid to the workers themselves.

(c) The days necessary for travelling to the workplace and returning to the customary residence of the worker should be paid for, the amount of compensation being calculated in accordance with the conditions of work and the amount of wages that the worker could earn for a day's work.

(d) The general rule should be that no deduction should be made from wages, especially in view of the fact that in cases in which food, clothing or lodging are supplied the fact will have previously influenced the fixing of the wages in cash to be paid to the worker. In no case should any deduction be made for the supply of tools for the work to be done by the worker.

23. The legislation relating to workmen's compensation for accidents or sickness arising out of the circumstances of their employment should be applicable in the same conditions to all workers. For this reason the reply to clauses (a), (b) and (c) of the question is in the affirmative.

(d) When the worker does not carry out the work in the place of his customary residence no distinction should be made as to whether the accident or illness was directly due to the work or not, for the purposes of the rendering of proper assistance.
(e) and (f) It is natural that the compensation in the case of permanent and total incapacity should be calculated according to the degree of such incapacity and that the due receipt of such compensation should be secured by the adoption by the competent authorities of measures for ensuring the maintenance of the dependants of an incapacitated or deceased forced worker.

(g) In agreement with the previous reply the reply to clause (g) is in the affirmative.

**Yugoslavia**

18-19. The reply is in the affirmative.

20. With regard to hours of work and weekly rest it is considered that the same provisions as are in force for other workers in the same district should apply to compulsory labourers.

21-23. The reply is in the affirmative.
Part A. — Question 24.

Special Precautions for Work of Long Duration

24 (a). Do you consider that when forced workers, other than forced transport workers, are compelled to remain for considerable periods for works of construction or maintenance at workplaces, measures should be taken to assure their health and to guarantee the necessary medical care, and that in particular (i) they should be medically examined before commencing the work and at fixed intervals during the period of service, (ii) an adequate medical staff should be provided with the dispensaries and hospital accommodation necessary to meet probable eventualities, and (iii) the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils and, where necessary, of housing and clothing should be assured?

(b) Do you consider that, when the work is prolonged, definite arrangements should be made to ensure the subsistence of the family of the forced worker, in particular by facilitating the remittance, by a safe method, of part of the wages to the family at the request of or with the consent of the worker?

(c) Do you consider that the journeys of forced workers to and from the workplaces should be at the expense and under the responsibility of the Administration, which should facilitate them by making the fullest use of all available means of transport?

(d) Do you consider that it is necessary to ensure the repatriation of forced workers at the expense of the competent authority in case of illness or accident causing incapacity to work of a certain duration?

(e) Do you consider that any forced worker who may wish to remain as a free worker at the end of his period of forced labour should be permitted to do so without losing his right to repatriation free of expense to himself?
(f) Do you consider that the competent authority should satisfy itself of the possibility of adequately taking all the measures indicated in this Question before permitting any recourse to forced or compulsory labour?

Belgium

24. The reply to all points is in the affirmative.

Bulgaria

24. The reply is in the affirmative.

Cuba

See reply to Questions 1 to 3, p. 4.

France

24. The various points raised in Question 24 broadly correspond to the instructions given by the French authorities for the organisation of places of employment. Nevertheless, seeing that detailed regulations are proposed in the question, it will be advisable to embody them in a Recommendation.

Germany

24. (a) to (f) The replies are in the affirmative.

Great Britain

24. On the assumption that this question is not intended to apply where the work does not entail the worker sleeping away from home, His Majesty’s Government in the United Kingdom answer the whole question in the affirmative.

1 See the general observation made by the Belgian Government at the conclusion of its replies (p. 112).
INDIA

24. The reply is in the affirmative.

NETHERLANDS

24. (a) to (f) The reply is in the affirmative.

PORTUGAL

24. Although Portuguese legislation is based on principles similar to those contained in this question, the Portuguese Government considers that it would be inadvisable to lay down these principles in an international Convention, since it is necessary to take account of the variety of existing conditions in the different colonies.

SOUTH AFRICA

See reply under Question 12, ante, p. 51.

SPAIN

24. (a) Everything relating to special precautions to be adopted in case of work of long duration should be considered as material for legal regulation. It is therefore desirable that the measures referred to in clause (a) should be adopted, due regard being had to the difficulties which workers find in many cases to obtain the necessary assistance for themselves.

(b) The separation of the forced worker from his family imposes the obligation to adopt the necessary measures for ensuring the subsistence of such family, particularly, where the same is convenient, by the remittance of a part of the wages payable to the worker.

(c) and (d) As regards clauses (c) and (d) the reply is in the affirmative and there is no necessity to explain the reasons for such an opinion.

1 See footnote on p. 14.
As regards clause (e) a worker engaged in forced labour who desires to continue the same work as a free worker at the end of his period of labour should retain the right to repatriation, but the regulations should fix the time limit within which such right may be exercised.

There can be no doubt that it is desirable that the competent authorities, before authorising recourse to forced or compulsory labour, should satisfy themselves of the possibility of adequately taking all the measures indicated in this question.

YUGOSLAVIA

24. The reply is in the affirmative.
Part A. — Question 25.

Special Provisions concerning Forced Porterage

25. When recourse is had to forced or compulsory labour for the transport of persons or goods (porters, boatmen, etc.), do you consider that the competent authority should promulgate regulations determining, inter alia, (a) that only adult males, medically certified, where medical examination is possible, to be physically fit, shall be employed on this work, (b) the maximum load, (c) the maximum distance from their homes to which these workers may be taken, (d) the maximum number of days per month or other period for which they may be taken, (e) the persons entitled to demand this form of forced labour and the extent to which they are entitled to demand it?

In this connection, what maximum load do you suggest, what maximum distance from their homes to which these workers may be taken, and what maximum number of days per month or other period for which they may be taken?

BELGIUM 1

25. The reply to the first paragraph is in the affirmative. In the case of the proposals mentioned in the second paragraph, it is impossible to make a reply of a general character. The reply must necessarily vary according to local circumstances and the season of the year.

BULGARIA

25. The reply is in the affirmative.

1 See the general observation made by the Belgian Government at the conclusion of its replies (p. 112).
FRANCE

25. Porterage in the French colonies is in course of disappearance. In those territories where conditions are such as still to compel resort to it, the use of porterage has been carefully regulated. Regulations exist in regard to all the points raised in Question 25 and in the opinion of the French Government all that is necessary is to indicate general principles, while leaving local authorities to arrange details.

GERMANY

25. The first paragraph is answered in the affirmative. In the second paragraph the maximum weight of 25 kilograms or 60 English lbs. is suggested, while the maximum distance might be 200 to 250 kilometres and the maximum number of days might be 10.

GREAT BRITAIN

25. His Majesty's Government in the United Kingdom would suggest the addition of the following to (d) in the first part of the question: "including the days spent in returning to their homes". Otherwise they agree to the first part of the question; they consider, however, that the maximum load for forced transport workers, the maximum distance from their homes to which they may be taken, and the maximum number of days for which they may be taken must vary greatly according to the circumstances of each territory and the physique of the persons concerned. They do not consider therefore that it would be useful to lay down any maxima for universal application but such maxima should invariably be laid down by the medical authorities of each district, and no maximum load so fixed should be more than 60 lbs. The maximum of 60 days' forced labour a year mentioned in the first part of Question 18 should in their opinion include days spent on forced transport work.

INDIA

25. The answer to the first part of this question is in the affirmative subject to the reservation that the rules

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1 See footnote on p. 14.
regarding medical examination would not apply to persons who will not bear any load but will be in charge of animals or conveyances which will bear the load.

As regards the second part of this question, the maximum distance should be 20 miles. Five days are suggested as the maximum number of days per month for which this class of compulsory labour should be exacted from any person.

As regards the maximum load, the Government of India suggest that this should be the same as that which may be prescribed in future in any International Labour Convention applying to voluntary transport workers.

**NETHERLANDS**

25. Paragraph 1 (a). The reply is in the affirmative. With regard to the preliminary examination see reply to Question 16 (a).

The reply to (b) and (c,) is in the affirmative.

Paragraph 2. The Netherlands Government proposes to fix the maximum load to be carried at 20 kilograms per worker, and the maximum distance from their homes to which workers may be taken at 3 days, so that the worker concerned should not be absent from his home for more than 6 days at most. The maximum number of requisitioned days per month should be 6, subject to the condition that the total number of working days, including transport services, should not exceed 60 per annum. It should be noted here that this question has little practical importance for the Dutch East Indies, and that little experience is available in that region on this point.

**PORTUGAL**

25. The Portuguese Government sees no value in including such rules and limitations in an international Convention. The variety in social and physical conditions in the different colonies renders the laying down of general principles ineffective in practice.

**SOUTH AFRICA**

See reply under Question 12, ante, p. 51.
Spain

25. Recourse to compulsory labour for the transport of persons or goods should be limited as strictly as possible, and during the period in which it is strictly necessary for organising such transport by other means the measures indicated in the question should be adopted. The maximum load and the maximum distance to be travelled are not easy to fix a priori, since they must be in proportion to the physical development of the workers and the material conditions of the place in which they have to work. The regulations should however provide that the same worker shall not be continually required to perform porterage work, but that the persons capable of such work should be employed in proper alternation.

Yugoslavia

25. Special provisions should be laid down for labourers obliged to act as porters. The maximum load to be carried should not exceed 30 kilos. The maximum distance from their homes to which these workers may be taken should not exceed 30 kilometres a day, no load being carried for half of this distance. Labourers should not be compulsorily employed on this work for more than one week in the month and 60 days in the year, as provided under Question 18.

Compulsory Cultivation

26. Do you consider that recourse should be had to compulsory cultivation solely as a method of precaution against famine or a deficiency of food supplies, and always under the condition that the food or produce shall, in lieu of wages, remain the property of the individuals or the community producing it?

Do you further consider that in no case should compulsory cultivation be imposed to promote the production of crops for export or as a measure of education?

Do you consider that it would be possible to devise measures of precaution against the contingencies indicated in the first paragraph of this Question otherwise than by the introduction of a system of forced labour?

Belgium

26. In reply to the first two paragraphs the Belgian Government considers that it should be permissible to impose cultivation on natives as a means of education and social welfare, and that this permission should cover production for export. It is the duty of colonising countries to endeavour to improve the moral and material conditions of the peoples for whose government they have assumed responsibility. There is only one effective way of dealing with the laziness and conservatism of natives, i.e. compulsion, if it is hoped to obtain results in not too long a period. Further, to prohibit compulsory cultivation for export might mean in some cases that the natives are deprived of such resources as would enable them to procure the necessary foodstuffs for their existence. By directing activities into particular channels the general economic development may be furthered.

The possibility of abuse is not a reason for going counter to a legitimate principle, but a reason for taking steps to prevent abuse. This may be achieved by prohibiting compulsory

1 See the general observation made by the Belgian Government at the conclusion of its replies (p. 112).
cultivation on land other than that belonging to the natives compelled to work, by leaving the harvest in the hands of the natives who have produced it, by excluding any legal or actual monopoly in favour of European undertakings for the purchase of produce, by fixing a minimum buying price and by providing guarantees to ensure that the natives should not be tricked by the buyer either as to weight or as to payment, and by various restrictions and limitations.

The reply to the third paragraph is in the affirmative. A fairly long period would, however, be necessary before the evolution of native populations would enable the desired results to be attained.

**Bulgaria**

26. The reply is in the affirmative.

**France**

26. The French Government considers that recourse may justly be had to compulsory cultivation as a measure of precaution against famine or a deficiency of food supplies. It should also be permitted as a measure of experimental agricultural education. Further, recourse may sometimes usefully be had to it in order to create sources of prosperity beneficial to the population.

At the same time the French Government holds that to prevent abuses in any system of compulsory cultivation it should only be resorted to on the decision of the higher authorities.

**Germany**

26. Paragraphs 1 and 2. The replies are in the affirmative. Paragraph 3 cannot in general be answered in the affirmative.

**Great Britain**

26. His Majesty's Government in the United Kingdom are able to answer the first two paragraphs of the question in the affirmative, except that, when the whole organisation of society is on a communal basis, it is necessary to retain the obligation on members of the community to work for the communal purpose, even if the produce is exported. In such circumstances, it should be ensured that any proceeds
arising from the sale of produce should be devoted to the common good.

As regards the last paragraph, His Majesty's Government in the United Kingdom consider that in certain circumstances no other suitable alternative can be devised.

**INDIA**

26. The answer to this question is in the affirmative throughout.

**NETHERLANDS**

26. Paragraph 1. The Netherlands Government has no objection to compulsory cultivation as mentioned here for other objects in the general interests of the population.

The reply to paragraphs 2 and 3 is in the affirmative.

**PORTUGAL**

26. The Portuguese Government considers that questions of compulsory cultivation are connected with social and economic problems which are within the competence of each Government.

**SOUTH AFRICA**

See reply under Question 12, ante, p. 51.

**SPAIN**

26. Compulsory labour should not be applied in the organisation of agricultural exploitation the object of which is the production of wealth to be utilised by persons other than those performing the work. Recourse should only be had to compulsory labour by way of agricultural education of the workers and of personal service for their own benefit, as indicated in the reply to Question 1. Provisioning carried out with due foresight by the authorities or concessionaires in charge of the public works to be carried out should generally prevent recourse to compulsory labour.

**YUGOSLAVIA**

26. The reply is in the affirmative.

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1 See footnote on p. 14.

Cases in which Forced Labour should not be Employed

27. Do you consider that "collective punishment laws" under which an entire community may be punished for misdemeanours committed by some of its members should contain no provision for forced or compulsory labour by the community as one of the methods of punishment?

28. Do you consider that forced labour should not be used for work underground?

Belgium

27. The reply is in the affirmative in the case of work to be performed at a great distance. It would be desirable that forced labour should be permitted, without however going further than a reasonable limit, in the case of work of local importance only which is useful to the community required to perform it.

28. The reply is in the affirmative.

Bulgaria

27-28. The replies are in the affirmative.

France

27. French colonial legislation does not recognise forced or compulsory labour as a measure of collective punishment.

28. Yes. For work underground in French colonial possessions only voluntary labour may be employed.

1 See the general observation made by the Belgian Government at the conclusion of its replies (p. 112).
GERMANY

27-28. The replies are in the affirmative.

GREAT BRITAIN

27-28. The replies are in the affirmative.

INDIA

27-28. The replies are in the affirmative.

NETHERLANDS.

27-28. The replies are in the affirmative.

PORTUGAL.

27. The reply is in the affirmative.

28. If the work in question is to be carried on in the same conditions as voluntary labour, no reason is seen for disallowing it.

SOUTH AFRICA

See reply under Question 12, ante, p. 51.

SPAIN

27. In accordance with the opinion prevailing in the Commission, more favourable to other methods of collective punishment, for example, fines, the prohibition of utilisation of forced or compulsory labour as a punishment of a community for misdemeanours committed by some of its members is the most desirable principle.

1 See footnote on p. 14.
28. Inasmuch as forced labour is generally performed by primitive populations, underground work should be entirely prohibited. In certain cases the possibility might be considered, subject to special regulations, of applying forced labour to the piercing of tunnels for means of communication; but even in this case regard should be had to the special conditions of the native population, and voluntary labour should be utilised even where it is more costly and difficult to recruit.

**YUGOSLAVIA**

27-28. The replies are in the affirmative.
Part A. — Question 29.

A Permanent Committee

29. Do you consider that it would be advantageous to create a permanent committee of experts on forced labour in connection with the International Labour Office?

Do you consider that the reports made in virtue of Article 408 on the Convention concerning forced labour should be sent to this committee?

Do you consider that this committee should be charged with the study of other problems created by forced labour?

Belgium

29. As regards the first paragraph, it is not considered desirable to create a permanent committee of experts on forced labour in connection with the International Labour Office. Such a committee would correspond to a supervising body, which would be counter to the sovereignty of States. The natives would soon come to regard it as superior to the Government itself, and they would be continually appealing to it. At the very least their faith in the intervention of such a committee would be a cause of continual agitation among them.

It follows that the reply to the two remaining questions is in the negative.

Bulgaria

29. The reply is in the affirmative.

France

29. If a Draft Convention is adopted by the coming Conference, it is self-evident that the procedure laid down in Part XIII relating to the presentation of annual reports will be applied without any necessity for the creation of a special permanent committee.

\[1 \text{ See the general observation made by the Belgian Government at the conclusion of its replies (p. 112).}\]
GERMANY

29. Paragraph 1 may be answered in the affirmative, subject to the condition mentioned at the last Labour Conference that the proposed committee of experts should be a purely advisory body whose opinion would not be binding either for the International Labour Office or for the Labour Conference, and that this committee of experts should have no powers of supervision, since these are already reserved for other bodies by Article 409 and the succeeding articles of the Treaty of Versailles.

Paragraph 2. There is no objection to the reports provided for in Article 408 and referring to forced labour being submitted to this committee.

Paragraph 3. It should be possible, at the discretion of the International Labour Office, to entrust this committee with the investigation of other problems dependent on forced native labour.

GREAT BRITAIN

29. His Majesty's Government in the United Kingdom would be prepared to agree that a permanent Advisory Committee of experts on forced labour should be set up in connection with the International Labour Office, similar to the Temporary Committee which prepared the Report on Forced Labour, circulated in 1928; it would however appear that ample power to create such a body exists already. They would not be prepared to agree that powers of control or supervision should be given to such a Committee.

INDIA

29. No. The Government of India do not think that a Permanent Committee of Experts on Forced Labour would be worth the expense.

NETHERLANDS

29. In the opinion of the Netherlands Government it would be advantageous to appoint a committee of experts to examine

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1 See footnote on p. 14.
the annual reports under Article 408 of the Treaty of Versailles. The Government understands in this connection that the Conference may decide on the appointment of such a committee and that its creation will not be laid down in the Draft Convention. The same observation applies to the study referred to in paragraph 3.

PORTUGAL

29. The Portuguese Government considers it unnecessary to create any such committee as that indicated in the questionnaire. The 1926 Convention requires the Secretariat of the League of Nations to receive the documents forwarded by governments in accordance with the Convention. There appears to be no advantage in setting up a new body.

The Portuguese Government would never agree to a committee which would bear the slightest resemblance to a committee of supervision or control.

SOUTH AFRICA

29. The Government of the Union is of opinion that this is premature and that its consideration may be deferred until more experience is available.

SPAIN

29. It would be premature, without knowing the scope of the future Convention, to reply to this question. On the one hand it is desirable that the International Labour Office should attentively study everything relating to forced labour, but, on the other hand, as organisations of the League of Nations and of the International Labour Organisation itself already exist which are capable of pursuing such study, it might be considered that the establishment of such a permanent committee of experts would resemble the setting up of a permanent supervision of the States ratifying the future Convention, in addition to what is already involved in the application of the Articles of the Peace Treaty. Only for the technical study of various problems raised by forced labour and provided such committee cannot in any way be regarded as a new form of supervision, could the proposed permanent committee be accepted.

YUGOSLAVIA

29. The reply is in the affirmative.
Part B.

Questions tending to the Adoption of Recommendations

I.

Do you consider that the International Labour Conference should adopt a Recommendation calling attention to important matters in connection with the economic development of as yet undeveloped areas with a view to avoiding such pressure upon the populations concerned as may amount to compulsion to labour?

If so, do you agree that the Recommendation should set out that the amount of labour available, the capacities for labour of the population, and the evil effects which too sudden changes in the habits of life and labour may have on the social conditions of the populations, are factors which should be taken into consideration in connection with economic developments, and, in particular, when deciding upon:

(a) increases in the number and extent of industrial, mining and agricultural undertakings in the areas;

(b) the non-native settlement which is to be permitted, if any;

(c) the granting of forest or other concessions, with or without a monopolistic character?

II.

Do you consider that the International Labour Conference should adopt a Recommendation deprecating resort to indirect means of artificially increasing the economic pressure upon populations to seek wage-earning employment, particularly by:

(a) imposing taxation on populations on a scale dictated by the intention of compelling them to work for the benefit of private enterprises;
(b) rendering difficult the gaining of a living in complete independence by workers by unjustified restrictions as to the possession, occupation, or use of land;

(e) extending abusively the generally accepted meaning of vagrancy;

(d) adopting pass laws which would result in giving the workers in the service of others a position of advantage as compared with that of other workers?

III.

Do you consider that the International Labour Conference should adopt a Recommendation calling attention to the necessity for so regulating demands for forced or compulsory labour as not to imperil the food supply of the community concerned?

IV.

Do you consider that the International Labour Conference should recommend, in regard to forced or compulsory labour imposed upon men, that every care be taken that the burden of that labour is not passed on to women and children?

V.

Do you consider that the International Labour Conference should recommend that every possible effort should be made to reduce the necessity for recourse to forced or compulsory labour for the transport of persons or goods and that, in particular, such recourse should be prohibited when and where animal or mechanical transport is available?

VI.

Do you consider that the International Labour Conference should adopt a Recommendation deprecating restrictions based on the voluntary flow of labour to other employment, or to certain areas or industries?
BELGIUM

I. The reply is in the affirmative on all points.

II. Without going so far as a deprecation, which might be considered humiliating, the Conference might adopt a Recommendation drawing attention to the disadvantages resulting from the employment of various indirect methods — particularly those indicated in the question — of artificially increasing the economic pressure upon populations to seek wage-earning employment.

III. The reply is in the affirmative.

IV. The reply is in the affirmative.

V. The reply is in the affirmative.

VI. The Conference might adopt a Recommendation which, while deprecating nothing, would draw attention to the regrettable consequences of restrictions on the voluntary flow of labour to other employment or to certain industries.

As regards restrictions on the voluntary movement from one area to another, their object may be quite legitimate, e.g. to hinder the depopulation of a particular area. Such questions do not come under the heading of forced labour.

General observation.

Taking the questionnaire as a whole, the Belgian Government considers that it would be unusual for an international Convention to contain such highly detailed provisions as those mentioned in the various points. The Government questions whether it would not be desirable to take the leading principles contained in the replies to form the proposed Convention, and to include under the Recommendations the more detailed and more concrete provisions dealt with by the questionnaire.

FRANCE

The French Government is of opinion that in the case of a problem presenting so many difficulties as that of forced or compulsory labour, and in relation to which special circumstances affecting the development of populations have to be taken into consideration, the best method of arriving at a reasonable solution of all aspects of the problem is to adopt
the procedure of Recommendations. Hence, in replying to the questionnaire, suggestions have been put forward on several occasions to embody points raised in the questionnaire in Recommendations.

But in the opinion of the French Government only questions which can be considered as falling within the scope of the regulation of forced or compulsory labour should be embodied in Recommendations.

Recommendations I, II and VI do not appear to the French Government to satisfy this general condition.

No objection is taken to the acceptance of the suggested Recommendations III, IV and V.

GERMANY

I-VI. The replies are in the affirmative.

GREAT BRITAIN

I-V. The replies are in the affirmative.

VI. His Majesty's Government in the United Kingdom favour the adoption of such a Recommendation provided that no limitation is suggested of the right of a Government to restrict immigration into the territory for which it is responsible, or emigration to territories in which in its opinion labour or health conditions are not satisfactory.

INDIA

I. The Government of India would answer this question in the affirmative throughout.

II-VI. The replies are in the affirmative.

NETHERLANDS

I. So far as the Netherlands Government understands this question, which is framed in somewhat vague terms, it is thought that the question refers to problems of general colonial

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1 See footnote on p. 14.
policy and not to labour problems. In the circumstances the Government feels obliged to refrain from replying at the moment. In so far as a similar objection does not arise in connection with the following questions the Government replies to these questions as follows.

II-V. The replies are in the affirmative.

VI. The reply is in the negative. The Government should be left free to restrict, if necessary, the movement of workers to a particular region, whether in Dutch territory or not, if it should appear that the conditions of work in that region leave much to be desired, as well as to lay down conditions for such movement.

PORTUGAL

The Portuguese Government considers that these Recommendations go beyond the normal limits of the activities of the International Labour Conference, as they deal with rules of colonial administration and principles of colonial policy for which only those States who possess colonies or protectorates are competent, in the full exercise of their sovereignty and the work of civilisation which each of them is pursuing.

Observation

The Portuguese Government desires to point out that, when employing the words "forced or compulsory labour" in its replies to several of the questions, it has done so subject to the definition of these two terms, and the distinction which, in the opinion of the Government, should be drawn between the two expressions.

SOUTH AFRICA

I-VI. The South African Government is entirely in favour of the abolition of forced labour, but while it is in accord with the principles set out in this section of the questionnaire, the South African Government is of opinion that many of the questions raised deal with economic issues which are not germane to the main question and require more consideration than it is possible to give with the information which is available.

The South African Government is of opinion that consideration of these questions should be postponed.
(a) Until further information as to the experience of other countries has been collected and co-ordinated;

(b) Until the effect of the adoption of the principles enunciated in Part A. of the questionnaire can be studied.

**Spain**

I, II and III. Although it has been alleged that some of the questions to which the Recommendation refers are of an economic character and may appear outside the jurisdiction of the International Labour Organisation, it is certain that their subject matter is directly related to the admission or prohibition of forced labour. Consequently, particularly where it is a matter of Recommendations, such questions should be taken into consideration, since it is desired to indicate to the various States that they should organise matters in such a manner that there shall be no sudden changes which might interfere with normal conditions of labour and be an indirect means of introducing labour under conditions similar to those which it is intended to prohibit.

The reply to questions I, II and III is in this sense.

IV. If in the Convention it is provided that only adults of the male sex of a certain age may be recruited for forced labour, it is unquestionably desirable to recommend that every care should be taken for preventing the burden of such labour being passed on to women and children.

V. In agreement with the reply given to Question 25, the reply to Question V is in the affirmative.

VI. The problem raised by this question is a very delicate one. In principle the reply should be in the affirmative, but it must not be forgotten that in some cases it may be desirable to restrict movements of population towards foreign territories, provided such prohibition does not have the direct or indirect effect of imposing compulsory labour.

**Yugoslavia**

I-VI. The reply to all the questions which have in view the adoption of Recommendations is in the affirmative.
Appendix to Chapter 1.

ITALY ¹

Part A. — Questions tending to the adoption of a Draft Convention

1. The Italian Government is in favour of the adoption of a Draft Convention, the object of which is to suppress the use of forced labour, and it considers that there is no occasion to provide for a period of transition before such suppression can be carried out.

2. This question raises constitutional difficulties. The International Labour Conference has no power to introduce in a Draft Convention prepared by it a provision that can legally modify the rights and obligations of any member of the permanent International Labour Organisation under Part XIII with regard to the Draft Conventions adopted by the Labour Conference. Members, while not obliged to ratify any Draft Convention adopted by the International Labour Conference, still have the power to ratify under the conditions and for the ends specified by Part XIII. The International Labour Conference cannot, by a provision inserted in a Draft Convention, deprive a State of this right. It cannot lay down that the ratification of a Draft Convention shall entail other obligations than those specified in Part XIII. Now, according to Article 421, the ratification of a Convention means for the State Member ratifying it an obligation to apply it to the colonies. This obligation is, however, modified by the two reservations mentioned in the said Article. Without wishing to determine the legal effect of these reservations, it is in any event certain that to some extent they leave it to the discretion of each Member to carry out the obligation concerning the application of a Convention in the colonies. It is against constitutional principle that the Draft Convention on Forced Labour should contain provisions which would have the effect of modifying the rights and obligations conferred on every State Member by Article 421 of the Treaty of Peace.

A Draft Convention on forced labour must by its very object be applied particularly in the colonies. Its application in the various colonial territories of the ratifying Members should therefore be as uniform as possible, with due regard for local conditions.

¹ See footnote, ante, p. 1.
Without modifying Article 421 of Part XIII, the Draft Convention should be drawn up in such a way as to ensure its effective and, so far as possible, uniform application in the various colonies of the States Members which, by ratifying the Draft Convention, assume the obligation to apply it in their colonies.

3. The Italian Government has no observation to make as regards the proposed definition of forced labour.

4. The Italian Government considers that the exceptions to the application of the Convention for which provision should be made should include cases of emergency (*force majeure*) The definition proposed in the draft questionnaire can be accepted.

5. The Italian Government considers that services which, according to the tradition and custom of a given community, are performed within the close proximity of the village by the people who live in it should not be considered as constituting forced labour.

6. (a) If the Conference decides not to approve the principle of the total abolition of forced labour in the Draft Convention, the Italian Government considers that the metropolitan authority should not be given the right to authorise recourse to forced labour and that, on the contrary, all competence and responsibility in this respect should be left with the highest central authority in the territory concerned.

   (b) The Italian Government similarly considers that where higher authorities delegate to subordinate authorities the right of authorising forced labour for public purposes, this practice should cease.

   (c) The Italian Government considers further that the competent authorities should be required to define the conditions under which forced labour could be carried out under the control of minor and local authorities, account being taken of the limitations to be fixed in the Draft Convention concerning the category of persons liable, the minimum duration for any individual, working hours, payment, indemnities, and inspection.

7. The Italian Government agrees that there should be a stipulation that the competent authority, before permitting any recourse to forced labour, should be satisfied that the conditions indicated in the questionnaire are fulfilled.

8. The Italian Government considers that forced labour should not be permitted for the benefit of private individuals,
companies, or other entities than the community, and that
a time limit should be fixed for such abolition. This time
limit might be two years.

9. Yes.

10. Yes.

11. Yes.

12. The Italian Government considers that it is unnecessary
to prohibit absolutely the power to substitute personal services
for the payment of tax or tribute, provided, however, that
such substitution is optional and that the tax or tribute is
not so heavy a burden that it involves in practice what
amounts to the performance of forced labour.

13. The Italian Government has no occasion to express
a special opinion on points (a) and (b). In principle it views
favourably the question dealt with in paragraph (c).

14. Yes.

15. The Italian Government considers that the illegal
exaction of forced labour should be punishable as a penal
offence and that the penalties should be adequate and actually
applied.

16. The Italian Government considers that only adult
males should be called upon for forced labour and accepts
in principle the proposed limitations and conditions as regards
the liability of adults.

17. While recognising the advisability of stipulating in
the Draft Convention that from a given community no more
than a fixed proportion of the male population should be liable
to forced labour which entails work to be done away from
inhabited centres, the Italian Government considers that it
is difficult to fix this number, and that the only principle
which can be laid down in this respect is that this proportion
should vary according to the seasons and the economic
necessities of the community and the individuals to be subject
to forced labour.

18. The Italian Government accepts in principle the
limitations proposed in the Questionnaire with regard to the
duration of forced labour.


20. Yes, in principle.
21. The Italian Government has no opinion to express on this subject.

22. Yes, in principle.

23. The Italian Government replies in the affirmative to the question, it being understood that the legal provisions concerning compensation for accidents or sickness should apply in the same conditions to all labour whether forced or voluntary — to the extent provisions of this kind apply to the latter.

24. The Italian Government has no special opinion to express on this point.

25. Ditto.

26. Paragraphs 1 and 2: In view of the backward state of native populations, it is not possible to rely solely on their initiative to ensure that they obtain the best means of subsistence. It is therefore impossible to leave out of account the possibility of the colonial Government taking measures to bring pressure to bear on such populations: in such a case the labour is not forced in the proper sense, since the natives would work for their own benefit and that of the community.
Paragraph 3: In principle, the Italian Government replies in the affirmative, but it does not consider it possible to settle so important a question by an international Draft Convention dealing with labour questions.

27. Yes.

28. Yes.

29. The Italian Government does not consider it expedient to create a permanent Committee of Experts on Forced Labour in connection with the International Labour Office. In any event, supposing such a Committee is set up, it considers that the reports made in virtue of Article 408 on the Convention concerning forced labour should not be sent to this Committee. Such a proceeding might in fact constitute a dangerous precedent, incompatible with the spirit of Article 408 of the Treaty of Peace.

Part B. Questions tending to the adoption of a Recommendation.

I. The Italian Government considers it necessary to make reservations on the value of a Recommendation on the lines proposed in the Questionnaire; questions concerning the
exploitation of colonial territories are, in fact, very complex, and exceed the scope of the problem of forced labour so far as this can be taken into consideration by the permanent Organisation.

II. Yes.

III. Yes.

IV. Yes.

V. Yes.

VI. The Italian Government considers that the migration of workers could and should be regulated by the competent authorities and that there is no occasion to adopt the Recommendation proposed in the Questionnaire.
CHAPTER II

GENERAL SURVEY OF THE QUESTION
IN THE LIGHT OF THE REPLIES
OF THE GOVERNMENTS

A. — Proposed Draft Convention

The questions in the Questionnaire which were described as tending to the adoption of a Draft Convention were prepared by the Twelfth (1929) Session of the International Labour Conference on the assumption that, if the Conference could not adopt a Draft Convention for the suppression of forced or compulsory labour in all its forms, or could only provide for suppression subject to a period of transition, the use of forced or compulsory labour should be limited and regulated. With this object in view, most of the questions were asked for the purpose of eliciting the views of the Governments on the principles which should underlie the limitation and regulation of such forms of forced or compulsory labour as could be permitted during the period of transition. These principles were intended to apply to all the forms of permitted labour, except where they were expressly formulated to apply to special forms of such labour, e.g. labour of long duration, and forced porterage. A few questions related to exceptions from the scope of the Convention (cases of emergency, village services) or to forms of labour, the more immediate abolition of which was contemplated (labour for private employers, for chiefs, as a tax or in lieu of a tax, compulsory cultivation).

The replies to the questions appear to show that it will be necessary to draft a Convention constructed...
somewhat differently from the one contemplated by the Questionnaire. Nevertheless, it will be convenient, in examining the replies, to follow the order of the questions in the Questionnaire, leaving it to the chapter on conclusions (Chapter III) to draw the inferences which the replies appear to necessitate regarding the form of the proposed Draft Convention. The first five questions have been grouped under three headings: Object of the Convention (Question 1), Nature of the Convention (Question 2), Scope of the Convention (Questions 3, 4 and 5); otherwise the cross-headings in the Questionnaire have been generally followed.

I. — Object of the Convention (Question 1)

The draft Questionnaire submitted by the Office to the Twelfth Session of the Conference confined itself to suggesting that Governments should be asked whether they were in favour of a Convention limiting and regulating the use of forced or compulsory labour. The Conference, however, decided to go further and ask the Governments whether they were prepared to support a Convention providing for the suppression of this labour. The replies of the Governments show that this change was fully justified. Even if account is taken only of the replies of the Governments of those Members which are most directly and practically concerned with native labour problems — and it is proposed in this Chapter to refer, as a general rule, only to the replies of Governments with direct experience of the problems involved — it will be found that they are for the most part in favour of the ultimate suppression of forced or compulsory labour in all its forms.

Equally general is the opinion of the Governments concerned that, whilst the complete suppression of forced or compulsory labour is the final objective, immediate suppression is not practicable, and that, meanwhile, its use should be limited and regulated. The view of the Belgian Government is that a considerable period must elapse before the colonial Powers will be able to find the necessary voluntary labour for general and local public works, and it would appear to prefer that the proposed Convention should only refer to the
limitation and regulation of forced or compulsory labour. The Governments of India\(^1\) and the Netherlands also favour a limiting and regulating Convention, although the latter states that total abolition should be the ultimate aim. On the other hand, the British Government would wish the Convention to provide definitely for suppression, with limitation and regulation during an undefined period of transition. The French Government is not opposed to a Convention providing for suppression, with limitation and regulation during a period of transition which must vary with the degree of ethnic and social evolution of the peoples of the various territories concerned. The Governments of South Africa and Spain likewise favour suppression, subject to a transitional period of limitation and regulation. It may also be mentioned that the German Government, while favouring abolition with as short a transitional period as possible, appears to doubt the value of regulations if the transitional period is to be short.

The only reply which is definitely negative to the whole question is that of the Portuguese Government, which considers that everything which it was desirable or possible to do in regard to forced or compulsory labour was done in the Slavery Convention of 25 September 1926. That Convention provided for the progressive suppression of forced or compulsory labour for private employers, but, states the reply, the local conditions which render this kind of labour necessary cannot be changed immediately. This labour, which is destined to disappear, can only be regulated by each State in accordance with the difficulties it has to overcome in order to reach the aim of abolition. As regards forced or compulsory labour for public works, where the State is the employer, the Portuguese Government thinks that regulation by international Convention would hardly be compatible with the dignity and the rights of the State. Moreover, the local conditions in the colonial territories chiefly concerned vary so considerably that general regulations would serve no useful purpose, and the coming into operation of the Slavery Convention

\(^1\) Cf. footnote, ante, p. 14.
was so recent that the regulations adopted by the various States do not yet furnish a basis of study for general regulations. The need for taking account of the special conditions in colonial territories was recognised in Article 421 of the Treaty of Versailles, which makes the colonial Powers the sole judges of the possibility of applying ratified Conventions to their colonies. Finally, the Portuguese Government reserves to itself the right to bring forward at an opportune moment the strong legal objections which it sees to the adoption of a Convention of the kind contemplated in the Questionnaire.

The validity of the Portuguese Government’s view that the Slavery Convention represents all that can and need be done at present with regard to forced or compulsory labour is a question which must be left to the appreciation of the Conference. That view is not taken by the other Governments which have replied to the Questionnaire, nor was it the view taken by the Assembly of the League of Nations when it adopted the Resolution drawing attention to the importance of the studies undertaken by the Office in connection with forced or compulsory labour. The practical objections raised by the Portuguese Government will no doubt also be taken fully into consideration by the Conference.

There are, however, two points in the Portuguese Government’s reply to which further reference must be made as they appear to leave out of account some important considerations. Thus in regard to the suggestion that there might be something derogatory to the dignity or the rights of the State in regulating internationally a form of labour of which the State is the employer, it may be pointed out that this danger has so far been felt by the Conference. A considerable number of the Conventions hitherto adopted by the Conference apply to public as well as private industrial undertakings. This is the case with the Washington Hours Convention, which has been ratified by Portugal. The view that the short experience of the working of the Slavery Convention does not yet make it possible to deduce any international principles from the national methods of regulating forced or compulsory
labour appears to leave out of account the fact that regulations existed in many colonial territories prior to the adoption of the Slavery Convention. Moreover, this difficulty was not felt by the authoritative Committee of Experts on Native Labour appointed by the Governing Body to assist the Office. This Committee, from the voluminous material relating to regulations contained in Chapters III to V of the Grey Report on Forced Labour, considered it possible to deduce the principles collected in Chapter VII of the same Report.

There would not, therefore, appear to be any valid reason why a proposed Draft Convention should not be submitted to the Conference. Based upon the general sense of the replies of the Governments, this draft should provide for the suppression of forced or compulsory labour in all its forms as the ideal to be aimed at. No general time limit for the attainment of the ultimate objective can be fixed. Whilst, as the French Government says, "there can be no doubt that the progress of modern technical methods will every year reduce the recourse to labour recruited under the compulsory labour system ", it is not possible to ascertain definitely the period within which all the labour needed for public works, which are necessary both for the development of the material resources of the various territories and for the promotion of the well-being of the peoples inhabiting them, can be obtained by appealing for voluntary labour. Finally, the Convention should provide for the limitation and regulation of forced or compulsory labour. Conclusions in this sense will be formulated in Chapter III.

Before proceeding to consider the replies to Question 2, one other point remains to be mentioned. None of the replies suggests that the Conference should adopt a Recommendation instead of a Convention, but both the Belgian and French Governments consider that some of the detailed proposals for regulations suggested in the Questionnaire would more suitably find a place in a Recommendation. These Governments would prefer that the provisions of the Convention should be confined to general principles. Their suggestions will be considered in connection with the replies to the several questions.
By Question 2 the Governments were asked to say whether they considered that the proposed Convention should be so drafted that its ratification by a State should imply, for the colonies of that State, the application of the Convention without the reserves or modifications provided for in Article 421 of the Treaty of Versailles. The question whether the form of the Convention should be the usual one: i.e. that of a Convention of general application open to ratification by all the States Members, or should be that of a special Convention limited in respect of the kind of territories to which it should apply and perhaps limited also as regards the States which might become parties to the Convention, is not raised in the Questionnaire. Nevertheless, as this question is closely connected with that of the application of Article 421 and has been mentioned in two of the replies, it will be convenient to consider it briefly under this heading before dealing with the question of Article 421.

The question of a general or special Convention is raised by the two Governments from different angles. The Swiss Government, without expressing a preference for the one or the other solution, considers that it is a preliminary question which must be settled both in order that there may be no doubt regarding the provisions which must be inserted in the Convention to define its field of application and in order to decide the question of the application of Article 421. The Belgian Government, on the other hand, considers that the Convention should be concluded only between colonising countries, which, says the reply, by reason of their practical knowledge and experience of the special conditions that are met with in overseas possessions, are better fitted to find a solution to the problem which would take into account the various circumstances and difficulties involved.

The form of a Convention concluded by colonial Powers amongst themselves and applying only to their colonies, protectorates and possessions which are not fully self-governing would certainly appear at first sight to be the best form for a Convention the provisions of which are drafted to deal with conditions most frequently and
extensively found in colonial territories. But the fact that these conditions are not exclusively found, or liable to be created, in such territories appears to the Office to be a consideration which tells against a restricted Convention of this kind. There are a number of independent States Members of the Organisation in which the conditions of labour are to a greater or lesser degree comparable to those of colonies, and it would derogate to a very large extent from the value of a Convention on forced or compulsory labour if it did not cover situations which exist or might be created in such countries.

Moreover, all the Members of the International Labour Organisation have solemnly undertaken in Part XIII of the Treaty of Versailles a general international obligation to promote improved conditions of labour, not only individually and within their respective jurisdictions, but internationally as Members of the Organisation. This obligation is even more clearly set out in Article 23 of the Covenant of the League of Nations under which they have agreed to "endeavour to secure and maintain fair and humane conditions of labour for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend".

States which do not administer colonial territories have thus a definite obligation and an undoubted right to interest themselves in conditions of labour in such territories. This does not mean that they should ignore or attempt to override the experienced judgment of the countries directly concerned, nor is there any reason to anticipate that they will do so. On the contrary, the replies of the Governments to the Questionnaire show that countries with no direct experience of the problems involved have not attempted to influence the detailed drafting of the proposed Convention. But these countries have a definite status in the discussion of this question and, it may be added, more than a theoretical interest. In modern industrial civilisation, it is not only the countries which possess colonies which are dependent upon colonial products. All countries are so dependent, and they are thus directly interested in the protection of colonial labour, for upon the successful achievement
of this protection depends a part of their industrial prosperity.

It would appear, therefore, that the Convention which the Conference should adopt should be a Convention of general application. The difficulties to which the Swiss Government refers, apart from the question of Article 421, should be avoidable by a suitable definition of the field of application of the Convention. The desire of the Belgian Government that the colonial Powers, by reason of their practical knowledge and experience of the problems involved, should play a predominant part in the drafting of the Convention can also, it is thought, be met without recourse to the form of a special Convention. It may indeed be pointed out that the representatives of countries with experience of the problems of forced or compulsory labour formed the majority of the Committee on Forced Labour at the Twelfth Session of the Conference, and a reference to Chapter I is enough to show the part which the views of the colonial Powers must play in determining the conclusions of this Report.

There remains now to be considered the question of Article 421 in relation to a Convention of general application. It will be remembered that Question 2 was inserted in the Questionnaire after a discussion in which a number of members of the Committee on Forced Labour at the 1929 Conference expressed the view that it was both illogical and destructive of the value of the Convention that a Convention framed especially to deal with a kind of labour which is found most commonly, but not exclusively, in the colonies, protectorates and other non-self-governing possessions of States should be subject to the operation of Article 421.

Under that Article Members undertake to apply Conventions which they have ratified to their colonies, protectorates and possessions which are not fully self-governing, except where owing to the local conditions the Convention is inapplicable, or subject to such modifications as may be necessary to adapt the Convention to local conditions. It was argued, and is indeed obvious, that in drafting this Article the authors of Part XIII of the Peace Treaty had in view Conventions framed to meet the conditions of labour in advanced industrial States. Desirous of securing the application of ratified
Conventions in colonial territories, they nevertheless recognised that Conventions designed for application in highly industrial countries might not be applicable at all in some colonies and applicable in others only with modifications.

To apply such an Article in the totally different circumstances of a Convention on forced or compulsory labour would, it was further argued, be incongruous and unjustifiable; moreover, it would have the practical effect of weakening very considerably the obligations assumed by ratification in respect of colonial territories, and would create an inequality of contractual obligations as between States which by ratification would undertake to apply the Convention within their own borders and colonial Powers, whose ratification would not have the same value.

The 1929 Conference, however, recognised the complex and difficult problems raised by any attempted solution of the question and confined itself to inviting the Governments to say whether they considered that the proposed Convention should be so drafted that it should imply the application of the Convention to colonies without the reserves and modifications provided for in Article 421.

Two Governments, those of Belgium and Portugal, return a negative reply to the question; the former adds, however, that the Governments would no doubt avail themselves of the provisions of Article 421 only in case they should judge the stipulations of the Convention to be of a nature to prejudice the work for the improvement of the conditions of the natives which they are carrying on in their colonies. The French Government might be prepared to consider an undertaking not to apply Article 421, by the insertion of a clause in the Draft Convention, if the Convention were specially drafted so as to take local conditions fully into account; it would not do so, however, if the Convention were general in character and did not take account of local conditions. In any event, it would be for the States concerned to decide whether the Convention was sufficiently adapted to the local conditions in each colony. The Government of the Netherlands could not agree to the insertion of a clause in the Convention setting aside Article 421. This Govern-
ment is, however, at one with the British Government in considering that it would be desirable that the Convention should be so drafted that it could be applied to colonies without the reserves and modifications permitted by the Article. The Governments of South Africa, India and Spain reply to the question in the affirmative, but do not indicate how they consider the Convention should be drafted; in the same way the German Government states that it would be desirable that ratifying States, by a clause in the Convention, should agree not to have recourse to Article 421. The Swiss Government considers that it would be possible to insert in the Convention a clause stipulating that the ratifying States undertake to apply it to their colonies, protectorates and possessions; such an undertaking would not be a violation of Article 421, as each State is in fact free to decide not to apply Article 421 and the sanction of such a decision resides in the ratification. Finally, the British Government makes a practical suggestion which will be described below.

In commenting upon the sense of these replies it may be noted in the first place that there is nothing in them which tends to invalidate the views concerning the possibility of the suspension of Article 421 which were put forward by the Office in the Appendix to the Red Questionnaire. The legal considerations therein explained are reinforced by the practical consideration that the States are not prepared to contemplate such an eventuality. The solution must therefore be sought in the manner of drafting the provisions of the Convention and within the terms of Article 421. Of considerable importance as regards the drafting of the Convention are the declarations made by a number of Governments, which have been noted above. They reveal the loyal intentions of the Governments in regard to the application of Article 421 and lead the Office to believe that provisions defining the obligation to apply ratified Conventions to colonies, for which the Article provides, will be welcomed.

Proposals for this purpose are made in the reply of the British Government. That Government suggests that

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1 Cf. footnote, ante, p. 14.
an Article should be inserted in the proposed Draft Convention providing that, if any State desires to take advantage of the provisions of Article 421, it should attach to its ratification of the Convention as an integral part of such ratification (a) a list of the colonies, etc., to which it will apply the Convention immediately, of those to which it will apply the Convention after an interval the duration of which should be stated, and of those with regard to which it finds it necessary to reserve its decision; and (b) a list of the colonies, etc., to which it will apply the Convention immediately with modifications, together with particulars of such modifications, a similar list of the colonies, etc., to which it will apply the Convention with modifications after a stated interval, and a list of those on which it reserves its decision as to the modified application of the Convention. It is also proposed that the Article should provide that it should be permissible for a State to withdraw at any time any reservation made in the manner suggested.

A solution of this kind would appear to meet, within the framework of Article 421, some of the preoccupations of the 1929 Conference, and to have features which should commend it to the present Conference. In the first place, it should facilitate the ratification of the Convention. If, in the absence of power in the Conference to set aside Article 421 and in individual States to undertake formally to suspend a provision of the Treaty of Versailles, there were to be a kind of "gentlemen's agreement" not to apply Article 421, practical difficulties might be encountered, especially by a State administering a large number of colonial territories, in providing for the complete application of the Convention before ratification. Ratification might in such cases be long delayed, although the State concerned was favourable to ratification. Under the procedure proposed by the British Government, the necessity for such a long delay need not arise, since it would not be necessary that arrangements for complete application should have been made in respect of every territory concerned before ratification. In the second place, the proposed solution would have the advantage of giving a definite value to each ratification, and of placing the other Members of the Organisation, from the moment a State's ratification has
been registered with the League of Nations, in a position fully to appreciate the value of each ratification. Finally, the procedure which would enable States at any time to withdraw any reservation made at the moment of ratification would make possible the extension of the application of the Convention. The Office feels, therefore, that a clause drafted on the lines proposed by the British Government should be suggested to the Conference.

At the same time, it appears to the Office to be possible to meet further the preoccupations of the 1929 Conference by inserting a clause providing a general obligation on States ratifying the Convention to apply it to the territories under their sovereignty, jurisdiction, protection, suzerainty or tutelage. This clause would serve the purpose of defining the geographical field of application of the Convention in the same way as that of the Slavery Convention is defined. It would also define the obligations of States which do not have to face the practical difficulties referred to in the preceding paragraph as arising in the case of States administering a large number of territories, and which, for these or other reasons, may not feel the need of utilising the facilities of Article 421.

III. — Scope of the Convention (Questions 3, 4 and 5).

Definition of forced or compulsory labour. — The definition suggested in Question 3 is in the following terms:

“All work or service which is exacted from any person under the menace of any penalty for its non-performance and for which the worker does not offer himself voluntarily.”

This definition, which was adopted unanimously by the Committee on Forced Labour of the 1929 Conference, was the text drafted by the Committee of Experts on Native Labour and submitted by the Office to the Conference in the draft Questionnaire. The criticisms to which it has given rise in the replies of the Governments are not so much concerned with its terms as with its possible or probable implications; for the most part the
points raised relate to the question of exceptions from the scope of the definition, and will be examined in that connection below. Nevertheless, a number of observations relate directly or indirectly to the definition itself.

In the first place there falls to be considered a question of nomenclature which does not concern the definition but the term to be defined. At the close of the interesting general statement with which the French Government prefaced its replies, that Government pointed out that an unfortunate confusion has been created in the public mind between "travail forcé" (forced labour) and "travaux forcés" (penal servitude). The addition of the words "or compulsory" does not appear to the French Government to be sufficient to dissipate this confusion, and if the term "forced labour" properly expresses in English the general spirit of the proposed Convention, it appears to the French Government that the French text should use the expression "travail public obligatoire" (compulsory public labour).

The proposed Draft Convention, however, applies to forced or compulsory labour for private employers as well as to the public employment of such labour. The word "public" in the suggested change could, therefore, hardly be maintained, and the question becomes reduced to considering whether the term "compulsory labour" should be used instead of "forced or compulsory labour".

It is evident that it would be advantageous if one adjective could be used instead of two, but previous discussions have revealed so many difficulties that attempts to generalise the use either of the term "forced labour" or of the term "compulsory labour" have been abandoned. In certain British territories, for example, the terms "forced labour" and "compulsory labour" have been used to designate different forms of labour, although no precise demarcation has been made: roughly, the term "forced labour" has been applied to labour exceptionally levied by the European administration for important public works, while the term "compulsory labour" or "communal labour" has been used to describe the more usual forms of such labour for local public works. These distinctions, however, are by no means universal; others have also been attempted without succeeding in obtaining general acceptance. Generally, the distinction
which it has been sought to make between "forced labour" and "compulsory labour" has been one based upon the idea that "compulsory labour", in French and other languages expressed by a term which would be literally translated "obligatory labour", has a moral sanction. It is doubtless this idea which the Portuguese Government has in mind when it states that "the use of the words forced or compulsory labour seems to imply two different forms of labour which should be separately defined". Portuguese native labour legislation uses the expression "moral obligation to labour", and formerly provided penalties for its non-fulfilment under which labour was assigned to private employers. It is evident, however, that the forced or compulsory labour which the proposed Draft Convention would seek to suppress has nothing to do with the work which is considered a moral duty in civilised countries. Implicitly, indeed, the Convention would contain a reference to the moral obligation to work if the recognition of the duty of officials to encourage the populations under their charge to engage in some form of labour, which is suggested in Question 10, is retained in the text.

It therefore seems difficult either to find accepted separate definitions of "forced labour" and "compulsory labour" or to agree to generalise the one or the other. The difficulty is reinforced by the fact that existing international texts use both terms: the "B" Mandates "forced or compulsory labour", the English text of the Slavery Convention "compulsory or forced labour". Faced with these difficulties the Committee of Experts on Native Labour came to the conclusion that there was no alternative but to use both terms. If it would be more satisfactory to the French Government the order of the adjectives might be reversed as in the English, but not in the French, text of the Slavery Convention: "compulsory or forced labour". But, in order that there should be no equivocation, the Office also considers that it is necessary to use both the words "forced" and "compulsory".

In regard to the definition of the term "forced or compulsory labour", the observations of the Portuguese Government, which is the only Government that rejects the definition entirely, may first be considered. The first
observation is that the definition is excessively vague and evidently goes beyond the subject to be defined. The Portuguese Government does not develop this criticism, but it indicates that the subject to be defined is forced or compulsory labour which may give rise to conditions analogous to slavery. This definition is, however, implicit in the proposals for a Convention formulated in the Questionnaire. Whether or no they ratify the Draft Convention which the Conference may adopt, most of the Governments have by their replies agreed that forced or compulsory labour should be abolished, that some forms of this labour should be abolished as soon as possible, and that other forms should be limited and regulated during a period of transition; the object of these measures is precisely to prevent forced or compulsory labour from developing into conditions analogous to slavery. The second observation of the Portuguese Government is that the word "individu" in the French text and the word "worker" in the English text are not synonymous. This is a purely drafting matter; the English text uses "person" and "worker"; it is proposed to substitute for "worker" the words "the said person". The third observation is that the word "service" is wider than the word "work". "Service" was not, however, intended to be synonymous with "work", but to cover purposes for which labour is exacted which are not ordinarily referred to as work. The fourth observation refers to the use of the expression "plein gré" in the French text as the equivalent of "voluntarily"; it is stated that the word "plein" introduces psychological considerations which are difficult to define. It may be noted that the Belgian Government's alternative definition uses the term "gré" alone, whilst the French Government's alternative definition keeps the words "plein gré". This is in any case a matter of drafting, for both terms would be translated "voluntarily" in English, and both French and English texts of Conference decisions are authentic. Finally, the Portuguese Government points out that the definition appears to include penal labour, fiscal obligations and military service. This question will be dealt with below under exceptions.
As noted above, the Belgian and French Governments suggest alternative definitions which, while not in the same terms, would both change the character of the definition proposed by the 1929 Conference by introducing a negative element, i.e. by specifying certain exceptions in the definition itself. The Belgian Government would include the words: “with the exception of military service and of work exacted as the result of a conviction for crime or as the punishment for the non-fulfilment of a civil or fiscal obligation”. The French Government would add: “with the exception of work or service resulting from fiscal or military obligations or from the carrying out of a sentence of a court of law.” For the moment the only point which it is desired to consider is whether these exceptions, if they are to be made, should be made in the definition itself, or should be made in a special series of clauses relating to exceptions. In this connection it is to be noted that a number of other Governments, more particularly the Swiss Government, have represented the need for including in the Convention forms of words which would have the effect of excepting from its field of application various public obligations which are incumbent upon their citizens. That being so, the Office considers it preferable to deal with the exceptions together in special clauses relating thereto.

The Belgian and French alternative definitions, though not otherwise synonymous, also agree in proposing a change in the positive part of the definition by omitting the words “under the menace of any penalty for its non-performance”. The definition would then read: “All work or service exacted from any person against his will” (Belgium), or: “All work or service which is exacted from any person, for the performance of which the said person does not offer himself voluntarily” (France).

It may be noted that the Committee of Experts on Native Labour rejected a suggestion which would have left the definition in the second form set out above. The Committee considered that the phrase “under the menace of any penalty for its non-performance” was essential to the definition of forced or compulsory labour. It would appear indeed that the legal characteristic of forced or compulsory labour is to be found in the fact that its
performances is guaranteed by the menace of a legal sanction. The circumstance that a person does not offer himself voluntarily for such labour characterises it as forced or compulsory from the point of view of the individual. But from the point of view of the law it is the legal sanction for its non-performance which distinguishes forced or compulsory labour from voluntary labour. Labour for the non-performance of which no legal sanction exists is either voluntary or is exacted illegally under circumstances which would probably always constitute an offence at common law and which in any event would be punishable under the provisions of the clause proposed in Question 15 of the Questionnaire. The Office, therefore, is of opinion that the definition proposed in the Questionnaire should be maintained unchanged.

Exceptions to the definition of forced or compulsory labour.—The replies contain proposals for exceptions to the definition of forced or compulsory labour which may be grouped as follows: (a) work or service exacted under compulsory military service laws; (b) work or service for which the citizens of self-governing countries are liable; and (c) work or service exacted as a consequence of a conviction in a court of law for a punishable offence. The French Government would also definitely exclude from the scope of the Convention what was described in the Questionnaire as forced or compulsory labour as a tax or in lieu of a tax (prestations). This question will be discussed in connection with Question 12.

(a) Neither the Committee of Experts on Native Labour nor the 1929 Conference appear to have considered it necessary to specify that compulsory military service was not covered by the proposed Draft Convention. Nevertheless, the matter is raised in a number of the replies of the Governments, and it seems essential to insert words to make the matter clear. The question is not, however, as simple as it would appear at first sight to be, for although it is obvious that compulsory military service generally cannot come within the definition of forced or compulsory labour, there are forms of labour exacted under compulsory military
service laws which may fall within the definition. In this connection it must be considered whether, if labour exacted under laws which provide for compulsory military service is not regarded as falling within the definition of forced or compulsory labour, it should be expressly provided that such labour shall be used exclusively for military purposes and not for the carrying out of public works.

The question here raised is one of great difficulty and importance. It does not appear to refer to the labour of military engineers, pioneers or other arms which is performed as a part of their military training or for the defence of the territory, nor to the employment of soldiers in the same way as other citizens in cases of emergency. The reference is to the specific mobilisation, under compulsory military service laws, of part of the annual contingent of militia for the purpose of carrying out public works.

Such a system existed in the Independent State of the Congo under a Decree of 3 June 1906, which provided that the second section of the annual contingent could be called up for the carrying out of public works for a maximum period of five years to be served in one or more periods. After the annexation of the Independent State to Belgium, a Decree of 16 February 1910 reduced the period to three years. The Belgian Government, however, only applied the Decree in the case of workers already recruited under the régime of the Independent State for the building of the Upper Congo Railway; the system was abolished implicitly by a Decree of 10 May 1919.

Since 1927 a system known as "S.M.O.T.I.G." (Service de la main-d'œuvre obligatoire pour les travaux d'intérêt général — Compulsory labour service for general public works) has been working in the French colony of Madagascar, and a similar system has also been in operation in French West Africa since 1927. The legislation governing these schemes was summarised in the Grey Report. Briefly the system consists in the calling up under military law, and the incorporation in military cadres, of men belonging to the second contingent of the annual levy of the militia, for the purposes of employment on general public works. The period of military service in the labour contingents is fixed in French West Africa.
at three years; in Madagascar it is apparently two years or one year less than the period of ordinary military service. The number of men incorporated in the labour contingents in Madagascar is stated to have increased from 7,000 in 1927 to 10,000 in 1929, and it will be further increased to 13,000 in 1930.

It does not appear to the Office that, in mentioning this system in this Report, it is called upon to discuss either the principle of the military organisation of labour or the advantages or disadvantages of the system from the point of view of the protection of labour. The points which fall to be considered here are whether this labour is forced or compulsory labour and, in the affirmative, whether it should come within the scope of the Convention.

It is impossible to reply to the first of these questions otherwise than in the affirmative: the name officially given to the system, "Compulsory labour service for general public works," sufficiently indicates its character of forced or compulsory labour. Should then this form of forced or compulsory labour come within the field of application of the Convention? It will be for the Conference to decide this question. It is, however, the duty of the Office to point out that to sanction this form of labour implicitly by excluding it from the scope of the Convention would be to sanction a system which runs counter both to the avowed purpose of the Convention and to the international principles already laid down by the League of Nations. There appears to be general agreement that forced or compulsory labour in all its forms should ultimately be suppressed, that some of these forms should be suppressed immediately or as soon as possible, and that during an undetermined period of transition other forms should be limited and regulated. If, however, the system of compulsory military labour under discussion were to be excepted from the Convention, it would be possible for any State resorting to the use of such labour to dispose of forced or compulsory labour to an extent only limited by the resources of the territory without formally infringing the provisions of the Convention.

It appears, therefore, to be essential, while excepting compulsory military service itself from the definition of forced or compulsory labour, to provide that the labour
of men called up under compulsory military service laws on public works should not be excepted from the application of the proposed Convention. It is true that this question was not discussed at the 1929 Conference, but it is raised in some of the replies of the Governments to the Questionnaire. These replies relate to an existing situation that cannot be ignored in drawing up the proposed Draft Convention to be submitted to the Conference as a basis of discussion. The Office has therefore been obliged to seek itself a solution to the difficult problem of the conditions which should govern the regulation of labour called up under military service laws.

The first principle of such regulation appears to be that the decision to have recourse to such labour should be taken by the legislative authority of the metropolitan country. There is a wide difference between the compulsory labour which a self-governing people may impose upon itself in virtue of laws freely consented to by its representatives and such labour imposed upon colonial populations. It is obvious that, in this latter case, the obligation to perform such labour should be conditioned by the maximum number of safeguards. One of the most effective safeguards is that public opinion in the metropolitan country should be informed of every proposal to have recourse to such labour and should itself take the responsibility.

In the second place, since there is no essential difference between the labour exacted under compulsory military service laws and forced or compulsory labour, it would seem that the provisions of the Convention which limit and regulate forced or compulsory labour should also be applied in this case.

Nevertheless, it might be possible, as a derogation to the principle of the exceptional maximum suggested in Question 18 of the Questionnaire, to provide that the maximum period for which any man called up under compulsory military service laws should be kept for labour on public works should not exceed twelve months. It may be that, compared with some existing systems, this limitation may appear both rigid and arbitrary. The Office nevertheless considers, since the question has been raised, that it should suggest this
limitation in order to keep within the spirit of the proposed international agreement. To adopt the maximum of two or three years in force under existing systems would evidently be to admit an exception which would be incompatible with the idea of international equity which underlies the regulations proposed. Until the question was unexpectedly raised by the replies, neither the Office nor the Committee of Experts had contemplated any longer maximum period than that of six months provided for exceptional cases.

Finally, it is suggested that every person from whom labour is exacted under military service laws should thereafter be exempt from all forced or compulsory labour. This measure would appear to be a just compensation for the exceptionally long period of service which it is suggested might be permitted.

(b) It has already been noted that a number of Governments have expressed apprehensions lest the definition suggested in the Questionnaire should apply to various kinds of work or service which form part of the civic duties of the citizens of self-governing States. Apart from duties in cases of emergency, there are many services which a citizen is called upon to render, and which could under no circumstances be considered as having the character of forced or compulsory labour within the meaning of the proposed Convention. The labour for road clearance, maintenance or even construction which the free and independent citizens of a Swiss mountain canton impose upon themselves has obviously nothing in common with the labour which it is sought to regulate and ultimately to suppress.

The Office proposed to the 1929 Conference a form of words which was intended to cover such cases; but, as some members of the Conference Committee on Forced Labour considered that the question had little practical importance, it was not inserted in the final Questionnaire. In view of the replies it is considered necessary to insert a clause in the proposed Draft Convention, with the object of excluding work or service of a kind which, by law or custom, may be demanded from the citizens of a self-governing country as part of their normal civic obligations. It is thought that this formula will cover
all the kinds of services which it is desired to except in the case of self-governing countries.

(c) A certain number of Governments having drawn attention to the possibility that the definition might be interpreted as applying to the labour of convicted persons, it is proposed to insert a clause providing for the exclusion of any work or service exacted from any person as a consequence of a conviction in a court of law for a punishable offence, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to private individuals. It is thought that this form of words will be wide enough to cover most of the circumstances indicated in the replies. The Government of India\(^1\), however, also proposes to exclude labour exacted from persons whose restraint is necessary in the interests of peace and order. This appears to refer to persons kept under restraint without trial, and it would seem to be difficult to take account of such exceptional circumstances in the proposed exception. Such cases would no doubt more appropriately fall under cases of emergency.

Exceptions to the scope of the Convention. — There remain now to be considered the exceptions to the scope of the proposed Draft Convention which were the subject of Questions 4 and 5: (1) cases of emergency and (2) minor village services.

(1) Various proposals have been made in the replies for amending the definition of "cases of emergency" suggested in the question. The French Government would draft the exception in very general terms, whilst other Governments would add to the examples of cases of emergency given in the text. The British Government would omit the words "and so on". It appears to the Office that it would be undesirable to omit any enumeration of the kinds of occurrence which constitute cases of emergency. While not exhaustive, this enumeration gives an indication of a restrictive

\(^1\) Cf. footnote, ante, p. 14.
character as to the nature of cases of emergency which it would be useful to retain. On the other hand, it seems desirable, in order to meet the views of several Governments, to read: "is the event of war or any occurrence or threatened occurrence which would endanger the existence or the well-being of the whole or a part of the population, such as fire, flood, famine, earthquake, internal disorder, violent epidemic or epizootic diseases, and invasion by animal, insect or vegetable pests". The positive changes in the text are underlined. The words "substantial" and "and so on" have been omitted, the former at the desire of several Governments, the latter because the words serve no useful purpose as the words "such as" sufficiently indicate that the enumeration is not intended to be exhaustive.

(2) Proposals for modifying the exception suggested in Question 5 have been made by three Governments. The British Government would include in the exception minor communal services which, though not traditional or customary, are imposed not by any command of a chief or public officer but with the general approval of the village or tribal community for the purpose of meeting new communal needs arising as the result of social and economic progress, and would substitute for the criterion that the work excepted should be work in the close proximity of the village the criterion that the work should not necessitate the workers sleeping away from their homes. The Belgian Government would except traditional work or service even if not performed in the close proximity of the village, while the Spanish Government would substitute the conception of work in the direct interest of the village for that of work in the close proximity of the village.

In examining these proposals, it is necessary to bear in mind the nature of the village services which the question was intended to cover. These were described in some detail in the original text of the question submitted to the 1929 Conference and included: cleanliness, sanitation, the maintenance of paths and tracks, watering places, latrines and cemeteries in the immediate vicinity of the village, night-watching, clearance of small irrigation canals and local streams. This enumeration
was apparently omitted in the final text of the Questionnaire with the object of "limiting the works or services here mentioned to those which are traditional and customary among the peoples concerned, and excluding new impositions on the part of the authorities, which, it was suggested, should be included in the kinds of forced labour elsewhere treated in the Questionnaire" (Report of the Committee on Forced Labour). To extend the exception to cover works and services which, though not traditional and customary, meet new communal needs arising as the result of social and economic progress, would therefore be to go considerably beyond the intentions of the 1929 Conference.

It appears also to the Office that there would be a real danger, if the British Government's proposal were accepted in the terms proposed, that the effect would be to exclude most forced or compulsory labour for local purposes from the operation of the Convention. The words "new communal needs arising as the result of social and economic progress" are very wide. Taken together with the possibility of employing workers within any radius which does not necessitate their sleeping away from their homes, these works would cover almost any kind of local labour, including even road construction and maintenance. The safeguard proposed in the British Government's reply, that the labour should be imposed not by any command of a chief or public officer but with the general approval of the village or tribal community, can hardly be regarded as adequate in the circumstances of native life. It is generally known that the wish of a chief or a public officer is equivalent to a command. Moreover, in the inevitable absence of constant and vigilant supervision on the part of the European authority, the incidence of the labour falls most heavily on the weaker members of the community, including women and children.

In so far as the works and services required by new communal needs are of the kind which have been traditional and customary (e.g. connected with sanitation), they appear to the Office to be covered by the form of words in the Questionnaire. Within the limits of the kind of labour contemplated in the question, therefore, it does not seem necessary to make any amendment in order
to secure to that extent the elasticity desired by the British Government.

As regards the observation of the Belgian Government, it does appear that there may be minor communal services of a traditional and customary character which are not performed in the close proximity of the village, and as it seems to the Office that the really fundamental principles are that the services should be of a traditional and customary kind and should be performed in the direct interest of the community by its members, it is proposed to draft the clause in the text to be submitted to the Conference in this sense.

IV. — **Authorities responsible for recourse to forced or compulsory labour (Question 6).**

(a) *The competent authority.* — Article 5, paragraph (3) of the Slavery Convention provides: "In all cases the responsibility for any recourse to compulsory or forced labour shall rest with the competent central authorities of the territory concerned." The draft question proposed by the Office to the 1929 Conference embodied this principle, but substituted the word "highest" for "competent", and added, in order to take account of British practice in certain cases, "or, when considered desirable, an authority of the metropolitan country". As a result of the discussion in the Committee of the 1929 Conference, however, the question was amended to give more emphasis to the suggestion that the competent authority should be an authority of the metropolitan country.

Of the countries more directly concerned, the Government of the Netherlands returns an unqualified affirmative answer, while the British Government considers that responsibility for allowing a system of forced or compulsory labour to exist should rest with an authority of the metropolitan country, or, when that is not possible, with the highest central authority in the territory. The Belgian Government makes the interesting suggestion that in the case of work at a considerable distance or of a permanent or systematic character, the decision to have recourse to forced or compulsory labour
should fall to the metropolitan authority. Otherwise there is general agreement that the competent authority should be the highest central authority of the territory.

A particular difficulty is, however, raised by the Government of India\(^1\), which points out that in India some of the legislation under which forced labour is exacted for public purposes is within the competence of the provincial legislatures; it would be impracticable in India for the central Government to be constituted the sole responsible authority. This difficulty might possibly be met by a special clause in the Convention. On the other hand, it is not certain that such a clause is necessary; the position of the central Government in India would appear to be analogous to that of the Government of a metropolitan country, the provincial Governments being assimilable to the highest central territorial authorities.

(b) Delegation of powers to subordinate authorities. — The idea that, where higher authorities delegate to subordinate authorities the right of authorising forced or compulsory labour for local public purposes, the practice should be abolished, is generally rejected by the Governments concerned. It is considered indispensable that subordinate authorities should retain powers to have recourse to forced or compulsory labour within the limits and subject to the conditions laid down by the higher authorities. The Belgian Government would make it a condition that workers should not be moved long distances and the periods of such labour should be short. The Government of South Africa adds that the delegation of powers should be specific and controlled in conformity with the provisions of the Convention.

(c) Regulation of labour authorised by subordinate authorities. — This question is generally answered in the affirmative. The Belgian Government considers that the conditions of such labour should, as far as possible, be not inferior to those laid down for labour authorised by higher authorities. The Spanish Government states that the cases in which such labour can be utilised should be clearly defined and regulated.

\(^1\) Cf. footnote, ante, p. 14.
V. — *Criteria to be satisfied before recourse is had to forced or compulsory labour (Question 7).*

With the exception of Portugal, the replies are generally favourable to the criteria suggested in this question. The French Government says that the criteria correspond generally to those which should guide the competent authority in authorising recourse to forced or compulsory labour. Modifications to the criteria formulated under (a) and (b) are desired by the Belgian Government. As regards (a) it is not considered necessary that the work or service should be of direct interest to the community; it is enough that the community should benefit even indirectly, as, for example, from the construction of a railway which would open up the country. In the same way, the Belgian Government does not consider that the work or service referred to under (b) need be of present or imminent necessity; it is enough that it should be necessary for future development. Nevertheless, in this latter case, it should be a condition that attempts to secure voluntary labour appear to be unlikely to give results before the expiry of a period which would considerably delay the execution of the work. The British Government considers that strict compliance with paragraph (c) may not immediately be practicable in the case of labour called out by a chief exercising administrative functions, when the work does not involve the workers sleeping away from their homes.

The amendments suggested by the Belgian Government would not appear to be necessary to secure the elasticity which that Government desires; their adoption, on the other hand, would render very vague the formulae employed in the question which are already very general in character. Without an exhaustive enumeration of the purposes for which forced or compulsory labour may be employed, the exact significance to be attached to such expressions as “important direct interest” and “present or imminent necessity” must remain a matter for appreciation by the competent authorities concerned. In any case they would not seem to have been intended to bear as narrow an interpretation as that which the Belgian reply presupposes. The construction of a railway, for example, which would facilitate the abolition of
porterage, the development of native production, etc. could be held to be of important direct interest to the community, provided that the community which supplied the labour would benefit by the railway. Again, the words "present or imminent necessity" do not rule out considerations of future development; they would only rule out the employment of forced or compulsory labour on work which, in the opinion of the competent authority, could without prejudice be delayed until sufficient voluntary labour could be obtained.

The observation made by the British Government with regard to criterion (c) will be considered in connection with Question 9.

VI. — Forced or compulsory labour for private employers (Questions 8 to 11).

General prohibition. — With the exception of the Portuguese Government, which considers that the matter was settled by the Slavery Convention, the Governments agree that the Convention should provide for the suppression of forced or compulsory labour for the benefit of private individuals, companies or other entities than the community. A number of Governments consider, however, that this prohibition should not apply to private individuals, companies or other entities who are carrying out public works under Government contract, provided that the work is regulated and supervised by the competent authority. The Office does not think that it was intended that the prohibition should apply in such cases, and the point should be made clear by a clause in the Convention.

The Governments also agree that every effort should be made to abolish as soon as possible any existing forced or compulsory labour for private employers, but do not generally indicate what time limit should be fixed for making this abolition effective. The French Government does not refer to the question of a time limit; and the Belgian Government, as the problem does not arise in the territories under its authority, does not consider itself able to appreciate whether it is possible to fix a time limit, nor, therefore, to propose one. The Spanish Government thinks that it is difficult to fix a time limit,
but remarks that it should be as short as possible having regard to the economic situation of the territory, the organisation of labour, and the possibility of obtaining voluntary labour. The German Government considers that the time limit should be sufficient to enable the forced labour to be replaced by voluntary labour so as to avoid an interruption of the work. It also suggests that the time limit for the suppression of forced or compulsory labour for public purposes and the limit for the suppression of such labour for private employers should be the same. This Government, however, appears to have had mainly in view, in formulating this answer, forced or compulsory labour for private persons or companies in their capacity as public contractors, which, as has been noted above, was not intended to be covered by the question. The British Government considers that a time limit should be fixed and should be as short as possible, but does not suggest what it should be. The Government of India makes a definite proposal, i.e. a period of five years from the date on which a State ratifies the Convention. On the other hand, the Netherlands Government replies that it would be impossible for it to fix a time limit, as the process of buying out the rights of the owners of the _particuliere Landerijen_ in the Dutch East Indies may be delayed by unforeseen circumstances.

Nevertheless, it would appear to be in harmony both with the spirit of the proceedings of the 1929 Conference and with the general sense of the replies to fix a definite general time limit, which should be as short as possible, for the abolition by ratifying States of any forced or compulsory labour for private employers that may still exist in their territories at the time of ratification. The Office will, therefore, suggest a period of three years from the date of ratification. The force of the very exceptional difficulty mentioned in the Netherlands Government’s reply is fully appreciated, and if that Government should be unable to accept the foregoing suggestion a special exception might be inserted in the Convention.

_Forced or compulsory labour for chiefs._ — The replies to Question 9 raise a number of difficult problems. In

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1 Cf. footnote, ante, p. 14.
the first place, several of the Governments most directly concerned consider that forced or compulsory labour demanded by chiefs should be dealt with as labour requisitioned by public authorities and not as labour for private employers. The French Government expresses no opinion on the question of the abolition of this form of forced or compulsory labour, but considers that the regulation of forced or compulsory labour should be the same in regions under indirect rule as in those directly administered. The Portuguese Government is of opinion that delicate questions of native policy are involved and that the manner of gradually abolishing or transforming the traditional rights of chiefs must be left to national legislation. The Belgian Government considers that where a chief performs public functions, traditional services rendered to him should be deemed to be labour for public purposes. It is also of opinion that it would be useful to regulate labour demanded by chiefs, but that it is not possible to apply the same regulations as for labour imposed by European officials. The South African Government considers it necessary to avoid any action which would disintegrate tribal authority which it may be the policy of the administration to maintain and regulate. Finally, the British Government makes definite proposals concerning the circumstances in which and the extent to which forced or compulsory labour for chiefs should be permitted. These proposals and the reasons why they are made are set out in full in the British Government’s answer to Question 9 and will be further referred to below. Briefly, the British Government would distinguish, as regards forced or compulsory labour exacted by chiefs, between: (1) personal services rendered to the chief as the patriarchal head of the community; (2) communal labour called out by the chief for public works which does not entail the workers sleeping away from their homes.

It has been noted above that a number of the Governments most concerned consider that labour demanded by chiefs who exercise administrative functions should be held to be labour for public purposes. There is, however, one kind of forced or compulsory labour sometimes exacted by chiefs which, although they may use their authority to exact it, is not performed for them in their
capacity as public authorities, but is definitely of the nature of labour for private employers. This labour is that of cultivating the chief's lands, when the crops grown are to be sold for the private profit of the chief. Although it is no doubt difficult to distinguish between this labour and labour performed for the chief as head of the community, it is considered that efforts should be made to abolish it in the same way as other labour for private employers, and it is suggested that a clause to this effect should be inserted in the proposed Draft Convention.

There is also another form of forced or compulsory labour demanded by chiefs, which is not performed in virtue of traditional rights or rendered to the chiefs as public authorities. In this case the chiefs act as the recruiting agents for the competent authority, and the labour is theoretically voluntary. Compulsion is indeed illegal and performance of the work cannot be enforced either in a court of the competent authority or legally in a native court. Nevertheless, there have only recently been cases in which persons refusing to perform such labour have been illegally punished in native courts. Even in the absence of such illegal acts, it is admitted that there is compulsion as the wish of a powerful chief is tantamount to a command. It is obviously difficult to suppress this form of compulsion but the Office feels that a reference to it in this Report is necessary.

The traditional forms of forced or compulsory labour for chiefs, to which the Belgian and British Governments have drawn attention, can, however, be considered to have a public character and to be performed for the chief in his public capacity, even when they have the character of personal services. It is, however, necessary both for a proper understanding of the question and in order to reach solutions which will take account of the facts, to distinguish between personal services and labour exacted by chiefs for public purposes. It is proposed to adopt this distinction in the following paragraphs.

(1) Personal services rendered to a chief as the patriarchal head of the community are of many kinds. The annual report of the Administration of Ruanda-Urundi for the year 1928 enumerates no less than fourteen
such forms of "prestations coutumières", including such services as the construction and maintenance of the chief's house, the care of his cattle, the cultivation of his land. It will be noted that the British Government considers that this labour is justified only in primitive communities, and that its policy is to restrict the extent to which it may be demanded to the minimum practicable and to commute it gradually for money payments. The British Government also considers that this substitution of money payments for unpaid personal services should be carried out at the earliest possible moment. The policy of other Governments is gradually to reduce the number of days spent on services of this kind, and to divert the labour to public works. For example, the annual report for Ruanda-Urundi, already mentioned above, states that the forty-eight days of "prestations coutumières" (customary labour) exacted in Urundi had in 1928 been so divided that only fifteen days could be exacted for the personal service of chiefs or sub-chiefs, the remaining thirty-three days being employed on local public works.

There is no doubt from its wording and from the report of the Committee on Forced Labour that Question 9 was directed to personal services rendered to chiefs. It was this labour that the question suggested should be abolished as soon as possible, and, pending abolition, should be directed to public purposes. It appears, however, to be impossible not to recognise that the abolition of this form of labour can only be achieved as progress is made with the constitution of native treasuries or the payment of salaries to chiefs, thus enabling them to pay voluntary labour for the personal services now rendered in virtue of tradition and custom. This process can be hastened where it is the policy of the administration to do so, but it is also dependent upon economic development and the spread of the use of money. It seems also to be evident that the rendering of the customary personal services here under consideration can hardly be regulated otherwise than by providing that they should be restricted as far as possible, including restriction by diversion of such labour to public works, that they should as soon as possible be commuted for a money payment, and that the competent authority should take all necessary measures to prevent abuses of the kind which were
brought to the notice of the Committee on Forced Labour at last year's Conference.

(2) Until it is abolished, forced or compulsory labour which is exacted for public purposes by chiefs who exercise administrative functions in consequence of traditional rights should, the question suggested, be regulated in the same manner as is work of a similar nature done under the compulsion of the administrative (European) authority. This view is taken by the French Government, but it is not certain that the French Government had in mind, in drafting this reply, the use of such labour for local public works, which in French colonies are largely executed under the system of "prestations", which this Government wishes to except entirely from the operation of the Convention. It is, however, to local public works that labour called out by chiefs is most usually directed. The example of Urundi has already been cited above in connection with the diversion of labour for personal services to public works; the thirty-three days' labour so diverted is employed on local roads, afforestation, draining, etc. under the control either of the native or of the European authority. In passing, it may be noted that this kind of labour is hardly to be distinguished from labour under the "prestations" system; as already stated, in Belgian documents it is called "prestations coutumières".

If labour exacted by chiefs for local public works were to be regulated in the same manner as similar work carried out under the compulsion of the European authority, by which in this case must usually be understood a subordinate European authority, its conditions should, under the provisions of Question 6 (c), be not more onerous, as regards the category of persons liable, the maximum duration for any individual, working hours, payment, indemnities, and inspection, than those indicated in the Questionnaire for forced or compulsory labour imposed by the competent authority itself. The Belgian Government, however, does not consider it possible to apply to labour imposed by chiefs the same regulations which apply to labour imposed by European officials. The British Government would also apply a simplified form of regulations, when the labour does not
involves the workers sleeping away from their homes, and explains at some length its reasons for this attitude. As these reasons underlie the British Government's suggested amendments to criterion (c) in Question 7 and to paragraph (b) of Question 22, as well as its suggestions regarding labour imposed by chiefs, it is necessary to refer to them in some detail.

The British Government points out that the system of Government followed in various British colonies is that known as "indirect rule". Under this system the primary duties of administration, the provision of "peace, order and good government", remain with the traditional rulers of the people. It may be added, for the better understanding of the bearing of this explanation on the problems now under discussion, that under the policy of "indirect rule" tribal law and custom are maintained in force in so far as they are not repugnant to essential European principles of justice and administration, and that British administrations endeavour to uphold the authority and dignity of native chiefs and to avoid interferences with native law and custom which would run counter to that purpose. In these circumstances, the British Government not only considers it inevitable that, during the period of transition to the complete suppression of forced or compulsory labour, labour should continue to be called out by chiefs under the general responsibility of the competent authority, but also that, particularly in regard to remuneration, the general regulations for the protection of forced or compulsory labour can only be applied as far as is practicable, when the work does not entail the workers sleeping away from their homes.

The most difficult point which arises in connection with the British Government's proposals is that of the remuneration of such forced or compulsory labour. The British Government points out that where such labour is called out by chiefs there is no direct payment of wages, although the people concerned receive either in kind or in cash payment at least sufficient to provide food and drink, and it suggests that this system should be continued during the transitional period in regard to labour which does not involve the workers sleeping away from their homes. The terms of the Mandates, however, require that forced or compulsory labour shall always be adequately
remunerated, and the Resolution of the Seventh Assembly of the League of Nations, which was referred to in the Introduction, also laid down that, as a general rule, such labour should receive adequate remuneration. The term "adequate remuneration" was, of course, not defined either in the Mandates or by the Assembly. The Committee of Experts on Native Labour, however, clearly indicated their views as regards the payment of labour for purposes other than the village services referred to in Question 5 in adopting the following principle: "Whenever labour is requisitioned for other purposes than the services of a general and permanent character necessary for the maintenance of local public health, such forced labour for local public purposes should be paid at the rates in force in the locality for similar work."

The Grey Report set out in the following passage the reasons for the adoption of this principle: "As has been seen, in French colonial practice the work herein considered (local public purposes) is executed under the 'prestation' or labour tax system; in other areas, it is a communal obligation upon the inhabitants of a village. In the case of 'prestations', it seems that the tendency is that the natives liable prefer and are able more and more to commute the labour tax by a money payment, the proceeds of which may be used for the remuneration of any labourer whom it may be found necessary to engage for the execution of the necessary work. In the other case, where the obligation to do certain work falls generally upon the inhabitants (as in many British colonial areas), an analogous tendency is manifest, for the local authorities, provided with funds obtained either from central sources or from local taxation or both, are being put in a position to pay for the local work. All opinion appears to welcome this evolution towards universal payment. . . . ." The British Government, however, does not appear to consider that this evolution can proceed as rapidly as the Grey Report anticipated and the Committee of Experts hoped and believed; and, as already mentioned, the French Government would except the "prestations" system from the field of application of the proposed Draft Convention. There seems, therefore, to be no alternative
but to provide for greater elasticity than was considered necessary by the Committee of Experts or contemplated by the Questionnaire. In dealing with this matter, both the juxtaposition of "prestations" and communal labour in the passage of the Grey Report quoted above, and the close similarity already alluded between forced or compulsory labour imposed by chiefs for local public purposes and the "prestations" system, suggests that these forms of labour should be considered to be on the same footing. The form of labour for chiefs here considered derives from the personal or communal services which are rendered to chiefs as the native governmental authorities; it is unpaid; its abolition depends, in the same way as "prestations", upon the possibility of commuting it for a money payment; its replacement by voluntary labour or paid forced or compulsory labour depends upon the allocation to native chiefs of sufficient revenues; and both the two latter conditions depend upon economic progress and the spread of the use of money. The purposes for which such labour is used are generally the same as those of "prestations" labour. The criteria which should be satisfied before recourse is had to the employment of such labour, as they are formulated by the British Government, are essentially the same as those suggested in Question 12. There seem, therefore, to be substantial reasons for dealing with this form of labour in the Convention in the same manner as "prestations".

All the problems which arise are, however, not disposed of by this conclusion. As already noted above, the British Government's reply further contemplates cases in which a chief, in the exercise of his administrative functions, calls out forced or compulsory labour which involves the workers sleeping away from their homes. In such cases the public works on which the labour is to be employed may not be "local" in the sense in which this word was used in the Grey Report. This view appears to be confirmed by the fact that the British Government considers that the conditions of such labour should be regulated in the same manner as labour of a similar nature done under the compulsion of the competent authority.

This part of the British Government's reply raises the question of the nature of the powers which should be delegated to subordinate authorities in regard to the
calling up of forced or compulsory labour. The question was foreshadowed in the replies to Question 6, but the only positive indication was the suggestion by the Belgian Government that labour requisitioned by subordinate authorities should not involve the removal of the workers to long distances nor be for other than short periods. Question 6, it will be remembered, was based on the assumption that recourse to forced or compulsory labour for any purpose should only be authorised by the competent authority, and that powers should only be delegated to subordinate authorities to supervise the carrying out of this labour under the conditions prescribed by the competent authority. The replies, however, showed that the Governments generally consider that, while the responsibility should rest with the competent authority, powers should be delegated to subordinate authorities to authorise recourse to forced or compulsory labour within the limits and subject to the conditions laid down by the competent authority. It therefore appears necessary to consider whether there should be any specific indication in the Convention of the limitations of such powers.

The draft Questionnaire submitted to the 1929 Conference assumed that subordinate authorities should only be authorised to demand forced or compulsory labour for local public works, and indicated the character of such works. The assumption that subordinate authorities might only authorise labour for local public works was maintained in the negative form of Question 6 (b) adopted by the 1929 Conference, but the enumeration of local public works was deleted. It was apparently only deleted, however, because the Committee on Forced Labour of the 1929 Conference wished to go further than the draft Questionnaire and suppress the powers of subordinate authorities to requisition labour. It might, therefore, have appeared logical, had any of the Governments suggested it, to re-insert the definition of local public works, if the delegation of powers to subordinate authorities is to be admitted. As has been seen, however, the Belgian Government suggests that the limitation of the powers of subordinate authorities should depend upon the distance to which the workers have to be taken and the duration of the work (short distances and
short periods), while the British Government appears to suggest that the criterion of local public works for the purposes of regulation, but not for the purpose of limiting the powers of subordinate authorities, should be whether or no the workers have to sleep away from their homes.

The value of the criterion suggested by the British Government cannot be denied. It is generally admitted that the worst social evils connected with forced or compulsory labour begin when the workers are taken away from their homes. Moreover, if it is granted that the powers of subordinate authorities to have recourse to forced or compulsory labour cannot be abolished, and if it is further granted that, as has been suggested above, local labour called out by chiefs should be regulated in the same way as "prestations" labour, it is very important to have some definite criterion for determining the point at which local labour begins and ends. The criterion suggested by the British Government would seem to be eminently suitable for this purpose. But it appears to the Office that it is equally important to apply the same criterion in delimiting the powers of subordinate authorities. It is fully realised that the native authorities the British Government has in mind, when it implicitly suggests that wider powers should be left to them than those of calling out local labour, are in some cases very important native rulers. Nevertheless, it would appear to run counter to the whole spirit of the proposed Convention to permit the competent European authority to divest itself of its responsibility for calling out forced or compulsory labour for other than local purposes. If, then, the criterion that the workers should not be taken away from their homes is to be used for determining the character of local labour, instead of the definition suggested in the Grey Report, the Office considers that the same criterion should apply to the limitation of the powers delegated to subordinate authorities. The Office will, therefore, insert provisions to this effect in the proposed Draft Convention.

Constraint by officials in the interest of private employers. — All the replies to Question 10 are affirmative.
Forced or compulsory labour exacted under the terms of concessions.— Question 11 is answered in most cases by a simple affirmative. The Belgian Government, whilst giving an affirmative reply to the first part of the question, refrains from offering an opinion on the proposals under (a) and (b) on the ground that, as the matter does not arise in Belgian territories, it has no basis for forming a judgment. On the other hand, the French and Portuguese Governments consider that provisions such as those suggested in the question would not fall within the scope of a Convention on forced or compulsory labour. The Portuguese Government gives no reason for this opinion; the French Government, however, states that the question relates to commercial operations.

In order to understand this opinion it is necessary to recall the nature of the concessions referred to in Question 11. There still exist in Africa and other parts of the world concessions granted to companies interested in the collection of products such as timber, rubber, palm-oil, copra, ground-nuts, etc. in virtue of which the companies concerned force the natives of the areas under concession, under menace of penalties, to deliver to the company a stipulated quantity of a given product, the price being generally fixed by the companies themselves. It is obvious that there is a commercial element in the transactions between the companies and the natives, but it is equally obvious that the compulsion to present a stipulated quantity of the products to the companies for purchase implies indirect compulsion on the native to labour in order to obtain the products. It is to this latter problem, and not to the purely commercial operations of the concessionnaire companies that the provisions suggested in the question relate. There would appear to be every reason, therefore, why such provisions should be included in the Convention.

VII. — Forced or compulsory labour as a tax or in lieu of a tax (Question 12).

This question, which asked the Governments whether they considered that forced or compulsory labour exacted as an equivalent to or a substitute for a tax should be abolished as soon as possible, and suggested criteria which
should govern the use of such labour pending abolition, is answered in the affirmative by the majority of the replies. The British Government proposes an amendment to paragraph (d) which will be considered below. The South African Government, in a general note on Questions 12 to 28 expresses approval of the principles embodied in the questions, but refrains from expressing a final opinion on the details without knowledge of the circumstances of the countries likely to be affected. The Belgian Government is of opinion that it would be desirable that the practice of exacting forced or compulsory labour as a tax or in lieu of a tax should disappear, but that it can only disappear gradually with the generalisation of the use of money and the extension of the possibility of finding the voluntary labour necessary for carrying out works ordered to be carried out as a form of taxation. With regard to the criteria, the Belgian Government makes a number of observations which will be referred to below.

The Portuguese and French Governments, however, take the view that provisions such as those suggested in the question are beyond the scope of a Convention on forced or compulsory labour. The former Government states that the question relates to taxation, a matter which is proper to the sovereignty of each State. The latter Government is of opinion that the question refers to the “prestations” system which exists in France and in the French colonies; it is not a matter of forced or compulsory labour, but of a fiscal obligation regulated in the metropolitan country as well as in French overseas possessions.

This question is not a new one. It was discussed by the Temporary Slavery Commission, and has on several occasions been considered very thoroughly by the Permanent Mandates Commission in connection with the “prestations” in territories under French Mandate. A summary of these discussions was given in the Grey Report (pages 163 to 165), and it is unnecessary to do more here than to recall the fact that the Mandates Commission, without passing judgment on the expediency or otherwise of the system of “prestations”, expressed the opinion that it could not be contested that labour levied under that system is forced unpaid labour. Without
prejudice, therefore, to the theory that the exaction of such labour is a measure of taxation, it appears that, as labour, it is also forced or compulsory labour.

Practically, there would be extreme difficulty in distinguishing between any of the forms of unpaid forced or compulsory labour and labour exacted as a tax. It has been seen in the comments on Question 9 that forced or compulsory labour demanded by chiefs is very similar to "prestations", so much so that it is suggested that these two forms of labour should be dealt with in the same manner. Indeed it would not be difficult to argue that even paid forced or compulsory labour is in a measure a substitute for taxation.

One of the main reasons for exacting forced or compulsory labour is that sufficient voluntary labour cannot be obtained; but the reason why voluntary labour cannot be obtained is frequently that the wages offered are not sufficiently attractive, and the possibility of offering sufficiently attractive wages is conditioned by the revenue of the territory. In any case, it seems evident that if "prestations" were to be excluded from the field of operation of the Convention, it would be necessary to exclude all forced or compulsory labour for local public purposes.

It appears to the Office, therefore, that the proposed Draft Convention must contain provisions covering forced or compulsory labour exacted as a tax or in lieu of a tax. They should include a clause relating to its gradual extinction, a policy which would not seem to be contrary to that of French official opinion in view of the statement quoted on page 165 of the Grey Report. That statement ran: "The system of labour dues (prestations), which is suitable for early stages of economic development, is obviously nothing more than transitional, although it should be pointed out that French administration has contrived to abolish its most objectionable features and has endowed it with educational value". The provisions of the Convention should also contain the criteria enumerated in Question 12, and a clause stipulating the possibility of commuting taxation labour by a money payment — a principle recognised by French regulations.

There remain to be considered the suggestions made by the Belgian and British Governments for amending the criteria proposed in the question. In paragraphs (a) and
(b) the former Government would make the same changes as in the equivalent paragraphs of Question 7, i.e. in (a) delete "direct", and in (b) delete "present or imminent"; it would not appear necessary to do more than refer to the discussion under Question 7, as the same considerations apply, mutatis mutandis. Both Governments would amend paragraph (d), the Belgian Government by inserting the words "as far as possible" and the British Government by substituting the words "are able to return to their homes at night" for the words "remain in the neighbourhood of their homes". For the reasons set out in the comments on the replies to Question 9, it appears to the Office that it is desirable that the change suggested by the British Government should be made. If, however, as the Belgian Government suggests, the words "as far as possible" were to be inserted, it appears to the Office that the criterion would lose much of its value as the line of demarcation between local and general public works.

VIII. — General provisions for the protection of forced or compulsory labour (Questions 13 to 15).

Issue of regulations. — Question 13 (a) might more conveniently have been divided into two parts, the one relating to the main question of the promulgation of regulations, the other to the inclusion in such regulations of provisions for the compiling of statistics. The absence of this distinction is reflected in the replies to this question. There is, however, general agreement that regulations governing the use of forced or compulsory labour should be issued. The Belgian Government qualifies its assent by the words "as far as possible", but this qualification possibly refers to the question of statistics. The Government of India would exempt occasional forced labour of less than ten days' duration from the application of such regulations. The Portuguese Government refers again to the Slavery Convention and states that the matter is one which is within the exclusive competence of each

1 Cf. footnote, ante, p. 14.
State. The remarks of the Governments of India and Portugal are really of a general character: the effect of exempting labour of less than ten days' duration from regulation would logically entail its exemption from the application of the Convention; the objection of the Portuguese Government is to the proposed Convention generally. Finally, it may be noted that the German Government considers that the proposals of Question 13 as a whole have no particular practical value. It appears to the Office that the issue of regulations in accordance with the provisions of the Convention would be a necessary consequence of ratification, but the insertion of a clause relating thereto would nevertheless be useful.

As to the question whether such regulations should provide for the compiling and recording of statistics, the replies are inconclusive. Only the Portuguese and Spanish Governments refer to it and both point out that there are practical difficulties; the latter Government, however, considers that it would be useful and makes a number of suggestions relating to method. There would undoubtedly be great practical difficulties in the preparation of statistics in areas which are not closely administered or under indirect rule, and where in general it has not yet been found possible to compile demographic statistics. Given these conditions, and the lack of precision of the question and of the replies, the Office would suggest that a clause should be inserted in the Convention asking that full information should be given in the annual reports concerning the extent to which recourse has been had to forced or compulsory labour, the purposes for which it has been employed, the conditions under which it has been employed, the sickness and death rates, hours of work, methods of payment of wages and rates of wages. Without requiring statistical accuracy, information of this kind could be given, and would be a valuable element of appreciation of the application of the Convention.

Making known of regulations. — The desirability of the suggestions in Question 13 (b) is recognised by most of the replies, but they generally contain reservations or express doubts regarding the practicability of the proposals. The French Government considers that they would in any case only be suitable for a Recommendation.
The Office considers that it is impossible not to recognise that if these proposals were included in the Convention they would have to be qualified by such words as “as far as possible”; it considers, therefore, that the best solution would be to embody them in a Recommendation.

Procedure for presenting complaints. — Question 13 (c) is answered in the affirmative by the Governments of Great Britain, India¹ and Spain, in the affirmative with the qualification “as far as is necessary and possible” by the Netherlands Government, and in the negative by the Belgian and French Governments; the Portuguese reply can also be considered to be negative. The French Government’s reason for its attitude is that it is not necessary to provide for a rigid procedure for the collective presentation of complaints by workers who have every opportunity of presenting their complaints individually to the competent authorities. The Belgian Government considers that it is very dangerous to grant the right of association to primitive emotional peoples, who do not possess those moral and material safeguards which generally prevent the right of association from leading to extreme solutions amongst civilised peoples. The right of collective action is still less desirable in the case of forced or compulsory labour, where the action would be directed against the sovereign power and against the public utility purposes which have determined its decisions.

It will be seen that both the Belgian and French Governments assume that the question refers to the right of association, and it will be remembered that it was in order to secure the right of association that the Workers’ Group at the 1929 Conference proposed the insertion of the question in the Questionnaire. Nevertheless, it must be pointed out that the question, in the form in which it is drafted, only asks whether there should be a definite procedure established under which workers could present all their complaints to the authorities and negotiate concerning them. It does not prescribe the nature of the procedure, a question which is implicitly left to the

¹ Cf. footnote, ante, p. 14.
States themselves to determine. The Office, therefore, proposes to maintain the suggestion in the proposed Draft Convention.

**Inspection.** — Most of the Governments reply to Question 14 in the affirmative. The Government of India\(^1\), however, is of opinion that it should be left open to ratifying States to adopt whatever measures they consider best to ensure that the regulations are strictly applied. The Netherlands Government, having in view the particular conditions in the Dutch East Indian islands in which forced or compulsory labour is still levied in lieu of a tax and where the inspectorate is concerned solely with the inspection of conditions of labour covered by the various types of Coolie Ordinances, replies that inspection is neither necessary nor possible: it is not necessary because the native chiefs exercise sufficient supervision, it is not possible because the inspectorate has other duties. Finally, the French Government, although it is devoting great attention to the question of inspection, does not consider that the Convention should provide for the creation of an inspectorate, although this would be a logical consequence of ratification of the Convention.

The suggestion in the question was that the duties of existing inspectorates should be extended to cover inspection of forced or compulsory labour, or, in the absence of such inspectorates, that other adequate measures should be taken to ensure the strict application of regulations. The observation made by the Netherlands Government, which has in the Dutch East Indies one of the most highly organised inspection services to be found in colonial territories, and the remarks of the French Government on the complexity of the question of inspection in colonies have, however, considerable force. To attempt to prescribe the form of the measures to be taken to ensure the strict application of the Convention, and to provide for the extension of the duties of existing inspectorates which might not be appropriately organised for such new duties, would appear to be premature. The Office suggests, therefore, that the

\(^1\) Cf. footnote, *ante*, p. 14.
relevant clause in the Convention should be confined to
the suggestion in the latter part of the question, i.e. that
adequate measures should in all cases be taken to ensure
the strict application of the regulations, the extension
of existing inspection services being cited as an example
of the methods which might be adopted.

Penalties for the illegal exaction of forced or compulsory
labour. — All the replies to Question 15 are in the
affirmative. The British Government suggests an
amendment strengthening the form of words used in the
question which the Office has inserted in the draft.

IX. — Incidence of forced or compulsory labour
(Questions 16 and 17)

Persons liable to forced or compulsory labour. — It
is generally agreed that only adult males should be called
upon for this labour. The Belgian Government would,
however, make an exception in the case of local works for
the improvement of the villages. It is possible that work
of this kind, like the village services of a traditional kind
which are excepted from the application of the Conven-
tion, might not be very burdensome to the women and
children who might be called on to perform it. On the
other hand, it is felt that it would be difficult to distinguish
between work in the village and other local work on which
the employment of women and children might be abusive.

The Belgian Government makes the same reservation
with regard to the minimum age proposed, and the same
observation applies. The British Government suggests
that the text should read: “adult able-bodied males of the
apparent age of 18 years or more.” Other Governments
raise the question of the inclusion of any minimum age
and suggest that it must vary with the physical develop-
ment of the races concerned. It may also be noted that,
in the general absence of registration of births, age can
only be appreciated by the degree of physical development.
Nevertheless, it would appear to be of value to give an
indication of age, and it is suggested that the formula
proposed by the British Government should be inserted.

With regard to the limitations and conditions
proposed, the British Government considers that, with the
exception of (b), they are desirable, but that it would only be practicable to carry them out in cases where the labour necessitates the workers sleeping away from their homes. It would appear from the terms of the question that it was hardly intended to apply to labour which does not take the workers away from home; but, in giving effect to the suggestions made in the comments on Question 9, this point should be made clear.

The same Government makes an observation in regard to (a) which would need to be considered if the limitations and conditions suggested applied to forced porters. It would appear that they do apply generally, but the question of the medical examination of forced porters is mentioned in Question 25. Other Governments consider that prior medical examination may not always be possible, but it would appear that they have in mind cases in which the workers would not be taken from their homes, to which the question may be taken not to apply.

The British Government proposes to omit (b), which exempts persons already bound by a contract of employment, and the Spanish Government would insert words to ensure that such persons are not only bound by but actually working under the contract. It may be recalled that this exemption did not appear in the text submitted by the Office to the 1929 Conference, and the reasons why were explained at some length in the Grey Report (page 263). Exemptions for men under contract to an employer, or in regular employment, or who have been employed for a given period during the year, are to be found in a number of existing regulations. But the exemption does not extend to workers on their own account. On this point the Grey Report said: “It would seem just and necessary that workers who are satisfactorily employed on their own plantations or as craftsmen on their own account should be equally left undisturbed. As a measure for the encouragement of industrious habits, this is perhaps likely to be even more effective than the exemption of workers under contract to employers.” In view, however, of the practical difficulties of applying legislation providing for exceptions of this kind, unless the social and administrative organisation of the community concerned is fairly advanced, the Grey Report refrained from suggesting that such exceptions
should be made. For these reasons the Office considers that the British Government's proposal should be accepted.

No observations are made on paragraphs (c) and (d). In paragraph (e) the Belgian Government would insert "as far as possible" and emphasise especially conjugal ties. The prescription in the text is, however, in such general terms that the Belgian Government's suggestion would not appear to make any essential change in it.

Proportion of males who may be taken away from their homes for forced or compulsory labour. — All the Governments concur in considering that it is necessary to fix the maximum proportion of able-bodied adult males who may be taken at any one time for forced or compulsory labour which entails their sleeping away from their homes (Question 17), but equally general is the opinion that no proportion of universal application can be laid down. The maximum proportion should be fixed by the competent authority, in agreement, if necessary, with the metropolitan authority, taking into account the density of the population, the social and physical development of the people, the seasons, the economic necessities of the normal life of the community, and other relevant factors.

X. — Regulation of forced or compulsory labour (Questions 18 to 23)

Duration. — The views of the Governments principally concerned show wide divergences on the subject of the proposals made in Question 18. The Belgian Government considers that such limitations as those proposed might be contrary to the interest of the communities concerned; it would, however, prescribe that any worker who has been taken for forced or compulsory labour for a lengthy period should be exempted from any further service. The British Government, on the other hand, would fix the normal period for forced or compulsory labour of all kinds, including porterage and the time spent in travelling to and from work, at sixty days in any one period of twelve months; it would not include the further provisions suggested by the Question, considering that employment
of forced or compulsory labour for periods exceeding sixty days should never be permitted. The French Government considers that the Convention should only lay down general principles of limitation, leaving the ratifying State free to decide upon their application; it points out that it is very difficult to delimit the periods for which forced or compulsory labour can be imposed without previous agreement between the competent authority and the communities from which the workers are to be recruited, that the shorter the periods the more frequently they will recur, and that short periods render impossible the measures of habituation suggested in Question 19. The Portuguese Government would leave the whole matter to be dealt with by colonial administrations. As regards the proposed limitation of the number of days for which labour may be exacted under the system of "prestations" the British Government replies in the affirmative, but the Belgian and French Governments reject the proposal in the question.

The views expressed more particularly in the French Government's reply were considered at length by the Committee of Experts on Native Labour. A summary of the Committee's discussions is given on pages 267 and 268 of the Grey Report, from which the following paragraphs may usefully be quoted:

"To be sure, if such a maximum is fixed the Administration may be compelled to resort to successive requisitions for the same piece of work. The result may be a multiplication of the moral depression caused among the native communities by the departure of each gang. Moreover, the removal of natives is always dangerous to their health and by calling up new levies this time of danger would be repeated. Thirdly, the result would be to substitute untrained recruits for workers who had already learnt their tasks, thus lengthening the duration of the work and possibly necessitating the retention of a larger number of workers. Lastly, the chances of the spread of disease following upon the return of the workers to their homes would be increased.

"Nevertheless, these are practical disadvantages arising from the use of a form of labour which, however
necessary, is socially antiquated. If, as is generally agreed, forced labour should always be regarded as an exceptional measure, arguments which appear to be based on the assumption that it is a normal form of employment lose their value. If, as is also generally agreed, the regulation of forced labour should lead up to its eventual abolition, it cannot be argued that an essential feature in this regulation should be omitted as being likely to hinder the utilisation of forced labour.

"The Assembly of the League of Nations described the work undertaken by the International Labour Office in attempting to secure international agreement for the regulation of forced labour as a study of the means of preventing the latter from developing into conditions analogous to slavery. Between forced labour of unlimited duration and slavery there may be a legal distinction. But the practical analogy is very close. It is not enough that forced labourers shall be well cared for, remunerated and fed. The system must be purged of all features of a slave character, and any provision by which a native may be kept at forced labour for an unspecified period would be a condition most strikingly analogous to slavery.

"Thus the fixing of a maximum duration is essential. Such a maximum is in fact contained in practically all legislation on the subject. The same considerations weigh in favour of the maximum being fixed at a limit within the grasp of native mentality and without undue danger to communal life. Exceptions may be provided for cases where labour has to be brought considerable distances. These, however, should be regarded strictly as exceptions applicable only in special circumstances."

These considerations do not appear to the Office to have lost any of their value, and it seems that a normal maximum should be inserted in the proposed Draft Convention to be submitted to the Conference.

It is, therefore, suggested that the Conference should lay down the principle that the normal maximum period for which any individual may be taken for forced or compulsory labour of all kinds, including forced or
compulsory labour for the transport of persons or goods and the time spent in travelling to and from work, should be sixty days in any one period of twelve months. It is not, of course, necessary that the normal maximum to be fixed by each Administration for forced or compulsory labour which, in any one year, can be exacted from native populations should be as long as sixty days; to many this maximum will appear to be excessive. It will be open to Administrations to fix, by agreement if need be with the communities concerned, such lower maxima as may appear desirable. It also appears to the Office that it is desirable to fix a maximum for exceptional cases. The British Government’s proposal that in no case should the normal maximum of 60 days in any one year be exceeded is not supported by the replies of other Governments. On the other hand, even if the guarantees suggested by the Belgian Government, i.e. that the decision in very exceptional cases should always be taken by the metropolitan authority and that workers called up for long periods should afterwards be exempt from all further forced or compulsory labour, were adopted, it would hardly seem consistent with the purposes of the Convention to leave it entirely to the individual States to fix the maximum in such exceptional cases. The Office would therefore suggest that the Conference should insert in the Draft Convention proposals similar to those of the Questionnaire but simplified in order to bring them, as the passage just quoted from the Grey Report stated, “within the grasp of native mentality”. Such proposals might be that, in very exceptional cases, where workers have to be brought from a considerable distance from their homes for labour on important public works, a higher maximum may be fixed, provided that this exceptional maximum period should in no case exceed six months in any one period of thirty-six months and that the decision to have recourse to forced or compulsory labour should be taken and the maximum fixed in each such case by the metropolitan authority.

In view of the attitude of the French Government in regard to “prestations” and of the suggestions made in this chapter that such labour should be dealt with in a similar manner to communal labour, it is proposed that
no special maximum for "prestations" should be inserted in the Convention.

The objection that the shorter the periods the more frequent they must be, and that short periods preclude the adoption of methods of habituation is largely met by the provisions for fixing a higher maximum period in very exceptional circumstances. It is only for important public works, and necessarily in very exceptional circumstances, that workers need be requisitioned for long periods for work at a long distance from their homes. Although it is not admitted that the measures of habituation proposed in Question 19 could not be applied in cases of forced or compulsory labour of short duration, it is obvious that they are specially necessary in the circumstances here considered and should in all cases be fully and strictly applied.

Habituation. — The replies to Question 19 are generally in the affirmative. The Portuguese Government, however, whilst of opinion that the adaptation, preparation, conditions of transport, and measures of health and protection of workers employed under the system of forced or compulsory labour should be one of the first cares of a colonial administration, sees no utility in inserting in an international Convention general principles of too vague a character. The French Government considers that the problem of the habituation of workers can only be studied and dealt with by local authorities; measures relating to it cannot therefore come within the scope of a Convention on forced or compulsory labour and could most suitably be included in a Recommendation.

The proposals in the question are, however, of the nature of general principles to which it would be for the competent authority to give body and substance. Objections to the insertion of general principles in the Convention have not been made in other cases, and, as no criticisms of the principles in themselves have been made, the Office considers that they should be included in the proposed Draft Convention submitted to the Conference.
Working hours.— Whilst the Governments of Belgium, Great Britain, India\(^1\) and the Netherlands return an unqualified affirmative answer to Question 20, the French Government states that it is favourable to the principle laid down subject to the local possibilities of practical application. The Portuguese Government considers regulation of hours of work in colonies by international Convention to be premature; the Spanish and German Governments are of opinion that the hours of work of forced or compulsory labour should be regulated in the same way as those of voluntary labour.

The position with regard to this question is thus much the same as it was at the 1929 Conference. It will be remembered that the proposal submitted by the Office was in similar terms to those contained in the final text of the Questionnaire. The Conference Committee on Forced Labour, however, by 16 votes to 13, substituted the question: “Do you agree that the normal working hours of forced workers should not exceed any legal maximum applicable to voluntary workers?” The Conference in plenary sitting, by 52 votes to 29, restored the original text.

There are various objections to the suggestion that the hours of work of forced or compulsory labour should be regulated in the same way as those of voluntary labour. The Minority Report of the Conference Committee drew attention to some of these objections. Another objection, which appears to the Office to be sufficient in itself to rule out this proposal, is that in a number of the territories which would be affected by the Convention the hours of work of voluntary workers are not regulated at all, so that the effect of the proposal would be to leave the hours of work of forced or compulsory labour unregulated in those territories. On the other hand, no other alternative proposals have been put forward. The Office considers, therefore, that the proposals of the Questionnaire should stand in the proposed Draft Convention.

The attitude of the Governments to the suggestions made in Question 21 in regard to the hours of forced transport workers is generally the same as in the case of

\(^1\) Cf. footnote, ante, p. 14.
Question 20. The French Government, however, carries its reservations further and remarks that, whilst recognising the value of the suggestions made in the question, it considers that the application of the principle should be left to special regulations relating to porterage. It appears to the Office that the proposal in the question does this. No attempt is made to draw up precise regulations. All the question does is to suggest that the normal daily journey should correspond to an average eight-hour working day, and enumerates some of the factors which should be taken into account in estimating in particular circumstances what is equivalent to an average eight-hour working day. The Office considers, therefore, that these provisions also should be inserted in the proposed Draft Convention.

Wages. — Question 22 is answered by most Governments in the affirmative, subject in several cases to proposals for amendment. The Portuguese Government, however, although some of the provisions suggested by the question are stated to be applied in Portuguese territories, remarks that wages conditions in colonies are still very variable and that it would not be desirable to include details relating to them in an international Convention. The French Government also points out that wages conditions are essentially variable and that it should be left to the competent colonial authorities to regulate them in accordance with local customs and needs and particularly in taking into account the cost of living in some regions; the institution of deferred pay, for example, has an educational character for some communities and is well adapted to the rational plan which that Government has adopted for raising their social level.

It does not appear to the Office that there is any essential inconsistency between these ideas and the adoption of the principles laid down in the question. The latter are general in character and do not purport to constitute a complete body of regulations relating to wages. It would always be for the local authorities in the various territories, taking account of the principles of the Convention, to issue detailed regulations with regard to wages. It may further be pointed out that the principle
under (a) does not deal with the method of fixing rates of wages, but only specifies that the wages of forced or compulsory labour should not be less than those of other workers; and that neither (a), (b) nor (d) exclude the possibility of a deferred pay scheme such as that to which the French Government refers. The Office, therefore, considers that the provisions suggested in the question should be inserted in the proposed Draft Convention.

As regards the amendments proposed by other Governments, there would appear to be no difficulty about inserting words in the Convention to make it clear, as the British and Netherlands Governments desire, that the provisions relating to wages do not apply to forced or compulsory labour exacted in lieu of a tax. The British Government's reservation to (b) appears to be unnecessary after the discussion in connection with Question 9. In regard to the same Government's proposed amendment to paragraph (d), it may be recalled that the purpose of the paragraph is to ensure that where workers absent from their homes need special diet, special clothing or special accommodation (owing to the nature of the climate or of the work, or both), this special diet, clothing or accommodation should be provided without deduction from the wages. It is not clear that the British Government's proposal as drafted is consistent with the purpose of the paragraph. To take into account the supply of ordinary rations in fixing the rate of wages would not be inconsistent with the wording of paragraph (d), and, as the Spanish Government points out, this will probably have been done in most cases in fixing the rates prevailing in the territory. Words to this effect should perhaps be inserted in the paragraph.

Workmen's compensation. — Question 23 falls into three main parts: paragraphs (a) and (b) relate to the application of existing compensation legislation to forced or compulsory labour in the same way as to voluntary labour; paragraphs (c) to (f) formulate certain obligations which should in any case rest upon the competent authority; paragraph (g) concerns the making known of provisions relating to compensation.

The French Government, whilst accepting the principle of the gradual extension of compensation
legislation to the colonies, is of opinion that the solution of this difficult problem should be left to the States concerned; the matter could most suitably be dealt with in a Recommendation. Similarly, the Portuguese Government, although the Native Labour Code contains provisions regarding accident and sickness compensation, does not consider the question to be ripe for treatment in an international Convention. The British Government points out that workmen's compensation legislation does not exist in most of the British territories where forced or compulsory labour is employed, but it would be prepared to accept the obligation to pay compensation. The Belgian Government agrees that compensation legislation applicable to voluntary labour should be extended, in the most liberal spirit, to forced or compulsory labour, but does not consider it possible to decide in detail the measures to be adopted, as these questions need exhaustive examination and have not yet been regulated for voluntary labour in the Belgian Congo. The Government of India\(^1\) replies affirmatively to the first part of the question, but considers that the suggestion contained in paragraphs (e) to (f) would give rise to difficulties in countries where these matters have not been settled in the case of voluntary labour. Other Governments answer the question in the affirmative, the Netherlands Government for reasons of equity, pointing out that no such developed system of compensation exists in the Dutch East Indies.

The conclusion which must be drawn from these replies is that there is general agreement upon the desirability of compensation, but reluctance, in the present stage of the evolution of compensation legislation in backward territories, to adopt definite provisions. It appears to the Office, therefore, that the Convention might provide that, where compensation legislation exists or is enacted in the future it should be applied to forced or compulsory labour in the same way as to voluntary labour carrying out the same kind of work; this provision should be supplemented by a clause in general terms acknowledging the obligation of the

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\(^1\) Cf. footnote, ante, p. 14.
competent authority to make provision for the relief of injured workers and the dependants of deceased or incapacitated workers. With the generalisation of the terms of the proposals in Question 23, the suggestion that they might more suitably be drafted in a Recommendation does not seem to need discussion.

XI. — Special precautions for work of long duration (Question 24)

The proposals of this question are generally accepted by the Governments. The French and Portuguese Governments, however, whilst stating that their regulations are based upon principles which correspond generally to those contained in the question, do not consider that they should be included in the Convention; the French Government would prefer a Recommendation. It is also probable that the Belgian Government’s affirmative reply should be read in the light of its general observation on the desirability of including only general principles in the Convention.

It is difficult to see how the principles formulated in the question could be expressed in more general terms if they are to serve the purpose of laying down even a general outline of a policy for the effective protection of workers called upon to remain for prolonged periods away from their homes. As has been more than once noted in these pages, this form of labour is one with which some of the worst abuses and social evils have been associated. A Convention which admitted the continuance of this labour even temporarily and failed to lay down as precisely as possible general principles for its protection would serve no useful purpose. The insertion of these principles in the proposed Draft Convention is, moreover, fully justified by the attitude of most of the Governments concerned.

A point of detail is raised by the Spanish Government which considers that paragraph (e) should provide for a time limit for the exercise by the worker of the option to take voluntary work. In applying the principle of paragraph (e), however, as in applying the other principles suggested in the question, it is obvious that the
regulations issued by the competent authority would have to settle many such details as that mentioned, and it does not appear desirable to include anything which is not a matter of principle.

XII. — *Special provisions concerning forced porterage (Question 25)*

Apart from the Portuguese Government, which does not consider that any useful purpose would be served by including rules and limitations relating to forced or compulsory labour for transport in an international Convention as the variety of social and geographical conditions in the several colonies renders the laying down of general principles of no practical value, the Governments are generally favourable to the principles suggested in the first paragraph of the question. The Governments of India and the Netherlands make observations on the matter of medical examination: the former would limit it to persons who actually carry loads, excepting persons in charge of animals or conveyances, the latter states that the examination could only be carried out in exceptional cases. Neither of these observations appear to call for a change in the text proposed: the latter is covered by the words "where medical examination is possible", while the former relates to a question of detail which it would not be desirable to introduce into the Convention. The British Government would add to (d) "including the days spent in returning to their homes"; this amendment should be made as a logical consequence of the provision governing the normal maximum of sixty days. Finally, several Governments remark that the maximum number of days permitted for forced porterage should be included in the general normal maximum of sixty days: this is already stated in the provision relating to the general normal maximum and does not appear to need repetition.

In regard to the fixing in the proposed Draft Convention of the maximum load, maximum distance and maximum number of days, several suggestions are

1 Cf. footnote, ante, p. 14.
made, but both the variety of the suggestions made and the views of those Governments which consider that these matters should be left to the competent authority incline the Office to adopt the latter solution. It appears indeed obvious that a reasonable determination of the load to be carried, the distance which workers may be taken from their homes, and the maximum number of days for which they may be taken, must depend upon the physical development of the people called upon to do the carrying, the nature of the country, climate and season, and other factors. These can best be appreciated by the competent authority.

XIII. — Compulsory cultivation (Question 26)

The question of compulsory cultivation is one of the most difficult which the Conference has to consider in connection with the proposed Draft Convention on forced or compulsory labour. At the present time, in a number of territories, natives are compelled to grow specified crops on a given area of land, or to plant and tend a certain number of specified trees. The purposes of these prescriptions are: (a) in the case of food crops and afforestation, to guard against famine or a deficiency of food supplies and to introduce more suitable diet; (b) in the case of crops for export (e.g. cotton, cacao, etc.), to promote the general well-being and as a measure of agricultural education.

It will be remembered that the Belgian Government, in 1926, proposed an amendment to the draft Slavery Convention "to the effect that forced labour might also be exacted in the interests of education and social welfare, provided that it was only imposed upon the natives in those two cases on their own lands and for their own direct profit. In the mind of the authors of the amendment, this provision had no other purpose than to give to the colonial Governments the means of protecting the natives against their want of foresight and to assist them in rising to a more advanced state of civilisation. The Committee, while recognising the disinterested and humanitarian motives for this suggestion, was not able to accept it. It feared that in its application this proposal
might lead to grave abuses of exactly the type which the Convention itself was designed to prevent or suppress” (Report of the Sixth Committee to the 1926 Assembly). The Slavery Convention, therefore, while not specifically providing for the suppression of compulsory cultivation, did not sanction it, and the competent Committee placed on record its reason for this attitude.

The Committee of Experts on Native Labour, which assisted the Office in preparing the Grey Report and the draft Questionnaire, took the view that the only purpose for which forced or compulsory labour should be permitted in connection with cultivation should be that intended as a precaution against famine or a deficiency of food supplies. As regards the compulsory cultivation of crops for export, the Grey Report suggested that it does not satisfy the criteria for recourse to forced or compulsory labour later embodied in Question 7: the service demanded is neither essential nor urgent, nor is it impossible to obtain voluntary labour for it. “In point of fact, there are many instances in colonial history of the complete success of the voluntary principle in this connection where the Administration has aided by instruction and the supply of seeds or seedlings, etc. There are instances also where compulsion of this kind has defeated its own ends, the resultant crop being found to be uneconomic or the devotion of so much energy to its production found to be disadvantageous” (Grey Report, page 277). It was also suggested that the danger of famine arises “when too great effort is devoted to a profitable crop which does not add to the food supplies, and which cannot (owing to inadequate transport facilities or other reasons) be exchanged against supplementary food supplies.”

The first two questions put to the Governments were based upon the ideas which have been explained in the preceding paragraphs. Few of the Governments which might be affected by the provisions suggested in these questions have replied to them in the affirmative. The Portuguese Government considers that questions of compulsory cultivation are bound up with social and economic problems which are within the competence of each Government. The French Government is of opinion that compulsory cultivation is justified as a precaution
against famine and a deficiency of food, that it should also be permitted experimentally as a measure of agricultural education, and that it may also be used sometimes to create sources of wealth from which the communities concerned would benefit; to prevent abuses, however, compulsory cultivation should only be decided by higher authorities. The Spanish Government would permit compulsory cultivation for purposes of agricultural education, and the Netherlands Government, though replying in the affirmative to the second question, states that it has no objection to the imposition of compulsory cultivation for other purposes than those referred to in the first question. The British Government, while replying in the affirmative, inserts a proviso that, when the whole organisation of society is on a communal basis, it is necessary to retain the obligation on members of the community to work for the communal purpose, even if the produce is exported; in such circumstances, it should be ensured that any proceeds arising from the sale of produce should be devoted to the common good. Finally, the Belgian Government, in a closely reasoned statement, sets out the case for compulsory cultivation for purposes of education and social welfare, including the growing of crops for export.

The Belgian Government considers that it is the duty of colonising countries to attempt to improve the moral and material conditions of the peoples whose government they have assumed. Compulsion is the only effective way of overcoming the indolence and conservatism of the native if it is desired to secure results in a relatively short time. Moreover, to prohibit the cultivation of crops for export would in some cases be running the risk of depriving the natives of the means of obtaining the necessary food supplies. Further, the specialisation of native labour promotes general economic development. The possibility of abuses is not a reason for rejecting a principle in itself justifiable; it is a reason for taking measures to prevent such abuses. Such measures are the prohibition of compulsory cultivation otherwise than on the lands belonging to the natives called upon to do the work, leaving the natives in possession of the crops they produce, prohibition of legal or practical monopolies by European firms of the purchase of the crops, fixing of a
minimum purchase price and the provision of safeguards against fraudulent treatment of the natives by purchasers in the matter of weight and payment, and various other restrictions and limitations.

It will thus be seen that the weight of Governmental opinion is against the prohibition of compulsory cultivation as a measure of education and that two important colonial Governments have also declared in favour of compulsion for the production of crops for export, while a third would not object to measures of compulsory cultivation, other than those suggested in the first question, in the general interest of the communities concerned. The circumstances contemplated in the British Government’s reply would also, in some cases at least, appear to involve compulsion by the native authority for the cultivation of crops for export. In these conditions it seems difficult to the Office to insert provisions in the proposed Draft Convention on the lines of the questions. On the other hand, having regard to the previous decisions of the Assembly of the League of Nations, of the Committee of Experts on Native Labour, and of the Committee on Forced Labour of the 1929 Conference which rejected amendments to the Questionnaire designed to suggest that such forms of compulsory cultivation should be permissible, it appears to be equally difficult for the Office to suggest that compulsory cultivation of crops for export, imposed by the European authority as a normal and permanent institution, should be sanctioned. It does, however, appear possible to meet the views of those Governments which do not wish to give up the possibilities of compulsory cultivation as a means of encouraging the natives to work on their own lands for their own moral and material betterment by the insertion of provisions permitting compulsory cultivation, in exceptional cases where it is justified by the indolence and improvidence of the natives, as a measure of education. The decision to impose compulsory cultivation in such circumstances should be reserved to the highest central authorities of the territory concerned; the compulsion should be temporary and should cease as soon as the communities have acquired the habit of cultivation; and measures such as those indicated by the Belgian Government should be taken to prevent abuses.
In a third paragraph to Question 26 the Governments were asked whether they considered it possible to devise measures of precaution against famine or a deficiency of food supplies otherwise than by compulsory cultivation. A number of Governments reply to this question in the affirmative, but the general terms in which the replies are expressed preclude the deduction of any useful conclusions.

XIV. — Cases in which forced or compulsory labour should not be employed (Questions 27 and 28)

These questions relate to forced or compulsory labour exacted under "collective punishment laws" and to the employment of forced or compulsory labour underground. The replies are almost unanimously favourable. The Belgian Government, however, would permit reasonable forced or compulsory labour to be imposed as a collective punishment in the case of local public works which would benefit the community condemned to do the work. As regards work underground, the Spanish Government would exclude work on the construction of tunnels, subject to proper safeguards.

As the form of labour as a collective punishment which the Belgian Government would permit is probably the most usual one — it is usually a village which is so punished — it appears to the Office that to accept the amendment would destroy most of the force of the prohibition. As regards the Spanish Government's observation, the Office has understood the question to refer only to underground work in mines.

XV. — A permanent Committee (Question 29)

None of the Governments most directly concerned returns a completely affirmative answer to this question. The British Government would be prepared to agree to a permanent advisory committee similar to the existing temporary Committee of Experts on Native Labour; it would not agree to powers of supervision and control being given to such a committee. The Netherlands Government considers that it would be useful to set up a
committee of experts to examine the annual reports rendered under Article 408 of the Treaty of Versailles. The Spanish Government could only accept a permanent committee for the technical study of the various problems raised by forced or compulsory labour, and provided that such a committee had no powers of supervision. The Governments of South Africa, Belgium, France, India¹ and Portugal reply in the negative.

It does not appear to the Office to be necessary to submit any proposals on this point to the Conference. As the British and Netherlands Governments, which are favourable to a committee, point out, it would not in any case be necessary to provide for such a committee in the proposed Draft Convention. It may further be recalled that a Committee of Experts already exists for the examination of annual reports on ratified Conventions which are rendered under Article 408 of the Treaty. Annual reports on a Convention concerning forced or compulsory labour would in the ordinary course of events be referred to this Committee. As the Committee is appointed by the Governing Body of the International Labour Office, it would be possible, if the Governing Body deemed it advisable, to add experts on questions of native labour to the Committee for the purpose of the examination of the annual reports on such a Convention as the one under consideration by the Conference this year. This procedure would have advantages, as the Committee of Experts on Article 408 has, in any case, to consider the information contained in the annual reports on the application of other Conventions to colonies, protectorates and possessions which are not self-governing under the terms of Article 421 of the Treaty. Finally, it should be noted that this Committee is not permanent, but is tacitly renewed from year to year.

On the other hand, it would be possible to refer the annual reports to the existing Committee of Experts on Native Labour, if the Conference or the Governing Body preferred this procedure. In any case, if the Governing Body so decided, it would be appropriate to refer to this Committee the study of other problems created by forced or compulsory labour.

¹ Cf. footnote, ante, p. 14.
B. — Proposed Recommendations

The object of three of the Recommendations suggested in the Questionnaire (Nos. I, II and VI) was to provide further safeguards against indirect compulsion to labour, while the other three (Nos. III, IV and V) were intended to cover principles for the regulation of forced or compulsory labour which were not considered suitable for inclusion in the proposed Draft Convention.

As a number of Governments have made observations relating to aspects of several of the Recommendations, it will be convenient to consider these observations before passing to deal with each Recommendation in turn. In the first place, the South African Government, while in agreement with the principles set out in this section of the Questionnaire, is of opinion that many of the questions deal with economic issues which are not germane to the main question and require more consideration than it is possible to give with the information which is available. This Government is therefore of opinion that consideration of these questions should be postponed (a) until further information as to the experience of other countries has been collected and co-ordinated, (b) until the effect of the adoption of the principles proposed to be inserted in the Draft Convention can be studied. The French Government considers that the series of Recommendations grouped above as providing for further safeguards against indirect compulsion (Nos. I, II and VI) do not come within the general scope of the regulation of forced or compulsory labour. The Netherlands Government considers that the questions in No. I relate to general problems of colonial policy and not to labour problems; it abstains from replying to the question under No. I and only answers the other questions in so far as they are not open to similar objections. The Portuguese Government also is of opinion that the matters dealt with in the proposed Recommendations are matters of colonial policy.

In considering the objections made to some of the proposed Recommendations on the ground that they deal with matters of general colonial policy, it should be noted
that they do not deal with questions of colonial policy as such but only with the bearing of those questions on labour problems. It is not only in colonial territories that questions of economic and social policy arise in relation to labour problems, and it will be within the recollection of Delegates to the Conference that the need for thorough examination of the possible social and economic repercussions of proposed measures of international labour legislation has frequently been urged during the Conference's discussions. The converse is also obviously true: proposed measures of a primarily social or economic character should be examined in relation to their possible repercussions on labour. The Conference has not hesitated in the past to make recommendations concerning matters which would, strictly speaking, be regarded as aspects of economic policy: to take only one example, the Washington Conference recommended that public works programmes should be adapted to the unemployment situation. In the case of colonial territories, where the labour problem in one or other of its aspects is perhaps the most important problem with which administrations have to deal, it is clearly impossible, if anything is to be done at all for the native worker, to avoid touching some phases of colonial policy. The Portuguese Government has drawn the logical conclusion from the theory that no reference must be made to questions of general colonial policy in its opposition to any Convention or Recommendations relating to forced or compulsory labour. Nevertheless, the Office is of opinion that the Recommendations should be so drafted as to make their relation to the problem of forced or compulsory labour as clear as possible and in regard to Nos. II and VI it will propose drafts on the lines suggested by the Belgian Government. The proposal of the South African Government to postpone consideration of the points raised in this part of the Questionnaire will perhaps have less application to the Recommendations which the Office will propose.

I. — The objections to this proposed Recommendation have been considered above in connection with the general observations of some Governments. It appears to the Office that the principles here suggested are of great importance if progress is to be made towards the
PROPOSED RECOMMENDATIONS

generally accepted ideal of the suppression of forced or compulsory labour. This was the view taken by the Committee of Experts on Native Labour, and it was on the initiative of members of that Committee that Chapter VII of the Grey Report laid down the following fundamental principle:

"The general policy of an Administration should be based, so far as the economic development of a country is concerned, upon considerations of the amount of labour available, the capacities for work of the population, and the evil effects which too sudden changes in their working habits may have on their social conditions."

It was realised that this principle of fundamental importance was not suitable for inclusion in a proposed Draft Convention, but the Office thinks that it is a necessary complement to such a Convention and should find its place in a Recommendation of the Conference.

II. — A suggestion is made by the Belgian Government for drafting this Recommendation in a form which would draw attention to the undesirability of the indirect means of compulsion to wage-earning employment enumerated in the question. The Office proposes to draft the Recommendation on these lines.

III, IV and V. — The proposals in these questions are accepted by all Governments except that of Portugal. There should be no difficulty in adopting them in the text of a Recommendation.

VI. — The idea underlying this proposed Recommendation appears to have been the undesirability of such restrictions on the voluntary flow of labour from one form of employment to another or from one district to another as might constitute indirect compulsion on natives to take employment in particular industries or districts. This idea is not, however, clearly expressed in the question, and it is natural that Governments should have made reservations in their replies regarding the
need for safeguarding their liberty to impose restrictions on the movement of workers within the territories under their administration and on emigration and immigration where they consider such restrictions to be in the interest of the population and the workers concerned. The draft to be proposed will endeavour to meet these objections.
CONCLUSIONS AND TEXTS OF A PROPOSED DRAFT CONVENTION AND TWO DRAFT RECOMMENDATIONS

The proposed Draft Convention concerning forced or compulsory labour, which the Office, on the basis of the replies of the Governments, feels justified in submitting to the Conference, provides in the first place for a general undertaking to suppress forced or compulsory labour in all its forms. As, however, the replies show that the Governments consider that forced or compulsory labour can only be suppressed immediately, or in the near future, in the case of certain forms of such labour, the draft proceeds to specify these forms and to lay down the principles which should limit and regulate the use of other forms of forced or compulsory labour during the period of transition to the exclusive employment of voluntary labour. The draft Recommendations are designed to supplement the proposed Convention and deal respectively with the principles which it would be desirable to apply in order to prevent indirect compulsion to labour, and with certain principles and rules relating to the regulation of forced or compulsory labour which it may not be expedient to include in the Convention itself.

The detailed structure of the proposed Draft Convention results from the general conception of its purposes above mentioned. The general undertaking to suppress forced or compulsory labour in all its forms finds expression in the first Article. The next Article defines the term "forced or compulsory labour" and enumerates the exceptions to the definition. An Article defining the "competent authority" for the purposes of the Convention is followed by Articles dealing with the exceptions to the field of application of the Convention and with the forms of forced or compulsory labour, the
more immediate suppression of which is contemplated. Then begins the series of Articles relating more particularly to the limitation and regulation of the use of forced or compulsory labour. These Articles deal in turn with the responsibility of the competent authority and the delegation of powers to subordinate authorities to have recourse to forced or compulsory labour, the conditions which should generally be satisfied before such labour is resorted to, the conditions to be satisfied in the special cases of labour as a tax or in lieu of a tax and of labour for chiefs who exercise administrative powers, the persons who may be taken for forced or compulsory labour, its duration, hours of work, wages, compensation, habituation to labour, special conditions for work of long duration and special provisions relating to transport of persons or goods. A further Article deals with the question of compulsory cultivation. Finally, there are Articles dealing with the communication of information concerning the application of the Convention, the issue of regulations, inspection and penalties. After the Articles relating to the subject matter of the Convention will be found two draft Articles concerning the conditions of application of the Convention; their purpose will be explained in the commentary on the Articles below.

The principal differences between the draft for a Convention submitted in this Report and any draft which might have been made on the basis of the Questionnaire alone concern the exceptions to the definition of forced or compulsory labour, the powers of subordinate authorities, the treatment of labour for chiefs, and the question of compulsory cultivation. The reasons for these differences have been fully explained in Chapter II. Briefly, it is evident from the replies of the Governments that it is necessary to make it quite clear that the definition of forced or compulsory labour is not intended to cover certain services which it might otherwise appear to include; the Governments are not prepared to go as far as the Questionnaire in restricting the powers of subordinate authorities, and it is therefore necessary to specify these powers; it is necessary to distinguish between different forms of labour for chiefs, some of which are labour for public purposes, and to provide for regulations accordingly; and the general sense of the replies appears
to make it necessary to widen the possibilities of compulsory cultivation. In addition to these main differences, a few changes have been made in the grouping of the provisions.

The proposals in the Questionnaire for the adoption of Recommendations are included in two texts concerning respectively indirect compulsion to labour and the regulation of forced or compulsory labour. In the first of these Recommendations are included the proposals in Questions I, II and VI. The second Recommendation contains the proposals of Questions III, IV and V, together with the suggestion made in paragraph (b) of Question 13 in part A of the Questionnaire for making legislative texts and regulations known to the populations concerned.

The points of difficulty raised in the replies of the Governments to the Questionnaire have been considered at length in Chapter II. It is proposed, therefore, to confine the following commentary on the texts submitted to the Conference to a short explanation, Article by Article, of the contents of each clause.

Commentary on the proposed Draft Convention.

General undertaking.

Article 1. — Although it is not considered possible to achieve the complete suppression of forced or compulsory labour in all its forms within any period which can be fixed, it is generally agreed that this labour should be ultimately abolished. Article 1, therefore, provides for a definite undertaking by each Member of the International Labour Organisation which ratifies the Convention that forced or compulsory labour shall be suppressed.

This is a very important undertaking. As qualified by the saving clause it does not bind Members to do anything more, as an immediate result of their ratification, than what is provided for in subsequent Articles, but it places forced or compulsory labour as defined in Article 2 outside the sphere of labour forms which can be recognised internationally and presupposes that Members will shape their policy with a view to realising the complete suppression of such labour at the earliest possible moment.
Definition and exceptions to definition.

Article 2. — For the reasons set out in Chapter II the Office has retained the definition of forced or compulsory labour proposed in the Questionnaire. It is given in this Article, together with three exceptions to the definition.

The first of these exceptions, paragraph (a), concerns labour exacted under compulsory military service laws. Soldiers, to whatever arm of the service they may belong, are constrained in the execution of their military duty to do work of various kinds. It is to this work that the exception proper refers. But when men called up under compulsory military service laws are required, otherwise than in cases of emergency, to do work which has not a military purpose, the situation is different. There appears to be no essential characteristic distinguishing labour imposed under such conditions from any other form of forced or compulsory labour of long duration. The clause, therefore, contains a proviso that, where it is desired to employ labour exacted under compulsory military service laws for the execution of public works, the authorisation to employ such labour in this way should be given by a law of the metropolitan country, the provisions of the proposed Convention which limit and regulate the use of forced or compulsory labour should apply to such labour, the maximum period of service under such conditions should not exceed twelve months, and persons taken for such labour should not be called upon in the future for any forced or compulsory labour.

The exception contained in paragraph (b) has been inserted to make it clear that the term "forced or compulsory labour" is not intended to apply to those civic services which the citizens of European countries, for example, can be required to render. The replies of several Governments (e.g. that of Switzerland) illustrate the kinds of services to which the exception would apply.

The third exception, paragraph (c), is intended to exclude prison labour from the scope of the definition. There have been, however, cases where prisoners have been compelled to labour for private employers. It is not considered that this form of labour should be excluded and,
accordingly, words have been inserted in the text with the object of preventing the exception from applying to such cases.

Definition of "competent authority".

Article 3. — In many of the Articles of the Convention reference is made to "the competent authority." It appears necessary, therefore, to define this expression at this point, and, for the reasons given in Chapter II, the term is stated to mean an authority of the metropolitan country or the highest central authority in the territory concerned. Mention was made in reviewing the replies to Question 6 of a difficulty raised by the Government of India in regard to this definition. No special clause has been inserted in the draft to meet this difficulty, because it appears to the Office that there can be little doubt that, for the purpose of this Article, an authority of the Government of India would be a metropolitan authority, and provincial authorities would be the highest central authorities in the territories concerned.

Exceptions to the field of application.

Article 4. — In addition to the exceptions from the definition of forced or compulsory labour, there are certain forms of labour, which are undoubtedly forced or compulsory within the meaning of the definition, but which it is considered desirable to except from the field of application.

The first of these forms is forced or compulsory labour in times of emergency. Paragraph (a) of this Article provides for the complete exception of cases of emergency from the application of the Convention, and defines "cases of emergency." The enumeration of circumstances, which would constitute an occurrence endangering the existence or the well-being of the population within the meaning of the paragraph, is not exhaustive, as the use of the words "such as" indicates. The words "internal disorder" would, it is thought, cover
the circumstances to which the Governments of Belgium and India drew attention in their replies to Question 4.

Paragraph (b) excepts minor communal services of a traditional and customary kind. Such services consist mainly of work connected with sanitation and the clearing and upkeep of tracks round the village. In any event, they are of a communal nature, a characteristic it has been sought to emphasise in the wording of the paragraph.

**Forced or compulsory labour for private employers.**

*Article 5.* — This Article develops and completes the obligation already entered into by States which have ratified the Slavery Convention to put an end to forced or compulsory labour for private employers. It provides that there shall be no new imposition of such labour, and that, where such labour still exists at the date of the ratification of the Convention by a Member State, it shall be completely suppressed within a period of three years from that date. Apart from the special difficulty raised by the Netherlands Government, a difficulty which the Conference might, if necessary, meet by inserting a special clause, there would appear to be no reason why this provision should not be accepted. Forced or compulsory labour for private employers has been universally condemned. Among the first to condemn it at the 1929 Conference was the Employers’ Group, which, through the mouth of its authorised representatives, said: “It will be the honour of the Employers’ Group to have declared, before this high assembly, that it is unanimous in affirming that forced labour for the benefit of private undertakings and individuals must be formally proscribed”. If there is any criticism to be made of the Office’s proposal on this point, therefore, it would appear to be that the period of three years is too long.

The final paragraph of the Article may need a word of explanation. The question is raised in several of the replies of the Governments whether the suppression of forced or compulsory labour in the employment of individuals, companies or other entities when they are acting as the agents of the competent authority was
intended. A typical case would be the construction of a railway which, instead of being undertaken by the public works department of a territory, was placed in the hands of a contractor. The Office does not think that the suppression of forced or compulsory labour in such cases was intended by the 1929 Conference, although it may be noted that it is proposed by the British Government. The Office has, therefore, inserted the paragraph in question so that the point may be definitely decided.

Forced or compulsory labour in concessions.

Article 6.—The subject matter of this Article was discussed at length in Chapter II and no further comment appears necessary. The suppression of the forced or compulsory labour here considered should follow as a consequence of the adoption of Article 5. Nevertheless, the labour which may be called for by concessionnaire companies is not directly employed and might be held not to fall strictly within the terms of Article 5; it is therefore desirable that it should be specifically dealt with. The present Article is inserted for this purpose.

Compulsion by officials.

Article 7.—This Article includes the provisions suggested in Question 10, which were generally approved by the Governments. While implicitly recognising the duty of officials to encourage the populations under their charge to engage in some form of labour, the Article provides that they should not use compulsion in favour of private employers.

Forced or compulsory labour for chiefs in their personal capacity.

Article 8.—The forms of forced or compulsory labour for chiefs referred to in the first paragraph of this Article are as much forced or compulsory labour for private employers as the labour prohibited by Article 5.
The reasons which may temporarily justify the continuance of the authority of chiefs who exercise administrative functions to call for forced or compulsory labour in the form of personal services or for local public works — i.e. that the work or service is in each case rendered to the chief in his capacity as a public authority — do not exist in regard to chiefs who have become private individuals nor in regard to chiefs exercising administrative functions when the labour is to be performed for their personal advantage. These forms of forced or compulsory labour should, therefore, be suppressed in the same way as such labour for private employers.

Forced or compulsory labour in the form of personal services rendered to a chief who exercises public authority is the subject of the second paragraph of Article 8. For the reasons given in Chapter II in discussing the replies to Question 9, it does not seem feasible either to abolish this form of labour immediately or to subject it to regulations of the same kind as those proposed in succeeding Articles. Three measures are provided for in Article 8 in regard to this labour: that it be restricted as much as possible, that it be commuted for money payments as soon as possible, and that all practicable steps be taken to prevent abuses.

Undertaking to limit and regulate forced or compulsory labour for public purposes.

Article 9. — The present Article begins the series of Articles which lay down the limitations and regulations to be applied to the various forms of forced or compulsory labour for public purposes during the undefined period of transition to the exclusive employment of voluntary labour. Consequently, the Article provides for a subsidiary undertaking on the part of Member States which ratify the Convention that they will, until the complete suppression of forced or compulsory labour in all its forms is realised, limit and regulate any such labour which may still be employed in accordance with the succeeding Articles.
Powers of competent authority and subordinate authorities.

Article 10. — The intention of this Article is to fix the responsibility of the competent authority and to delimit the powers of subordinate authorities. It is evident that the responsibility for the existence of the continued possibility of having recourse to forced or compulsory labour rests with the metropolitan country or the highest central authorities in the territory, for the powers of subordinate authorities are only delegated. But the Article also proposes that the decision in specific cases to resort to forced or compulsory labour should rest with the competent authority whenever the work on which the labour is to be employed makes it necessary for the workers to sleep away from their homes, except that subordinate authorities may demand such labour for defined transport purposes. Otherwise, subordinate authorities, it is proposed, should only be permitted to exact labour which does not involve the workers sleeping away from their homes.

The reasons for these proposals were discussed in Chapter II in connection with Question 9. The Questionnaire had proposed to abolish the powers of subordinate authorities, and had therefore not proposed a line of demarcation either between the powers of the competent authority and subordinate authorities, or between labour for general public purposes and labour for local public purposes. The effect of the Office's proposals is to make the circumstance that the workers can or cannot return to their homes at night the criterion both for distinguishing between the powers of subordinate authorities and the competent authority and for distinguishing between labour for local and general public purposes.

General criteria to be satisfied before recourse is had to forced or compulsory labour.

Article 11. — This Article embodies without modification the criteria that the Questionnaire proposed should be satisfied before the competent authority takes a decision in specific cases to resort to forced or compulsory labour. In the present draft, these criteria
would also have to be satisfied in the case of a decision by a subordinate authority exercising powers delegated in virtue of Article 10, second paragraph. Different criteria are, however, provided for in Article 12 in the case of labour as an equivalent to or a substitute for a tax and labour demanded by chiefs exercising administrative functions.

*Forced or compulsory labour as a tax or in lieu of a tax and forced or compulsory labour exacted by chiefs.*

**Article 12.** — The provisions of this Article were discussed in detail in Chapter II in connection with the replies to Questions 9 and 12, and reference should be made to that part of this Report for the reasons which have led the Office to propose the assimilation, for the purposes of the Convention, of labour as an equivalent to or a substitute for a tax and labour exacted by chiefs who exercise administrative functions.

The Questionnaire had proposed to abolish both these kinds of labour as soon as possible. Pending abolition, the use of taxation labour was to be subject to the satisfaction of criteria differing from those enumerated in Article 11 mainly by the omission of the stipulation regarding the previous attempt to obtain voluntary labour and the addition of a provision that the workers should remain in the neighbourhood of their homes; in other respects, such labour was to be regulated in the same way as other forced or compulsory labour for public purposes. On the other hand, labour for chiefs was to be regulated, pending abolition, in every respect in the same way as other labour, and to be subject to the same conditions. In view of the replies of the Governments, however, it has not appeared possible to maintain these proposals.

In seeking a draft which would take account both of the views of the Governments and as far as possible of the intentions of the 1929 Conference, the Office was led by the similarity of the two forms of labour under consideration to examine the possibility of their assimilation for the purposes of the Convention. These forms of labour are both employed for local purposes; both are in
the nature of taxation, the one of a statutory, the other of a customary kind; the suppression of both forms depends upon the possibility of commutation for money payments; finally, in some cases, they are both designated by the word "prestations". The only difference the Office has noted is that in some cases labour as an equivalent to or a substitute for a tax is directly imposed by a non-native authority. As a result of the replies of the Governments, however, it appeared necessary to treat these forms of labour similarly in another very important respect, i.e. to omit the requirement of the direct payment of wages.

The Office has abandoned this requirement with great misgiving. Many authorities are of opinion that nothing is more important in the process of educating backward peoples to the cheerful and willing acceptance of voluntary labour than the direct payment of wages. As Lord Lugard has written: "The first and most important of all conditions to attract free labour is that the wage should be paid in full, without deductions, into the hand of each man, and not through a headman, contractor, or chief, who may find some means of appropriating a part of it. It should be paid in cash — which incidentally stimulates currency — and not in a note divisible among several men, and above all, not in the form of an order on a store." Moreover, as this quotation incidentally points out, the payment of wages in cash stimulates the spread of the use of money, and thereby promotes trade. It is thus an important factor both in economic development and in the social development of primitive peoples.

Some of the reasons given against the payment of wages, and particularly those based on the insufficient extension of the use of money, are links in the chain of a vicious circle. Unless the workers are paid wages and paid in cash they will remain unaccustomed to the use of money. It has been argued with reason that it would be better to pay wages to a worker and take them away again immediately for taxation than not to pay wages at all, provided that the worker was made to understand the nature of the payment. Other reasons against the payment of wages, and particularly the appeal to native law and custom are also open to objection. It may be doubted how far the alleged necessities of indirect rule
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justify derogations from such an important principle as that of the payment of wages. Moreover, it may be recalled that native law and custom would sanction many things contrary to humanity, including slavery.

Nevertheless, it has seemed to the Office that the replies of the Governments left no alternative. The labour provided for in Article 12 is therefore excepted from the application of Article 16 relating to wages. To set off, as far as possible, the disadvantages of the abandonment of the principle of payment of wages in the case of the labour covered by Article 12, it is proposed that the labour should be progressively abolished and replaced by money payments, and that the conditions of recourse to such labour should include the condition that the workers should not sleep away from their homes.

**Persons liable to forced or compulsory labour.**

*Article 13.*—This Article provides that the only persons who may be called upon for forced or compulsory labour are adult able-bodied males who are apparently 18 years of age or older. It adds certain limitations and conditions suggested in Question 16 of the Questionnaire. One of the limitations—exemption for persons already bound by a contract of employment—is omitted for the reasons given in Chapter II in discussing the replies to Question 16. Further, the labour covered by Article 12 is excepted from the conditions and limitations, as it does not appear that such conditions and limitations were intended to apply or could be fully applied in the case of local labour. An exception to paragraph (a) is also provided in the case of forced or compulsory labour for the transport of persons or goods, as special provisions relating to this form of labour are contained in Article 20.

No special comment is necessary on the last paragraph of Article 13. The replies of the Governments showed that no proportion of general application could be fixed in the Convention, and indicated the factors which should be taken into account by the competent authority in fixing the proportion in each territory or region.
Duration of forced or compulsory labour.

Article 14. — The question of the duration of forced or compulsory labour, which is dealt with in this Article, is one of the most important in the Convention. The system suggested in the Questionnaire was a normal maximum limitation of 60 days in any period of twelve months, with the possibility, in exceptional cases, of extending the period to six months in any period of twenty-four months. It was further provided that if any person was called upon to work for a second period of six months in the next following period of twenty-four months, there should be an interval of at least three months between the two periods of service. Finally, it was suggested that any person who was called upon to serve a longer period than the normal maximum of 60 days, or any lower maximum fixed by national legislation, should be exempt from further service for a number of years equal to the number of times the normal maximum which he had served. This system has been approved by a number of Governments. One Government, however, would provide that in no case should the maximum of 60 days in any one year be exceeded, while other Governments would not lay down any specific maxima in the Convention.

It has been explained in discussing the replies to Question 18 why the Office considers that it is essential to provide both for a normal maximum and for an exceptional maximum in the Convention. The Article, therefore, provides in its first paragraph that the normal maximum period for forced or compulsory labour of all kinds — thus including the labour provided for in Article 12 — shall not exceed 60 days in any one period of twelve months. In this respect the proposals of the Questionnaire have been followed. The provisions relating to exceptional cases, however, have been simplified. Not only were the suggestions of the Questionnaire somewhat complicated arithmetically, but they were also not quite consistent. The second paragraph of Article 14 provides, therefore, that in very exceptional cases an exceptional maximum, which should in no case exceed six months in any one period of thirty-six months, may be fixed. The decision to
have recourse to forced or compulsory labour in such cases should, however, only be taken and the maximum fixed by the metropolitan authority. The effect of these provisions is to make it possible, in such exceptional cases, to cumulate three annual periods of sixty days in one period.

**Hours of Work.**

_Article 15._ — This Article reproduces the text proposed in Question 20 of the Questionnaire. The hours of work of forced or compulsory labour for the transport of persons or goods are dealt with in Article 20.

**Wages.**

_Article 16._ — The exception for the labour provided for in Article 12 has been explained in connection with that Article. Otherwise, the only change from the wording of Question 22 has been made in the last paragraph. Question 22 (d) referred to “special food, clothing and accommodation supplied to the worker for the purpose of maintaining the worker in condition to carry on his work”. In explaining the reasons why it was considered that no deductions from wages should be made for such special food, clothing and accommodation, the Grey Report (page 270) added: “the utmost allowable would be the deduction of such expenditure on these objects as the worker would have been obliged to make, in any case, when left at home”. The phrase in the question does not, therefore, appear to have been intended to cover deductions for ordinary food, and, as the matter has been raised in the replies, the proviso in the last paragraph of the Article has been added. While the idea of deductions from wages even for this purpose is not a welcome one, there is much force in the reference in one of the replies to the danger of underfeeding, one of the great evils of backward territories.
Workmen's compensation.

Article 17. — The simplified form in which the proposals of the Questionnaire regarding workmen's compensation for accidents or sickness are presented in this Article has been explained in Chapter II. The Article maintains the principle that forced or compulsory labour should be covered by the same laws, if any, as voluntary workers. It further provides that it shall in any case be an obligation on the competent authority or any other authority employing such labour to ensure the subsistence of the workers in case of accident or sickness and to ensure the maintenance of the dependants of incapacitated or deceased workers.

Habituation.

Article 18. — This Article embodies without change the special provisions suggested in Question 19 regarding the transfer of workers to districts where the conditions of climate and diet are different from those to which they are accustomed, and regarding habituation to unaccustomed forms of labour. These provisions are very important. For peoples whose physical powers of resistance are relatively slight, small changes of altitude, climate and diet have serious consequences. The Article does no more than indicate the general principles which should underlie the measures to be taken by the administrations concerned. In a number of cases these measures already exist. Reference may be made, for example, to the regulations communicated by the French Government and reproduced in Chapter I, which illustrate the purposes of this Article.

Forced or compulsory labour of long duration.

Article 19. — With slight modifications in drafting, this Article contains the special provisions for work of long duration proposed in Question 24 of the Questionnaire. They call for no comment. Like the special measures proposed in Article 18 they are in the form of
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general principles, which it is implicitly left to the competent authority to develop in the necessary regulations.

Forced or compulsory labour for transport of persons or goods.

Article 20. — The first paragraph of this Article reproduces the special provisions relating to forced or compulsory labour for the transport of persons or goods, ordinarily referred to as porterage, which were suggested in Question 25. As explained in Chapter II, it appears difficult to fix maxima of general application in regard to the loads porters should be called upon to carry the length of the journey and the number of days of forced porterage per month or other period. The draft therefore proposes to leave these matters to the competent authority, and confines itself in the second paragraph to suggesting some of the factors which should be taken into account in fixing such maxima. Finally, the third paragraph provides for the limitation of the hours of work of forced porters in the manner suggested in Question 21.

Compulsory cultivation.

Article 21. — Reference was made in Chapter II to the importance and difficulty of the question of compulsory cultivation, and the various aspects of the problem were discussed in that Chapter in connection with Question 26. Article 21 embodies the conclusions of that discussion. The first paragraph lays down the principle that compulsory cultivation should only be resorted to as a measure of precaution against famine or a deficiency of food supplies. The second paragraph nevertheless allows compulsory cultivation as a measure of agricultural education in exceptional cases and enumerates various safeguards. The third paragraph excepts production organised on a communal basis where the work is done by members of the community for the good of the community.
Collective punishment laws and work underground.

Articles 22 and 23. — These Articles deal with the prohibitions of two forms of forced or compulsory labour suggested in Questions 27 and 28.

Information to be contained in annual reports under Article 408.

Article 24. — This Article provides that certain information should be contained in the annual reports which Member States ratifying the Convention will be under an obligation to render in virtue of Article 408 of the Treaty of Versailles. Information of this kind would be very valuable, not only in order to enable other States which ratify the Convention to appreciate the manner in which the Convention is being applied, but also for the purpose of the compilation of material which would serve as a basis for the further study of the problems of forced or compulsory labour.

Issue of regulations.

Article 25. — Question 13 of the Questionnaire suggested three things: (a) the issue of regulations governing forced or compulsory labour which should also provide for the compiling and recording of statistics concerning it; (b) measures for making known such regulations and other laws or orders concerning forced or compulsory labour; (c) a procedure for submitting and negotiating about complaints. For reasons given in Chapter II, Article 24 has been inserted in the place of the requirement that statistics should be compiled and recorded, and the provisions dealing with the making known of regulations have been inserted in the Recommendation concerning the regulation of forced or compulsory labour. Article 25, therefore, contains in its first paragraph the obligation to issue regulations in accordance with the provisions of the Convention, and in its second paragraph the obligation to include in these regulations a definite procedure for dealing with complaints.
Inspection.

Article 26. — Serious objections were raised in some of the replies to Question 14 to the assumption of a definite obligation to extend existing inspection services to the inspection of forced or compulsory labour. The Article, therefore, provides that adequate measures should always be taken to ensure the strict application of regulations, but only mentions the extension of the duties of existing labour inspectorates as an example of the means which might suitably be employed.

Penalties.

Article 27. — This Article is a logical consequence of the undertakings laid down by other Articles of the Convention. All forms of forced or compulsory labour are to be suppressed, some within a short time, others at the end of an indefinite period of transition during which their employment is to be strictly regulated. Any illegal use of forced or compulsory labour should be severely punished — the obligation to secure such punishment is contained in this Article.

Geographical field of application of the Convention: Application of Article 421.

Reference was made at the beginning of this Chapter to two Articles of the draft which do not deal with the subject matter of the Convention, but with its application; they should, the Office proposes, be inserted among the "standard" Articles of the Convention. They are here called Articles Y and Z.

Article Y. — The text of this Article is based upon the wording of Article 2 of the Slavery Convention. Its first purpose is to make it clear that the geographical field of application of the Convention is the same as that of the Slavery Convention — that this field covers all territories for which the Member State ratifying the Convention has assumed international responsibility, including territories
under mandate in accordance with Article 22 of the Covenant of the League of Nations. This Article also enables a Member State, which does not desire to avail itself of the facilities of Article 421 in the manner provided for in the following Article Z, to agree to apply the Convention without reserves and modifications, and it would not be necessary for the State concerned to make any express declaration to this effect. In other words, unless a declaration is made in the manner provided for in Article Z, the Convention would apply, in virtue of Article Y, in its entirety to all the territories of a ratifying State.

Article Z.—The second of the two Articles embodies in a slightly different form the suggestions made by the British Government in regard to Article 421 of the Treaty of Versailles. The reasons why the Office thinks that these suggestions should be accepted have been explained in Chapter II in connection with the replies to Question 2. It will be sufficient here, therefore, to give a short explanation of the manner in which the Office thinks this Article would work.

In the first place Article Z is so drafted that it leaves it open to any Member State ratifying the Convention not to avail itself of the reserves and modifications provided for in Article 421 of the Treaty of Versailles. In such a case only Article Y applies and the declaration provided for in Article Z would not be made at the time of ratification. Secondly, Article Z provides that a Member State which desires to avail itself of the facilities recognised by Article 421 should append to its ratification a declaration which should be considered to be an integral part of that ratification and have the same force. The declaration should state: (1) the territories to which the Convention is to be completely applied, (2) the territories to which the Convention is to be applied with modifications and the nature of the modifications, (3) the territories in respect of which the Member reserves its decision. Finally, Article Z provides that a Member may, at any time, withdraw any reservation made at the time of ratification; in other words, it would always be open to a Member by a subsequent declaration to include within its
ratification additional areas or to cancel modifications previously declared.

The Office considers that these two Articles meet the preoccupations expressed at the 1929 Session of the Conference. They allow for what was perhaps somewhat loosely called the "suspension" of Article 421 by such States Members as decide not to have recourse to it, and they define the method and effect of its application in cases in which it is employed. It is clear that no disposition of the Draft Convention adopted by the Conference can result in the application of the Convention. It is the ratification of the Convention which creates the obligations of the States. Even if it had been possible to provide that ratification of the Convention should in all cases create an obligation to apply it without modification to all the colonies of the Member concerned, which is doubtful in view of the terms of Article 421, such a provision might have been an obstacle to general ratification and application. It would have meant that a State could not ratify unless it was prepared to apply the Convention without modification to all its colonies. If the application of the Convention to one colony were difficult or involved delay, the other colonies could not be brought under the Convention.

Articles Y and Z appear to remove the various difficulties that have arisen, and will, it is hoped, lead to the immediate ratification of the Convention and progressively to the extension of its application. The further hope may be expressed that States, which are not confronted with the practical difficulties that Article Z is specially drafted to meet, will find it possible to ratify the Convention without making use of the provisions of Article Z.

Draft Recommendation concerning indirect compulsion to labour.

The purpose of this Recommendation as drafted is to suggest principles which appear to be of a nature to prevent indirect compulsion to labour which would be excessive in the given conditions of any territory.
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Obviously, there is always indirect compulsion to labour normally exerted by economic forces; it is not to this indirect compulsion that the Recommendation refers. But the economic development of backward countries is liable at times to be very rapid and to create sudden and abnormal pressure on populations to engage in forms of labour which involve radical changes in their habits of life. Experience has shown that such sudden and radical changes have been attended by many evils leading to the disintegration of native society and to depopulation. Further, the indirect pressure of economic development has in some cases been artificially increased by taxation and restrictions of various kinds.

The first part of the Recommendation therefore suggests that the possible effects on the population concerned should be taken into account in deciding upon measures for the economic development of primitive territories. In the second part are enumerated some of the means of artificially increasing the pressure to seek wage-earning employment which it would be desirable to avoid. In the third part reference is made to a form of indirect compulsion affecting particular industries or districts.

Draft Recommendation concerning the regulation of forced or compulsory labour.

This Recommendation is self-explanatory. It contains a number of suggestions which are complementary to the rules governing the use of forced or compulsory labour which are laid down in the text of the proposed Draft Convention.
PROPOSED DRAFT CONVENTION CONCERNING FORCED OR COMPULSORY LABOUR

Article 1

Each Member of the International Labour Organisation which ratifies the present Convention undertakes to suppress the use of forced or compulsory labour in all its forms.

Nevertheless, recourse may be had to forced or compulsory labour for public purposes during a transitional period and as an exceptional measure in the conditions and subject to the guarantees hereinafter provided.

Article 2

For the purposes of the present Convention the term "forced or compulsory labour" shall mean all work or service which is exacted from any person under the menace of any penalty for its non-performance and for which the said person does not offer himself voluntarily.

Nevertheless, the term "forced or compulsory labour" shall not include, for the purposes of the present Convention:

(a) any work or service exacted in virtue of compulsory military service laws, provided that, where it is desired to employ labour exacted in virtue of compulsory military service laws for the execution of public works, it shall be necessary, except in cases of emergency as defined in Article 4 of the present Convention, (1) that the decision to employ such labour for such purposes shall be taken by the legislative authority of the metropolitan country, (2) that, with the exception of the provisions of Article 14, the provisions of the present Convention relating to the limitation and regulation of the use of forced or compulsory labour shall be applied, (3) that the maximum period for which such labour
may be employed shall not exceed twelve months, and
(4) that any person from whom such labour is exacted
shall thereafter be exempt from all forced or compulsory
labour;

(b) any work or service of a kind which, by law
or custom, may be demanded from the citizens of a
self-governing country as a part of their normal civic
obligations;

(c) any work or service exacted from any person
as a consequence of a conviction in a court of law for
a punishable offence, provided that the said work or
service is carried out under the supervision and control
of a public authority and that the said person is not
hired to private individuals.

Article 3

For the purposes of the present Convention the term
"competent authority" shall mean either an authority
of the metropolitan country or the highest central
authority in the territory concerned.

Article 4

The present Convention shall not apply to the
following forms of forced or compulsory labour:

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

(b) minor village services of a kind which, being
traditional and customary amongst the members of any
community, and being performed by the members
of the community in the direct interest of the said
community, are therefore a part of the normal civic
obligations incumbent upon the members of the
community.
Article 5

The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies, or other entities than the community. Where such forced or compulsory labour for the benefit of private individuals, companies, or other entities than the community exists at the date on which a Member's ratification of the present Convention is registered by the Secretary-General of the League of Nations, such forced or compulsory labour shall be completely suppressed within a period of three years from the said date of registration of ratification.

The provisions of the present Article shall not apply to forced or compulsory labour for the benefit of private individuals, companies or other entities when such individuals, companies or other entities are acting as contractors for the execution of public works duly authorised by the competent authority and under its supervision, provided that in all such cases the provisions of the present Convention relating to such labour imposed by the competent authority shall apply.

Article 6

No concessions granted to private individuals, companies or other entities shall permit any form of forced or compulsory labour for the production or the collection of the products which such private individuals, companies or other entities utilise or in which they trade. Where such existing concessions are due for renewal, no provisions permitting such forced or compulsory labour shall be included in the instrument of the renewed concession. Where such existing concessions are not due for renewal, every effort shall be made to secure, as early as possible, the abrogation of provisions permitting such forced or compulsory labour.

Article 7

The competent authority shall not permit officials of the administration, in the exercise of their duty of
encouraging the populations under their charge to engage in some form of labour, to put constraint upon the said populations or upon any individual members thereof to work for private individuals, companies or other entities than the community.

Article 8

The competent authority shall not permit any imposition of forced or compulsory labour by chiefs who do not exercise administrative functions, nor shall the competent authority permit the imposition of forced or compulsory labour by chiefs who exercise administrative functions for the cultivation of products for sale for the personal advantage of the chief.

Where forced or compulsory labour takes the form of personal services rendered to chiefs who exercise administrative functions, the competent authority shall restrict such forced or compulsory labour as much as possible, inter alia by directing that such labour shall be employed on public works. The competent authority shall further provide that such forced or compulsory labour shall be commuted as soon as possible for money payments, and shall take all practicable measures to ensure that such forced or compulsory labour, where and as long as it is exacted, shall not be employed for other purposes than for the personal services for which its continued employment is permitted by the present Article.

Article 9

Until the suppression of forced or compulsory labour in all its forms, provided for in the first paragraph of Article 1 of the present Convention, shall be made effective, each Member which ratifies the present Convention undertakes that, where recourse is had to forced or compulsory labour for purposes other than those in respect of which provisions are contained in Articles 5, 6, 7, and 8 of the present Convention, it will limit and regulate the use of such forced or compulsory labour in accordance with the provisions of the following Articles.
Article 10

Except as otherwise provided for in the second paragraph of the present Article, the responsibility for every decision to have recourse to forced or compulsory labour which entails the workers sleeping away from their homes shall rest with the competent authority.

The competent authority may delegate powers to subordinate authorities to exact forced or compulsory labour which does not entail the workers sleeping away from their homes. The competent authority may also delegate powers to subordinate authorities to exact forced or compulsory labour, which entails the workers sleeping away from their homes, for the purpose of facilitating the movement of officials of the administration, when on duty, and for the transport of Government stores.

Article 11

Except as otherwise provided for in Article 12, the competent authority, or any subordinate authority to which powers have been delegated to exact forced or compulsory labour, shall, before deciding to have recourse to forced or compulsory labour, ensure:

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;

(b) that the work or the service is of present or imminent necessity;

(c) that it has been found impossible to obtain voluntary labour for carrying out the work or the service by the offer of the rates of wages ruling in the area concerned for similar work or service; and

(d) that the work or service under consideration will not lay upon the present generation of the population concerned too heavy a burden, having regard to the labour available and its capacity to undertake the work.
**Article 12**

Forced or compulsory labour exacted as an equivalent to or a substitute for a tax and forced or compulsory labour exacted by chiefs who exercise administrative functions shall be progressively abolished and replaced, in whole or in part, by money payments.

Meanwhile, where forced or compulsory labour is exacted as an equivalent to or a substitute for a tax, and where forced or compulsory labour is exacted by chiefs who exercise administrative functions, the authority empowered to have recourse to such forced or compulsory labour shall, before deciding to have recourse to such labour, ensure:

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;

(b) that the work or service is of present or imminent necessity;

(c) that the work or service under consideration will not lay upon the present population concerned too heavy a burden having regard to the labour available and its capacity to undertake the work;

(d) that the work or service shall not entail the workers sleeping away from their homes;

(e) that the execution of the work or the rendering of the service shall be directed in accordance with the exigencies of religion, social life and agriculture.

**Article 13**

Only adult able-bodied males of the apparent age of 18 years or more shall be called upon for forced or compulsory labour, subject, except in respect of the labour provided for in Article 12, to the following limitations and conditions:

(a) Prior determination by a medical officer appointed by the competent authority that the persons
concerned are not suffering from any contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out, subject, in the case of forced or compulsory labour for the transport of persons or goods, to the special provisions of Article 20;

(b) Exemptions for school teachers and pupils;

(c) The maintenance in each community of the number of adult able-bodied men indispensable to family and social life;

(d) Respect for conjugal and family ties.

The competent authority shall fix the proportion of the resident adult able-bodied males who may be taken at any one time for such forced or compulsory labour. In regulating this proportion, the competent authority shall take account of the density of the population, of the social and physical development of the people, of the seasons, and of the work which must be done by the persons concerned on their own behalf in their locality, and, generally, shall have regard to the economic necessities of the normal life of the community concerned.

Article 14

The normal maximum period for which any person may be taken for forced or compulsory labour of all kinds shall not exceed sixty days in any one period of twelve months, including the time spent in going to and from the place of work.

In very exceptional cases, where workers have to be brought from a considerable distance from their homes for labour on important public works, a maximum period exceeding the normal maximum period provided for in the first paragraph of the present Article may be fixed, provided that this exceptional maximum period shall in no case exceed six months in any one period of thirty-six months and that in each such case the decision to have recourse to forced or compulsory labour shall be taken and the maximum fixed by the metropolitan authority.
**Article 15**

The normal working hours of any person from whom forced or compulsory labour of any kind, except forced or compulsory labour for the transport of persons or goods, is exacted, shall not exceed eight in the day and forty-eight in the week, and the hours worked in excess of the normal working hours shall be remunerated at rates higher than the rates for the normal working hours.

A weekly day of rest shall be granted to all persons from whom forced or compulsory labour of any kind is exacted and this day shall coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned.

**Article 16**

With the exception of the forced or compulsory labour provided for in Article 12, forced or compulsory labour of all kinds shall be remunerated in cash at rates not less than those ruling for similar kinds of work either in the district in which the labour is employed or in the district from which the labour is recruited, whichever may be the higher.

The wages shall be paid to the workers individually and not to their tribal chiefs or other authorities.

The days necessary for travelling to and from the place of work shall be counted for the purpose of payment as working days.

Deductions from wages shall not be made either for the payment of taxes or for special food, clothing or accommodation supplied to a worker for the purpose of maintaining him in a fit condition to carry on his work, under the special conditions of any employment, nor for the supply of tools, provided that nothing in this paragraph shall prevent ordinary rations being given at cost price as part of wages, such rations to be at least equivalent in value to the money payment they are taken to represent.

**Article 17**

Any laws relating to workmen's compensation for accidents or sickness arising out of the circumstances of
their employment and any laws providing compensation for the dependants of deceased or incapacitated workers which are in existence in the territory concerned at the time the present Convention is ratified by any Member, or which may thereafter be enacted, shall be equally applicable to persons from whom forced or compulsory labour is exacted as to voluntary workers.

In any case it shall be an obligation on the competent authority or any authority employing persons from whom forced or compulsory labour is exacted to ensure their subsistence when an accident or illness renders such workers totally or partially incapable of providing for themselves and to take measures to ensure the maintenance of any persons actually dependent upon an incapacitated or deceased worker.

**Article 18**

Except in cases of special necessity, persons from whom forced or compulsory labour is exacted shall not be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health.

In no case shall the transfer of such workers be permitted unless all necessary measures for their accommodation and for safeguarding their health can be strictly applied.

When such transfer cannot be avoided, measures of gradual habituation to the new conditions of diet and of climate shall be adopted on competent medical advice.

In cases where such workers are required to perform regular work to which they are not accustomed, measures shall be taken to assure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and the increase or amelioration of diet which may be necessary.

**Article 19**

Before permitting recourse to forced or compulsory labour for works of construction and maintenance
which entails the workers remaining at the workplaces for considerable periods, the competent authority shall ensure:

(1) that all necessary measures are taken to safeguard the health of the workers and to guarantee the necessary medical care, and, in particular, (a) that the workers are medically examined before commencing the work and at fixed intervals during the period of service, (b) that there is an adequate medical staff, provided with the dispensaries and hospital accommodation necessary to meet probable eventualities, and (c) that the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils and, where necessary, of housing and clothing, are satisfactory;

(2) that definite arrangements are made to ensure the subsistence of the families of the workers, in particular by facilitating the remittance, by a safe method, of part of the wages to the family at the request of or with the consent of the workers;

(3) that the journeys of the workers to and from the workplaces are made at the expense and under the responsibility of the administration, which shall facilitate such journeys by making the fullest use of all available means of transport;

(4) that, in case of illness or accident causing incapacity to work of a certain duration, the worker is repatriated at the expense of the competent authority;

(5) that any worker who may wish to remain as a voluntary worker at the end of his period of forced or compulsory labour is permitted to do so without losing his right to repatriation free of expense to himself.

Article 20

In the case of forced or compulsory labour for the transport of persons or goods (porters, boatmen, etc.), the competent authority shall promulgate regulations determining, inter alia, (a) that the workers so employed shall be medically certified to be physically fit, where
medical examination is possible, (b) the maximum load which these workers may carry, (c) the maximum distance from their homes to which they may be taken, (d) the maximum number of days per month or other period for which they may be taken, including the days spent in returning to their homes, and (e) the persons entitled to demand this form of forced or compulsory labour and the extent to which they are entitled to demand it.

In fixing the maxima referred to under (b), (c) and (d) in the foregoing paragraph, the competent authority shall have regard to all relevant factors, including the physical development of the population from which the workers are recruited, the nature of the country through which they must travel and the climatic conditions of the territory.

The competent authority shall further provide that the normal daily journey of such workers shall not exceed a distance corresponding to an average eight-hour working day, it being understood that account shall be taken not only of the weight to be carried and the distance to be covered, but also of the nature of the route, the season of the year, and all other relevant factors, and that, where hours of journey in excess of eight per day are exacted, they shall be remunerated at rates higher than the normal rates.

Article 21

The competent authority shall only authorise recourse to compulsory cultivation as a method of precaution against famine or a deficiency of food supplies and always under the condition that the food or produce shall remain the property of the individuals or the community producing it.

Notwithstanding the provisions of the first paragraph of the present Article, the competent authority may, in exceptional cases where it is justified by the indolence and improvidence of the inhabitants, authorise recourse to compulsory cultivation as a measure of agricultural education, always provided that: (a) the compulsion shall be temporary and shall cease as soon as the communities concerned shall have acquired the habit
of cultivation; (b) the compulsion shall apply only to cultivation of lands belonging to the communities or individuals concerned; (c) the produce of such compulsory cultivation or any profits accruing from the sale thereof shall remain the property of the communities or individuals concerned; (d) all necessary measures shall be taken for the marketing of the produce under the best conditions; (e) legal or practical monopolies of the purchase of the produce shall be prohibited; (f) all necessary measures shall be taken for protecting the communities and individuals concerned against fraudulent treatment by purchasers of the produce, in particular by the fixing of a minimum sale price and by regulations concerning the weighing of and payment for the produce.

Nothing in the present Article shall be construed as abrogating the obligation on members of a community, where production is organised on a communal basis in virtue of law or custom and the produce or any profit accruing from the sale thereof remain the property of the community, to perform the work demanded by the community in virtue of law and custom.

Article 22

Collective punishment laws under which a community may be punished for crime committed by any of its members shall not contain provisions for forced or compulsory labour by the community as one of the methods of punishment.

Article 23

Forced or compulsory labour shall not be used for work underground in mines.

Article 24

The annual reports that Members which ratify the present Convention agree to make to the International Labour Office, pursuant to the provisions of Article 408 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace, on the measures
they have taken to give effect to the provisions of the present Convention, shall contain as full information as possible, in respect of each territory concerned, regarding the extent to which recourse has been had to forced or compulsory labour, the purposes for which it has been employed, the sickness and death rates, hours of work, methods of payment of wages and rates of wages, and any other relevant information.

Article 25

The competent authority shall issue complete and precise regulations governing the use of forced or compulsory labour in accordance with the provisions of the present Convention. These regulations shall provide, inter alia, that a definite procedure shall be established for the purpose of permitting persons from whom forced or compulsory labour is exacted to present all their complaints relative to the conditions of labour to the authorities and to negotiate concerning them.

Article 26

Adequate measures shall in all cases be taken to assure that the regulations governing the employment of forced or compulsory labour are strictly applied, either by extending the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour to cover the inspection of forced or compulsory labour or in some other appropriate manner.

Article 27

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

Each Member of the International Labour Organisation which ratifies the present Convention undertakes to apply it to the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage.

Article Z

Each Member of the International Labour Organisation which ratifies the present Convention and which may desire to take advantage of the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace shall append to its ratification a declaration stating:

(1) the territories to which it intends to apply the provisions of the present Convention without modifications;

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

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

The aforesaid declaration shall be deemed to be an integral part of the ratification and shall have the force of ratification. Notwithstanding, it shall be open to any Member, by a subsequent declaration, to cancel in whole or in part the reservations made in the original declaration.
**Draft Recommendation Concerning Indirect Compulsion to Labour**

The General Conference of the International Labour Organisation,

Having adopted a Draft Convention concerning forced or compulsory labour, and

Desiring to supplement this Draft Convention by a statement of the principles which appear best fitted to guide the policy of the Members in endeavouring to avoid any indirect compulsion to labour which would lay too heavy a burden upon the populations of territories to which the said Draft Convention may apply,

Recommends that each Member concerned should take the following principles into consideration:

I

The amount of labour available, the capacities for labour of the population, and the evil effects which too sudden changes in the habits of life and labour may have on the social conditions of the population, are factors which should be taken into consideration in deciding questions connected with the economic development of territories in a primitive stage of development, and, in particular, when deciding upon:

(a) increases in the number and extent of industrial, mining and agricultural undertakings in such territories;
(b) the non-indigenous settlement, if any, which is to be permitted;
(c) the granting of forest or other concessions, with or without the character of monopolies.

II

It is undesirable to resort to indirect means of artificially increasing the economic pressure upon popula-
tions to seek wage-earning employment, and particularly such means as:

(a) imposing such taxation upon populations as would have the effect of compelling them to seek wage-earning employment with private undertakings;

(b) imposing such restrictions on the possession, occupation, or use of land as would have the effect of rendering difficult the gaining of a living by independent cultivation;

(e) extending abusively the generally accepted meaning of vagrancy;

(d) adopting such pass laws as would have the effect of placing workers in the service of others in a position of advantage as compared with that of other workers.

III

It is undesirable to place any restrictions on the voluntary flow of labour from one form of employment to another or from one district to another which might have the indirect effect of compelling workers to take employment in particular industries or districts, except where such restrictions are considered necessary in the interest of the population or of the workers concerned.
Draft Recommendation concerning the Regulation of Forced or Compulsory Labour

The General Conference of the International Labour Organisation,

Having adopted a Draft Convention concerning forced or compulsory labour, and

Desiring to give expression to certain principles and rules relating to forced or compulsory labour which appear to be of a nature to render the application of the said Draft Convention more effective,

Recommends that each Member concerned should take the following principles and rules into consideration:

I

Any regulations issued in application of the Draft Convention concerning forced or compulsory labour, as well as any other legal provisions or administrative orders, existing at the time of the ratification of the said Draft Convention or thereafter enacted, governing the employment of forced or compulsory labour, including any laws or administrative orders concerning compensation or indemnification for sickness, injury to, or death of workers taken for forced or compulsory labour, should be printed by the competent authority in such one or more native languages as will convey their import to the workers concerned and to the population from which the workers are to be drawn. Such printed texts should be widely exhibited and, if necessary, arrangements made for their oral communication to the workers and to the population concerned; copies should also be made available to the workers concerned and to others at cost price.
II

Recourse to forced or compulsory labour should be so regulated as not to imperil the food supply of the community concerned.

III

When recourse is had to forced or compulsory labour all possible measures should be taken to ensure that the imposition of such labour in no case results in the illegal employment on forced or compulsory labour of women and children.

IV

All possible measures should be taken to reduce the necessity for recourse to forced or compulsory labour for the transport of persons or goods. Such recourse should be prohibited when and where animal or mechanical transport is available.
FORCED LABOUR

Item I on the Agenda
PRELIMINARY NOTE

As was stated in the Introduction to the Blue Report already issued by the International Labour Office on Forced Labour, that Report contained the replies of the Governments to the Questionnaire on this item on the Agenda of the Conference which had been received by the Office by 15 February 1930.

Since that date further replies to the Questionnaire have been received, from the Governments of the following countries: China, Greece and New Zealand.

These replies are reproduced in the present Supplementary Report.

Geneva, 5 June 1930.
CHINA

Part A. — Questions tending to the adoption of a Draft Convention.

General.

1. We consider that the International Labour Conference should adopt a Draft Convention, the object of which is to suppress the use of forced or compulsory labour in all its forms. A period of transition may be necessary under certain circumstances, but should only be allowed when sufficient reasons for doing so are produced.

2. We consider that such a Convention should not be subject to the reserves or modifications provided for in Article 421 of the Treaty of Versailles.

3. We are in full agreement with the definition.

Exceptions from Scope of Convention.

4. We believe that there are cases of emergency which should be treated outside the scope of the Convention. Your definition of "cases of emergency" would be satisfactory if you will have the cases enumerated to avoid future disputes.

5. We believe that village services not more than traditional and customary may be considered normal obligations not included in the category of forced labour. However, measures should be provided for inspection and supervision by the proper authorities in order to prevent abuses of the system and exploitation by unscrupulous chiefs or officials in charge.

Authorities responsible for recourse to Forced or Compulsory Labour.

6. (a), (b), (c) We believe that where total suppression of forced labour is not immediately effected only the metropolitan country or, when that is not possible, only the highest central-
authority of the territory concerned should have the power for recourse to forced or compulsory labour. These authorities should define by precise regulations the conditions under which forced or compulsory labour should be carried out under the control of minor and local authorities. An efficient system of inspection should be operated under the direct control of the metropolitan or highest central authority.

Criteria to be satisfied before recourse is had to Forced or Compulsory Labour.

7. We believe that the competent authority, before permitting any recourse to forced or compulsory labour, should be satisfied at least with the conditions laid down in Question 7, (a), (b), (c), (d).

Forced or Compulsory Labour for Private Employers.

8 and 9. We believe that in no case whatever should the competent authority impose or permit the imposition of forced labour for the benefit of private individuals, companies or other entities than the community. Where such forced labour already exists every effort should be made to bring it to an end within the period of three years. This should also apply to places where the chiefs, through traditional practice, have imposed forced labour on their people not in conformity with the conditions laid down in Question 7.

10. We believe that officials of the Administration should not be permitted to put constraint upon their population to work for private employers.

11. We believe that concessions to individuals or companies permitting some form of compulsory labour for the obtaining of the products which such individuals or companies utilise or in which they trade should be absolutely forbidden, and every effort should be made to change or terminate such existing concessions.

Forced or Compulsory Labour as Tax or in lieu of Tax.

12. We believe that forced labour as tax or in lieu of tax should immediately be abolished.
Protection of Forced Workers.

13. (a) and (b) Our answer is in the affirmative. Moreover, we believe that forced workers should enjoy freedom of association, and that a definite procedure should be established to allow forced labourers to present all their complaints relative to the conditions of labour to the authorities and to negotiate concerning them.

14. Our answers are in the affirmative.

15. Our answers are in the affirmative.

Exemptions from Forced or Compulsory Labour.

16. Our answers are all in the affirmative. Conjugal and family ties especially must be respected.

17. We believe that from any given community not more than one quarter of the resident able-bodied adult males should be taken at any one time for forced or compulsory labour to be performed in their own community.

Regulations of Forced or Compulsory Labour.

Duration.

18. We believe that the normal maximum period for which any individual may be taken for forced labour should not exceed 60 days in any one period of 12 months.

Habituation.

19. We consider that forced workers, except those engaged in transport, should only be employed within their own community or at distances which would enable them to return home at night: no transfer of forced workers from one district to another should be allowed. They should only be transferred to greater distances when they cease to be forced workers, that is when they are willing to be transferred as voluntary workers.

Working Hours.

20. We consider that normal working hours of forced workers should not exceed any legal maximum applicable to voluntary work, and that the hours worked in excess of that
maximum should be remunerated at rates higher than the rates for the normal working hours.

As to a weekly rest day the answer is in the **affirmative**.

21. The answer is in the **affirmative**.

**Wages.**

22. The answers are in the **affirmative**.

**Workmen's Compensation.**

23. The answers are in the **affirmative**.

**Special Precautions for Work of Long Duration.**

24. The answers are in the **affirmative**.

**Special Provisions concerning Forced Porterage.**

25. Our answers to the first paragraph of your question are in the **affirmative**.

We believe that the maximum load should not be heavier than 60 lbs. or the maximum prescribed by law or practice for voluntary workers in the regions concerned, and the maximum distance should not be longer than 15 miles from their homes to which these workers may be taken; and that the maximum number of days per month should not be larger than 7 for which they may be taken.

**Compulsory Cultivation.**

26. Our answers are in the **affirmative**.

**Cases in which Forced Labour should not be Employed.**

27. We believe "collective punishment laws" should not be allowed to exist, for they are contrary to the principles of humanity.

28. Much depends upon the attitude of the workers themselves, and the conditions of underground work.

**A Permanent Committee.**

29. Our answers are in the **affirmative**.
Part B. — Questions tending to the adoption of Recommendations.

Our answers to Questions I, II, III, IV, V, and VI are in the affirmative.

Greece

Forced labour in any form is not known in Greece. Consequently, the Greek Government has no experience whatsoever which would enable it to give detailed opinions on the matter. It therefore confines itself to stating that it would be a matter of satisfaction to it if the Conference at its forthcoming Session adopted a Draft Convention to abolish forced labour or at least to reconcile this system with considerations as favourable as possible to the persons employed under it.

New Zealand

Part A. — Questions tending to the adoption of a Draft Convention.

General.

1. This Question, as indeed the whole of the Questionnaire, turns almost entirely on the accepted definition of “forced or compulsory labour” (as to which see the reply to Question 3). It is considered that in certain communities where the economic machinery of a fully civilised State is not yet completely established it is not possible entirely and immediately to suppress the use of all forms of community service which might conceivably come within a loose definition of “forced or compulsory labour”, but that a careful definition of “forced or compulsory labour” and the strictest limitation and regulation are desirable.

2. Yes, but difficulties of drafting a Convention which would be applicable without reservation or modification to such widely diversified conditions as may be found throughout the world would appear to be exceedingly great and some elasticity should be provided to facilitate the adjustment of the terms of the
Convention to the local customs, the state of development and the historical, geographical and ethnological conditions of a particular community.

3. No. The definition is regarded as obviously defective inasmuch as it would cover a large and diversified class of activities required of citizens without remuneration by all civilised States, e.g. penal servitude, abating nuisances, compulsory education, destruction of noxious weeds, service in the defence force, etc., and the New Zealand Government could in no circumstances accept the definition as worded as the basis of its reply to this Questionnaire.

This weakness in the definition of "forced or compulsory labour" must necessarily colour the whole of the information now supplied, in view of the fact that the New Zealand Government are discussing the application of a term the meaning of which they must regard as doubtful. It is assumed that the International Labour Office do not contemplate including as "forced or compulsory labour" such activities as those mentioned above, but if this should be the intention of the Office then the replies to this Questionnaire would involve innumerable reservations and explanations. The New Zealand Government do not feel themselves in a position to make any accurate assumption of the limits which the International Labour Office may ultimately assign to the application of the term, and in the circumstances they have no certain confidence that the International Labour Office and they themselves are attributing the same meaning to the term "forced or compulsory labour". They have thought it advisable therefore to set out at some length the actual position in New Zealand and its Dependencies and in the Mandated Territory of Western Samoa, in order that the fullest information may be available.

So far as New Zealand itself and its Dependencies are concerned there exist no customs or practices which could conceivably be brought within the meaning of the term "forced or compulsory labour" if, as is assumed to be the case, the International Labour Office do not intend the inclusion of such essential and customary community services as those referred to above.

In the case of Western Samoa there exist certain practices which, while they might conceivably be covered by the terms of an unnecessarily wide definition of "forced or compulsory labour", are nevertheless of such a nature and extent that the application of this term to them would give such an exaggerated impression of the position that on more than one occasion the New Zealand Government have protested against the use of the term as inapplicable to the facts. The actual instances of such community service as might come within a loose definition of "forced or compulsory labour" are confined within very strict limits and may be set out as follows:
(1) Work required by the Beetle Ordinance, under which every male Samoan capable of searching is required to search and to deliver each week to the authorities the number of rhinoceros beetles (*Oryctes nasicornis*), including larvae and eggs, which the Director of Agriculture shall have required from each searcher in respect of the village to which he belongs. The object of this provision is to combat the ravages of this pest which is a grave danger to the coconut palm and is consequently an ever-present threat to the food supplies and the prosperity of the Samoans. A provision requiring such compulsory searching without remuneration has been in force in the Territory since long before the New Zealand occupation or the inception of the Mandate, and it is considered not only that the work is essential in the interests of the Territory and of the well-being and indeed the existence of its inhabitants but that the provision of remuneration would in the special circumstances of the case be entirely impracticable. The preliminary steps are now being taken to investigate the possibility of combating this pest by entomological methods, but in the meantime any restriction that would interfere with the existing arrangements would be highly detrimental to Samoa and to the Samoans. This is recognised by the Samoans themselves.

(2) The Native Regulations and the customary powers referred to therein: these Regulations, which were introduced in 1925 in the endeavour to institute a more detailed system of Samoan self-government in village affairs contemplate services which fall into two classes:

(i) local public works, sanitary and village requirements, etc.; and

(ii) personal services which are by tradition and custom due to the Chiefs.

Neither in this case nor in the case of beetle searching is anything imposed upon an individual that could with any justice be described as onerous or humiliating or likely to prove detrimental to the health or well-being of the person concerned or of the community, nor has any such requirement in practice ever amounted to more than a very negligible amount of work for a very short period. In every case the requirement is in conformity with the traditions and customs of the Samoans. Consequently, the provisions contemplated by the International Labour Office are almost entirely inapplicable in reality to the actual circumstances of the case.

The New Zealand Government must make it plain that in their opinion there is no instance in the Territory or in New Zealand and its Dependencies of "forced or compulsory labour" in the proper interpretation of that term, and they must make
it plain that they would regard as unacceptable any definition that would purport to cover these activities. This being the case, they regard their replies to this Questionnaire as academic only and as not applicable to the Territories mentioned above. Their replies to the Questionnaire have been drafted on general principles as the result of administrative practice in New Zealand and its Dependencies and in the Mandated Territory of Western Samoa, but it is clearly appreciated by the New Zealand Government that they are unable to answer for conditions elsewhere and that their replies might well be inappropriate when viewed in the light of practical experience in other countries.

Exceptions from Scope of Convention.

4. Provision must necessarily be made for cases of emergency and it is considered that some elasticity should be allowed in the definition of "emergency". The definition suggested could be accepted if the meaning of the phrase "and so on" were clarified in an acceptable manner.

5. Yes.

Authorities responsible for recourse to Forced or Compulsory Labour.

6. (a) In general, yes.

(b) It is considered that some reasonable freedom of administrative action is desirable and that a complete affirmative cannot be returned to this Question.

(c) It is considered that variation in circumstances from time to time and from place to place would render it impossible to define precisely the conditions under which "forced or compulsory labour" should be carried out under the control of minor authorities. So far, however, as the general outline of such conditions can be defined these should be laid down by the competent authority and the conditions should not be more onerous than those applicable in respect of "forced or compulsory labour" imposed by the competent authority itself.

Criteria to be satisfied before recourse is had to Forced or Compulsory Labour.

7. The reply to this Question must depend to some extent upon the development of the Territory concerned and its inhabitants, and the experience of New Zealand would indicate that paragraphs (a), (b) and (c) must be answered in the negative and (d) in the affirmative.
Forced or Compulsory Labour for Private Employers.

8. The answer to the first two paragraphs is in the affirmative, while the third paragraph must be answered in the negative on the grounds of impracticability.

9. The New Zealand Government can well believe that the requirements of this Question might prove impracticable and would prefer to answer in the negative.

10 and 11. The replies are in the affirmative.

Forced or Compulsory Labour as Tax or in lieu of Tax.

12. It is believed that taxation might not invariably be a practical alternative as a means of carrying out certain classes of work which natives must perform for their own welfare. Subject to this qualification the answer to the question is in the affirmative.

Protection of Forced Workers.

13. (a) It is felt that this requirement would probably prove to be impracticable.

(b) No objection is seen to this.

(c) Yes.

14 and 15. The replies are in the affirmative.

Exemptions from Forced or Compulsory Labour.

16. The New Zealand Government would prefer to express no view as to the practicability of this requirement in all native communities, but the general intention appears to be reasonable.

17. The general intention of this paragraph appears to be reasonable, but the New Zealand Government do not feel in a position to answer the final question.

Regulation of Forced or Compulsory Labour.

Duration.

18. No objection is seen to this proposal and some general limitation of compulsory absence from the usual place of abode of the labourer appears to be desirable. It is felt that some administrative difficulty might be experienced.
Habituation.

19. The reply is in the affirmative.

Working Hours.

20. It is considered that a general requirement of a maximum eight-hour day and a forty-eight-hour week would be impracticable. The answer to the second paragraph is in the affirmative.

21. The remarks on the first paragraph of Question 20 apply.

Wages.

22. The New Zealand Government prefer not to answer this question, the requirements of which might well prove to be impracticable.

Workmen's Compensation.

23. The requirements of this Question are considered to be reasonable in so far as similar compensation or indemnification is applicable to voluntary labour.

Special Precautions for Work of Long Duration.

24. No objection is seen to the requirements of this Question.

Special Provisions concerning Forced Porterage.

25. The provisions of this Question appear to be generally reasonable, but the New Zealand Government are not in a position to make any suggestions in response to the second paragraph.

Compulsory Cultivation.

26. The New Zealand Government are not satisfied that the requirements of this Question would invariably be in the best interests of the natives concerned, and as they are not directly concerned in the matter they would prefer not to make any reply.

Cases in which Forced Labour should not be Employed.

27 and 28. The New Zealand Government would offer no opinion on conditions elsewhere: no such provision exists in Territories under New Zealand control.
A Permanent Committee.

29. The New Zealand Government can express no opinion as to conditions elsewhere, but the necessity of such a Committee would not appear to be apparent.

Part B.—Questions tending to the adoption of Recommendations.

I. No objection is seen to this proposal.

II. The New Zealand Government can express no opinion on conditions elsewhere, but the paragraph has no application to Territories under New Zealand control.

III. The New Zealand Government can express no opinion on conditions elsewhere, but the paragraph has no application to Territories under New Zealand control.

IV. No objection is seen to this proposal in principle.

V. The New Zealand Government can express no opinion on conditions elsewhere, but the paragraph has no application to Territories under New Zealand control.

VI. The New Zealand Government can express no opinion on conditions elsewhere, but the paragraph has no application to Territories under New Zealand control.
SECOND DISCUSSION  REPORT I (SECOND SUPPLEMENT)

International Labour Conference

FOURTEENTH SESSION
GENEVA, 1930

FORCED LABOUR

Item I on the Agenda

GENEVA
International Labour Office
1930
PRELIMINARY NOTE.

This Supplementary Report contains two new replies to the Questionnaire on Forced Labour, first item on the Agenda of the 14th Session of the International Labour Conference.

These replies, sent by the Governments of the Commonwealth of Australia and Chile, were received after the 5th June, 1930, the date of publication of the 1st Supplement to the Blue Report on this item.

Geneva, 20th June, 1930.
COMMONWEALTH OF AUSTRALIA.

Part A. — Questions tending to the adoption of a Draft Convention

General,

1. The Government of the Commonwealth of Australia desires to record, in the strongest possible way, its adherence to the view that the use of forced or compulsory labour, in all its forms, should be suppressed with the least possible delay.

It realises, however, that conditions exist in some countries which militate against the complete achievement of this aim, at the present moment, and that the immediate adoption of a draft convention for the suppression of the use if forced or compulsory labour might, in the circumstances, retard rather than advance the attainment of the object of the Draft Convention.

It is of the opinion, therefore, that the greater prospect of immediate progress lies in the adoption of a draft convention to limit and regulate the use of forced or compulsory labour; such forced or compulsory labour to be restricted to the execution of essential public works and services, for the purposes of which voluntary labour is not procurable, and to be adequately remunerated.

2. The reply is in the negative.

3. Yes. It is considered, however, that the definition should be modified definitely to exclude labour under contract.

Exceptions from Scope of Convention.

4. Yes. It is considered that the definition of "cases of emergency" should be extended to cover any occurrence which endangers life or is likely to cause serious damage to property, even though it cannot be said to affect a substantial part of the population.

5. The reply is in the affirmative.
Authorities responsible for recourse to Forced or Compulsory Labour.

6. (a) It is considered that the authority responsible for recourse to forced labour should be the highest central authority in the territory with the prior consent of the proper authority (i.e. Minister for Colonies) in the metropolitan country.
   (b) No.
   (c) Yes, by Ordinance or Regulation.

Criteria to be satisfied before recourse is had to Forced or Compulsory Labour.

7. (a) (b) (c) (d). The replies are in the affirmative.

Forced or Compulsory Labour for Private Employers.

8. (1) (2) (3). The replies are in the affirmative.

In the absence of any experience of this kind of forced labour the Government of the Commonwealth of Australia is unable to offer an opinion as to what would be a reasonable time limit.

9. See answer to 5.

10. The reply is in the affirmative.

11. The reply is in the affirmative.

Forced or Compulsory Labour as Tax or in lieu of Tax.

12. (a) (b) (c) (d) (e). The replies are in the affirmative.

Protection of Forced Workers.

13. (a) Yes, as far as practicable.
   (b) Yes, as far as practicable.
   (c) The reply is in the affirmative.

14. The reply is in the affirmative.

15. The reply is in the affirmative.
Exemptions from Forced or Compulsory Labour.

16. The reply is in the affirmative.
   (a) Yes, where practicable. Where not practicable, as in areas removed from Administrative centres, the Government officer requisitioning the labour should satisfy himself as to physical fitness.
   (b) Yes.
   (c) (d) (e). Yes, except in cases of emergency.

17. (1) Yes, except in cases of emergency.
    (2) Yes, except in cases of emergency.
    (3) No, as the proportion will vary in differently constituted communities.

Regulations of Forced or Compulsory Labour.

Duration.

18. (1) Yes, with a proviso as set out for exceptional cases.
    (2) Yes.
    (3) Yes.

Habituation.

19. (1) (2) (3) (4). The replies are in the affirmative.

Working Hours.

20. (1) (2). The replies are in the affirmative.

21. The reply is in the affirmative.

Wages.

22. (a) It is considered that they should be given the option of cash or trade. Cash is no use to them if there is no store in the neighbourhood.
    (b) (c) (d). The replies are in the affirmative.

Workmen's Compensation.

23. (a) Yes.
    (b) Yes.
    (c) No; there should be adequate compensation paid in a lump sum to the person injured.
    (d) No; but he should be repatriated by the competent authority.
(e) Yes.

(f) No.

(g) Yes, as far as practicable — see reply to 13 (b).

Special Precautions for Work of Long Duration.

24. (a) Yes.

(b) It is considered that the labourer should make his own arrangements for this purpose, but that the competent authority should facilitate any remittance by a safe method if requested by the worker. It is understood that it is the custom for the village to ensure subsistence.

(c) (d) (e). The reply is in the affirmative.

(f) Yes, except as stated under (b) above.

Special Provisions concerning Forced Porterage.

25. Yes, but a maximum period instead of distance should be determined by the Regulations. Only Government officials should be entitled to demand this form of forced labour.

Maximum load 50 lbs.

Maximum period (including time occupied in travelling to and from their homes) 21 days at one time, or in case of emergency 31 days, but not more than 31 days in the year in the aggregate.

Compulsory Cultivation.

26. (1) Yes.

(2) Yes.

(3) The reply is in the negative.

Cases in which Forced Labour should not be employed.

27. The reply is in the negative.

28. Yes, except in cases of emergency.

A Permanent Committee.

29. (1) Yes.

(2) Yes.
(3) It is considered that a general charge should not be given, but that specific authority to consider any particular problem might be sought at any time.

**Part B. — Questions tending to the adoption of recommendations**

It is not considered that the Conference should adopt such recommendations at present.

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**CHILE**

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**Part A. — Questions tending to the adoption of a Draft Convention**

1. Yes.

   The subject being of some difficulty, in particular for countries possessing colonies and protectorates, it is the Government's opinion that it would be desirable to provide a period of two years after the ratification of the Convention. It is considered that a Draft Convention should be adopted, the provisions of which would be compulsory.

2. Unreservedly yes. Chile considers forced labour as an encroachment on that human dignity to which the whole living world now aspires, whatever may be the situation of individual persons.

3. The reply is in the affirmative.

4. Yes. The cases covered should however be mentioned explicitly. Chile only considers the event of war as a case of emergency. The only service admitted is military service. Chile does not require regulations of the nature mentioned, as it is perhaps the only country in the world which has throughout its territories from the Magellan Straits to Africa, i.e. over nearly 35° of latitude, firemen who not only intervene in case of fire, but also give their services without charge when there is any public calamity such as earthquake, flood, epidemic and even act as police in cases of civil disturbance.

5. These services should be considered as forced labour unless it is clear from the texts covering them or from the controlling system of organisation that they are accepted freely by the inhabitants.
6. (a), (b), (c) No, for the reasons already given. In case of war the military authorities would undertake responsibility for the decisions and their execution.

7. The reply is in the negative.

8. In no case.

9. Such labour should be abolished.

10. No, because it is believed that the administrative authorities should not use such methods to attain results favourable to the community.

11. This question is regarded in the same light as the previous questions. The Government considers it unnecessary to add to its comments on the questionnaire.

As has already been said, forced labour is only accepted by Chile in the case of war. No other form of compulsory service should exist except military service.